FIFTY-EIGHTH DAY

St. Paul, Minnesota, Monday, May 18, 2009

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Kevin McDonough.

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

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

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandeveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 501 and 711.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

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

There has been appointed as such committee on the part of the House:

Hortman, Lesch and Smith.

Senate File No. 1009 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 657 and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 657: A bill for an act relating to energy; providing direction for the use of federal stimulus money for energy programs; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216C.

Senate File No. 657 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 708, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 708: A bill for an act relating to mortgages; modifying provisions relating to foreclosure consultants; amending Minnesota Statutes 2008, section 325N.01.

Senate File No. 708 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 722, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 722: A bill for an act relating to public safety; requiring that information on persons civilly committed, found not guilty by reason of mental illness, or incompetent to stand trial be transmitted to the federal National Instant Criminal Background Check System; authorizing certain persons prohibited under state law from possessing a firearm to petition a court for restoration of this right; amending Minnesota Statutes 2008, section 624.713, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 253B.

Senate File No. 722 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1012, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1012: A bill for an act relating to state government; appropriating money for environment and natural resources.

Senate File No. 1012 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1091, and repassed said bill in accordance with the report of the Committee, so adopted.

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

Senate File No. 1091 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1447, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1447: A bill for an act relating to human services; making changes to licensing provisions, including data practices, disqualifications, and background study requirements; providing alternate supervision technology for adult foster care licensing; amending Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20; 147C.25; 147C.30; 147C.35; 147C.40; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07, subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16, subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045, subdivisions 3, 3b; 299C.61, subdivision 6; 299C.62, subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

Senate File No. 1447 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1477, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1477: A bill for an act relating to construction codes; providing a limited exemption.

Senate File No. 1477 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 705:

H.F. No. 705: A bill for an act relating to health; promoting preventive health care by requiring high deductible health plans used with a health savings account to cover preventive care with no deductible as permitted by federal law; amending Minnesota Statutes 2008, section 62Q.65.

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

thereon.

Loeffler, Liebling and Abeler have been appointed as such committee on the part of the House.

House File No. 705 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

Senator Olson, M. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 705, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1276:

H.F. No. 1276: A bill for an act relating to health and human services; relieving counties of certain mandates; making changes to residential treatment facilities; county payment of cremation, burial, and funeral expenses; child welfare provisions; health plan audits; nursing facilities; home health aides; inspections of day training and habilitation facilities; changing certain health care provisions relating to school districts, charter schools, and local governments; amending Minnesota Statutes 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision 11, by adding a subdivision; 144A.43, by adding a subdivision; 144A.45, subdivision 1, by adding a subdivision; 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a; 256.935, subdivision 1; 256.962, subdivisions 6, 7; 256B.0945, subdivisions 1, 4; 256F.13, subdivision 1; 260C.212, subdivisions 4a, 11; 261.035; 471.61, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245B; repealing Minnesota Rules, part 4668.0110, subpart 5.

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

Norton, Fritz and Dean have been appointed as such committee on the part of the House.

House File No. 1276 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

Senator Lynch moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1276, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1728:

H.F. No. 1728: A bill for an act relating to human services; amending child care programs, program integrity, and adult supports including general assistance medical care and group residential housing; amending Minnesota Statutes 2008, sections 119B.011, subdivision 3; 119B.08, subdivision 2; 119B.09, subdivision 1; 119B.12, subdivision 1; 119B.13, subdivision 6; 119B.15; 119B.231, subdivision 3; 256.014, subdivision 1; 256.0471, subdivision 1, by adding a subdivision; 256D.01, subdivision 1b; 256D.44, subdivision 3; 256I.04, subdivisions 2a, 3; 256I.05, subdivision 1k.

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

Loeffler, Slawik and Mack have been appointed as such committee on the part of the House.

House File No. 1728 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

Senator Pogemiller, for Senator Torres Ray, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1728, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1853:

H.F. No. 1853: A bill for an act relating to commerce; regulating various licenses, forms, coverages, disclosures, notices, marketing practices, and records; classifying certain data; removing certain state regulation of telephone solicitations; regulating the use of prerecorded or synthesized voice messages; regulating debt management services providers; permitting a deceased professional's surviving spouse to retain ownership of a professional firm under certain circumstances; amending Minnesota Statutes 2008, sections 13.716, by adding a subdivision; 45.011, subdivision 1; 45.0135, subdivision 7; 58.02, subdivision 17; 59B.01; 60A.08, by adding a subdivision; 60A.198, subdivisions 1, 3; 60A.201, subdivision 3; 60A.205, subdivision 1; 60A.2085, subdivisions 1, 3, 7, 8; 60A.23, subdivision 8; 60A.235; 60A.32; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 62A.011, subdivision 3; 62A.136; 62A.17, by adding a subdivision; 62A.29, by adding a subdivision; 62A.3099, subdivision 18; 62A.31, subdivision 1, by adding a subdivision; 62A.315; 62A.316; 62L.02, subdivision 26; 62M.05, subdivision 3a; 65A.27, subdivision 1; 65B.133, subdivisions 2, 3, 4; 67A.191, subdivision 2; 72A.20, subdivisions 15, 26; 79A.04, subdivision 1, by adding a subdivision; 79A.06, by adding a subdivision; 79A.24, subdivision 1, by adding a subdivision; 82.31, subdivision 4; 82B.08, by adding a subdivision;

82B.20, subdivision 2; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 325E.27; 332A.02, subdivision 13, as amended; 332A.14, as amended; 471.98, subdivision 2; 471.982, subdivision 3; Laws 2009, chapter 37, article 4, sections 19, subdivision 13; 20; 23; 26, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 62Q; 72A; 80A; 82B; 325E; repealing Minnesota Statutes 2008, sections 60A.201, subdivision 4; 61B.19, subdivision 6; 70A.07; 79.56, subdivision 4.

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

Atkins, Zellers and Johnson have been appointed as such committee on the part of the House.

House File No. 1853 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

Senator Sparks moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1853, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Vandeveer, Prettner Solon, Rest, Vickerman and Bakk introduced–

S.F. No. 2162: A bill for an act relating to the legislature; proposing an amendment to the Minnesota Constitution, article IV, section 4; providing for temporary successors to members of the legislature called into active military service; providing for implementing statutory language; proposing coding for new law in Minnesota Statutes, chapter 3.

Referred to the Committee on Rules and Administration.

Senator Scheid introduced–

S.F. No. 2163: A bill for an act relating to contracts; regulating building and construction contracts; prohibiting certain conditions on payments to subcontractors; requiring notice of loan defaults; amending Minnesota Statutes 2008, section 337.10, by adding subdivisions.

Referred to the Committee on Business, Industry and Jobs.

Senator Hann introduced–

S.F. No. 2164: A bill for an act relating to human services; MFIP; changing provisions for nonpublic assistance IV-D services; amending Minnesota Statutes 2008, sections 256J.08, by adding

a subdivision; 256J.09, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 256J.

Referred to the Committee on Health, Housing and Family Security.

Senators Marty, Higgins, Moua and Kelash introduced–

S.F. No. 2165: A bill for an act relating to jobs; creating jobs through rehabilitation and construction of affordable housing and through green energy investments in public buildings; authorizing nonprofit housing bonds; authorizing the sale of state bonds; establishing an emergency employment development program; appropriating money; amending Minnesota Statutes 2008, section 462A.36, by adding subdivisions.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS

Senator Wiger introduced –

Senate Resolution No. 105: A Senate resolution honoring Village Pizza in North St. Paul on the celebration of its 50th anniversary.

Referred to the Committee on Rules and Administration.

SUSPENSION OF RULES

Senator Pogemiller moved that Rule 24.2 be suspended as to the lie-over requirement on the Calendar. The motion prevailed.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 417, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 417 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 417

A bill for an act relating to commerce; prohibiting certain claims processing practices by third-party administrators of health coverage plans; regulating health claims clearinghouses; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 60A.23, subdivision 8; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 60A; 62Q.

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 417 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 417 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[60A.0811] BREACH OF INSURANCE POLICY; RECOVERY OF INTEREST.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "insurance policy" means a commercial or professional insurance policy or contract other than:

(i) a workers' compensation insurance policy or contract;

(ii) a health insurance policy or contract issued, executed, renewed, maintained, or delivered in this state by a health carrier as defined in section 62A.011, subdivision 2;

(iii) a life insurance or disability insurance policy or contract; or

(iv) a policy or contract issued by a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A;

(2) "insured" means any named insured, additional insured, or insured under an insurance policy;

and

(3) "insurer" means an insurer:

(i) incorporated or organized in this state; or

(ii) admitted, authorized, or licensed to do business or doing business in this state but not incorporated or organized in this state. Insurer does not include the joint underwriting association operating under chapter 62F or 62I; or a township mutual fire insurance company or farmers mutual fire insurance company operating under chapter 65A or 67A.

Subd. 2. **Interest.** (a) An insured who prevails in any claim against an insurer based on the insurer's breach or repudiation of, or failure to fulfill, a duty to provide services or make payments is entitled to recover 10 percent per annum interest on monetary amounts due under the insurance policy, calculated from the date the request for payment of those benefits was made to the insurer.

(b) Punitive damages or damages for nonmonetary losses are not recoverable under this section.

Subd. 3. **Application.** This section applies to a court action or arbitration proceeding, including an action seeking declaratory judgment.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to a cause of action existing on, or arising on or after that date.

Sec. 2. Minnesota Statutes 2008, section 319B.02, is amended by adding a subdivision to read:

Subd. 21a. **Surviving spouse.** "Surviving spouse" means a surviving spouse of a deceased professional as an individual, as the personal representative of the estate of the decedent, as the trustee of an inter vivos or testamentary trust created by the decedent, or as the sole heir or beneficiary of an estate or trust of which the personal representative or trustee is a bank or other institution that has trust powers.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 3. Minnesota Statutes 2008, section 319B.07, subdivision 1, is amended to read:

Subdivision 1. **Ownership of interests restricted.** Ownership interests in a professional firm may not be owned or held, either directly or indirectly, except by any of the following:

(1) professionals who, with respect to at least one category of the pertinent professional services, are licensed and not disqualified;

(2) general partnerships, other than limited liability partnerships, authorized to furnish at least one category of the professional firm's pertinent professional services;

(3) other professional firms authorized to furnish at least one category of the professional firm's pertinent professional services;

(4) a voting trust established with respect to some or all of the ownership interests in the professional firm, if (i) the professional firm's generally applicable governing law permits the establishment of voting trusts, and (ii) all the voting trustees and all the holders of beneficial interests in the trust are professionals licensed to furnish at least one category of the pertinent

professional services; ~~and~~

(5) an employee stock ownership plan as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended, if (i) all the voting trustees of the plan are professionals licensed to furnish at least one category of the pertinent professional services, and (ii) the ownership interests are not directly issued to anyone other than professionals licensed to furnish at least one category of the pertinent professional services; and

(6) sole ownership by a surviving spouse of a deceased professional who was the sole owner of the professional firm at the time of the professional's death, but only during the period of time ending one year after the death of the professional.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 4. Minnesota Statutes 2008, section 319B.08, is amended to read:

319B.08 EFFECT OF DEATH OR DISQUALIFICATION OF OWNER.

Subdivision 1. **Acquisition of interests or automatic loss of professional firm status.** (a) If an owner dies or becomes disqualified to practice all the pertinent professional services, then either:

(1) within 90 days after the death or the beginning of the disqualification, all of that owner's ownership interest must be acquired by the professional firm, by persons permitted by section 319B.07 to own the ownership interest, or by some combination; or

(2) at the end of the 90-day period, the firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded, the firm loses its status as a professional firm, and the authority created by that election and status terminates.

An acquisition satisfies clause (1) if all right and title to the deceased or disqualified owner's interest are acquired before the end of the 90-day period, even if some or all of the consideration is paid after the end of the 90-day period. However, payment cannot be secured in any way that violates sections 319B.01 to 319B.12.

(b) If automatic rescission does occur under paragraph (a), the firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign qualification. Even without that updating, however, the rescission, loss of status, and termination of authority provided by paragraph (a) occur automatically at the end of the 90-day period.

Subd. 2. **Terms of acquisition.** (a) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect a mechanism, valid according to the professional firm's generally applicable governing law, to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1); and

(3) the professional firm does not agree with the disqualified owner or the representative of the deceased owner to set aside the mechanism,

then that mechanism applies.

(b) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect no mechanism as described in paragraph (a), or has agreed as mentioned in paragraph (a), clause (3), to set aside that mechanism; and

(3) consistent with its generally applicable governing law, the professional firm agrees with the disqualified owner or the representative of the deceased owner, before the end of the 90-day period, to an arrangement to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1),

then that arrangement applies.

(c) If:

(1) an owner of a Minnesota professional firm dies or becomes disqualified to practice all the pertinent professional services;

(2) the Minnesota professional firm does not have in effect a mechanism as described in paragraph (a);

(3) the Minnesota professional firm does not make an arrangement as described in paragraph (b); and

(4) no provision or tenet of the Minnesota professional firm's generally applicable governing law and no provision of any document or agreement authorized by the Minnesota professional firm's generally applicable governing law expressly precludes an acquisition under this paragraph,

then the firm may acquire the deceased or disqualified owner's ownership interest as stated in this paragraph. To act under this paragraph, the Minnesota professional firm must within 90 days after the death or beginning of the disqualification tender to the representative of the deceased owner's estate or to the disqualified owner the fair value of the owner's ownership interest, as determined by the Minnesota professional firm's governance authority. That price must be at least the book value, as determined in accordance with the Minnesota professional firm's regular method of accounting, as of the end of the month immediately preceding the death or loss of license. The tender must be unconditional and may not attempt to have the recipient waive any rights provided in this section. If the Minnesota professional firm tenders a price under this paragraph within the 90-day period, the deceased or disqualified owner's ownership interest immediately transfers to the Minnesota professional firm regardless of any dispute as to the fairness of the price. A disqualified owner or representative of the deceased owner's estate who disputes the fairness of the tendered price may take the tendered price and bring suit in district court seeking additional payment. The suit must be commenced within one year after the payment is tendered. A Minnesota professional firm may agree with a disqualified owner or the representative of a deceased owner's estate to delay all or part of the payment due under this paragraph, but all right and title to the owner's ownership interests must be acquired before the end of the 90-day period and payment may not be secured in any way that violates sections 319B.01 to 319B.12.

Subd. 3. **Expiration of firm-issued option on death or disqualification of holder.** If the holder of an option issued under section 319B.07, subdivision 3, paragraph (a), clause (1), dies or becomes disqualified, the option automatically expires.

Subd. 4. **One-year period for surviving spouse of sole owner.** For purposes of this section, each mention of "90 days," "90-day period," or similar term shall be interpreted as one year after the death of a professional who was the sole owner of the professional firm if the surviving spouse of the deceased professional owns and controls the firm after the death.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 5. Minnesota Statutes 2008, section 319B.09, subdivision 1, is amended to read:

Subdivision 1. **Governance authority.** (a) Except as stated in paragraph (b), a professional firm's governance authority must rest with:

(1) one or more professionals, each of whom is licensed to furnish at least one category of the pertinent professional services; or

(2) a surviving spouse of a deceased professional who was the sole owner of the professional firm, while the surviving spouse owns and controls the firm, but only during the period of time ending one year after the death of the professional.

(b) In a Minnesota professional firm organized under chapter 317A and in a foreign professional firm organized under the nonprofit corporation statute of another state, at least one individual possessing governance authority must be a professional licensed to furnish at least one category of the pertinent professional services.

(c) Individuals who possess governance authority within a professional firm may delegate administrative and operational matters to others. No decision entailing the exercise of professional judgment may be delegated or assigned to anyone who is not a professional licensed to practice the professional services involved in the decision.

(d) An individual whose license to practice any pertinent professional services is revoked or suspended may not, during the time the revocation or suspension is in effect, possess or exercise governance authority, hold a position with governance authority, or take part in any decision or other action constituting an exercise of governance authority. Nothing in this chapter prevents a board from further terminating, restricting, limiting, qualifying, or imposing conditions on an individual's governance role as board disciplinary action.

(e) A professional firm owned and controlled by a surviving spouse must comply with all requirements of this chapter, except those clearly inapplicable to a firm owned and governed by a surviving spouse who is not a professional of the same type as the surviving spouse's decedent.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 6. Minnesota Statutes 2008, section 471.982, subdivision 3, is amended to read:

Subd. 3. **Exemptions.** Self-insurance pools established and open for enrollment on a statewide basis by the Minnesota League of Cities Insurance Trust, the Minnesota School Boards Association Insurance Trust, the Minnesota Association of Townships Insurance and Bond Trust, or the Minnesota Association of Counties Insurance Trust and the political subdivisions that belong to them are exempt from the requirements of this section and ~~section~~ sections 65B.48, subdivision 3,

and 60A.0811. In addition, the Minnesota Association of Townships Insurance and Bond Trust and the townships that belong to it are exempt from the requirement to hold the certificate of surety authorization issued by the commissioner of commerce as provided in section 574.15."

Delete the title and insert:

"A bill for an act relating to commerce; providing recovery of damages and attorney fees for breach of an insurance policy; permitting a deceased professional's surviving spouse to retain ownership of a professional firm that was solely owned by the decedent for up to one year after the death; amending Minnesota Statutes 2008, sections 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 471.982, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 60A."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Joe Atkins, Sheldon Johnson, Steve Smith

Senate Conferees: (Signed) Thomas Bakk, Ray Vandeveer, Linda Scheid

Senator Bakk moved that the foregoing recommendations and Conference Committee Report on H.F. No. 417 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 417 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 47 and nays 14, as follows:

Those who voted in the affirmative were:

Bakk	Erickson Ropes	Latz	Pogemiller	Skogen
Berglin	Fobbe	Lourey	Prettner Solon	Sparks
Betzold	Foley	Lynch	Rest	Tomassoni
Bonoff	Frederickson	Marty	Rummel	Torres Ray
Carlson	Gerlach	Metzen	Saltzman	Vandeveer
Chaudhary	Higgins	Moua	Saxhaug	Vickerman
Clark	Johnson	Murphy	Scheid	Wiger
Dahle	Kelash	Olseen	Sheran	
Dibble	Kubly	Olson, M.	Sieben	
Doll	Langseth	Pappas	Skoe	

Those who voted in the negative were:

Fischbach	Ingebrigtsen	Koering	Olson, G.	Rosen
Gimse	Jungbauer	Limmer	Ortman	Senjem
Hann	Koch	Michel	Robling	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 519, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 519 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 519

A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e.

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 519 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. 519 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 394.36, subdivision 4, is amended to read:

Subd. 4. **Nonconformities; certain classes of property.** This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value,

as indicated in the records of the county assessor at the time of damage, the board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property. or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

Sec. 2. Minnesota Statutes 2008, section 394.36, is amended by adding a subdivision to read:

Subd. 5. **Existing nonconforming lots in shoreland areas.** (a) This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision.

(b) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(c) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(d) A lot subject to paragraph (c) not meeting the requirements of paragraph (c) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Notwithstanding paragraph (c), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(f) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(g) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage system requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 3. Minnesota Statutes 2008, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. **Nonconformities.** (a) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property. or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).

(e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to local government; regulating nonconforming lots in shoreland areas; amending Minnesota Statutes 2008, sections 394.36, subdivision 4, by adding a subdivision; 462.357, subdivision 1e."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Michael V. Nelson, Joe Mullery, Larry Howes

Senate Conferees: (Signed) Ann H. Rest, Dick Day, Don Betzold

Senator Rest moved that the foregoing recommendations and Conference Committee Report on H.F. No. 519 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Pursuant to Rule 41.2, Senator Vandeveer moved that he be excused from voting on all questions pertaining to H.F. No. 519. The motion prevailed.

The question was taken on the Rest motion. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 519 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 2, as follows:

Those who voted in the affirmative were:

Berglin	Fobbe	Kubly	Olseen	Scheid
Betzold	Foley	Langseth	Olson, G.	Senjem
Bonoff	Gerlach	Latz	Olson, M.	Sheran
Carlson	Gimse	Limmer	Ortman	Sieben
Chaudhary	Hann	Lourey	Pappas	Skoe
Clark	Higgins	Lynch	Pogemiller	Skogen
Dahle	Ingebrigtsen	Marty	Rest	Sparks
Day	Johnson	Metzen	Robling	Tomassoni
Dibble	Kelash	Michel	Rosen	Vickerman
Doll	Koch	Moua	Rummel	Wiger
Erickson Ropes	Koering	Murphy	Saltzman	

Those who voted in the negative were:

Bakk	Jungbauer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 804, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 804 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 804

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

May 16, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 804 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. 804 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (8), to transition from foster care.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

(f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the child is not required to use income and resources attributable to the child to reimburse the county for costs of care and is not required to contribute to the cost of care of the child during any period of time when the child is returned to the home of that parent, custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph (a).

Sec. 2. Minnesota Statutes 2008, section 524.5-102, subdivision 7, is amended to read:

Subd. 7. **Interested person.** "Interested person" includes:

(i) the ward, protected person, or respondent;

(ii) a nominated guardian or conservator, or the duly appointed guardian or conservator;

(iii) legal representative;

(iv) the spouse, parent, adult children and siblings, or if none of such persons is living or can be located, the next of kin of the ward, protected person, or respondent;

(v) an adult person who has lived with a ward, protected person, or respondent for a period of more than six months;

(vi) an attorney for the ward or protected person;

(vii) a governmental agency paying or to which an application has been made for benefits for the respondent, ward, or protected person, including the county social services agency for the person's county of residence and the county where the proceeding is venued;

(viii) a representative of a state ombudsman's office or a federal protection and advocacy program that has notified the court that it has a matter regarding the ward, protected person, or respondent;

~~(viii)~~ (ix) a health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state; and

~~(ix)~~ (x) any other person designated by the court.

Sec. 3. Minnesota Statutes 2008, section 524.5-102, is amended by adding a subdivision to read:

Subd. 13a. **Professional guardian or professional conservator.** "Professional guardian" or "professional conservator" means a person acting as guardian or conservator for three or more individuals not related by blood, adoption, or marriage.

Sec. 4. **[524.5-119] CENTRAL REGISTRATION OF GUARDIANS AND CONSERVATORS; APPROPRIATION.**

(a) By July 1, 2013, the Supreme Court shall establish a statewide registration system under which guardians and conservators appointed under sections 524.5-101 to 524.5-502 must register with the state court administrator. Registration information must include the name of the guardian or conservator, whether the person is a professional guardian or conservator, date and county of appointment, and other information required by the Supreme Court. Registration data that the Supreme Court determines are accessible to the public must be accessible online or through other means implemented by the Supreme Court.

(b) The state court administrator shall establish registration fees or identify another source of funds to support the costs of developing and administering the registration system. The state court administrator shall determine whether guardians and conservators should pay a registration fee and the amount of the fee, and shall take into consideration whether the guardian or conservator is a professional guardian or conservator, whether the guardian or conservator represents clients in forma pauperis, and the number of wards or protected persons the guardian or conservator represents. The state court administrator shall report to the legislature on the fees or other source of funds to support the costs of developing and administering the registration system by January 1, 2012. The state court administrator shall begin collecting fees under this paragraph on July 1, 2012. Fees collected by the state court administrator under this section are appropriated to the Supreme Court.

Sec. 5. **[524.5-120] BILL OF RIGHTS FOR WARDS AND PROTECTED PERSONS.**

The ward or protected person retains all rights not restricted by court order and these rights must be enforced by the court. These rights include the right to:

(1) treatment with dignity and respect;

(2) due consideration of current and previously stated personal desires, medical treatment preferences, religious beliefs, and other preferences and opinions in decisions made by the guardian or conservator;

(3) receive timely and appropriate health care and medical treatment that does not violate known conscientious, religious, or moral beliefs of the ward or protected person;

(4) exercise control of all aspects of life not delegated specifically by court order to the guardian

or conservator;

(5) guardianship or conservatorship services individually suited to the ward or protected person's conditions and needs;

(6) petition the court to prevent or initiate a change in abode;

(7) care, comfort, social and recreational needs, training, education, habilitation, and rehabilitation care and services, within available resources;

(8) be consulted concerning, and to decide to the extent possible, the reasonable care and disposition of the ward or protected person's clothing, furniture, vehicles, and other personal effects, to object to the disposition of personal property and effects, and to petition the court for a review of the guardian's or conservator's proposed disposition;

(9) personal privacy;

(10) communication and visitation with persons of the ward or protected person's choice, provided that if the guardian has found that certain communication or visitation may result in harm to the ward's health, safety, or well-being, that communication or visitation may be restricted but only to the extent necessary to prevent the harm;

(11) marry and procreate, unless court approval is required, and to consent or object to sterilization as provided in section 524.5-313, paragraph (c), clause (4), item (iv);

(12) petition the court for termination or modification of the guardianship or conservatorship or for other appropriate relief;

(13) be represented by an attorney in any proceeding or for the purpose of petitioning the court; and

(14) vote, unless restricted by the court.

Sec. 6. Minnesota Statutes 2008, section 524.5-304, is amended to read:

524.5-304 JUDICIAL APPOINTMENT OF GUARDIAN: PRELIMINARIES TO HEARING.

(a) Upon receipt of a petition to establish a guardianship, the court shall set a date and time for hearing the petition and may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A proposed ward has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the proposed ward for the initial proceeding held pursuant to section 524.5-307 if neither the proposed ward nor others provide counsel unless in a meeting with a visitor the proposed ward makes an informed decision in writing to specifically ~~waives~~ waive the right to counsel. Before appointment, and at any time during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed ward or ward, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed guardian or guardian and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed ward or ward will be materially limited by counsel's concurrent

responsibilities to the proposed guardian or guardian. If there is a risk of a conflict of interest, the counsel must not be appointed or new counsel must be appointed, unless:

(1) the court determines that the proposed ward or ward is able to give informed consent to the representation and, if the proposed ward or ward consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

Counsel must be appointed immediately after any petition under this article is served under section 524.5-308. Counsel has the full right of subpoena. In all proceedings under this article, counsel shall:

(1) consult with the proposed ward before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the person throughout any proceedings under section 524.5-307, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing guardian or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the proposed ward on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the proposed ward has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(c) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition; the nature, purpose, and effect of the proceeding; the respondent's rights at the hearing; and the general powers and duties of a guardian;

(2) determine the respondent's views about the proposed guardian, the proposed guardian's powers and duties, and the scope and duration of the proposed guardianship;

(3) inform the respondent of the right to employ and consult with a lawyer at the respondent's own expense and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys fees, will be paid from the respondent's estate.

(d) In addition to the duties in paragraph (c), the visitor shall make any other investigation the court directs.

(e) The visitor shall promptly file a report in writing with the court, which must include:

(1) recommendations regarding the appropriateness of guardianship, including whether less restrictive means of intervention are available, the type of guardianship, and, if a limited guardianship, the powers to be granted to the limited guardian;

(2) a statement as to whether the respondent approves or disapproves of the proposed guardian, and the powers and duties proposed or the scope of the guardianship; and

(3) any other matters the court directs.

(f) The county social service agency may create a screening committee to review a petition involving an indigent person. The screening committee must consist of individuals selected by the agency with knowledge of alternatives that are less restrictive than guardianship. If the agency has created a screening committee, the court shall make its decision after the screening committee has reviewed the petition. For an indigent person, the court may appoint a guardian under contract with the county to provide these services.

(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed guardian or guardian shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:

(1) the person's educational background and relevant work and other experience;

(2) an address and telephone number where the guardian can be contacted;

(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;

(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118; and

(5) if applicable, the amount of reimbursement for services rendered to the ward that the person has received during the previous year.

Sec. 7. Minnesota Statutes 2008, section 524.5-309, is amended to read:

524.5-309 WHO MAY BE GUARDIAN: PRIORITIES.

(a) Subject to paragraph (c), the court, in appointing a guardian, shall consider persons otherwise qualified in the following order of priority:

(1) a guardian, other than a temporary or emergency guardian, currently acting for the respondent in this state or elsewhere;

(2) an agent appointed by the respondent under a health care directive pursuant to chapter 145C;

(3) the spouse of the respondent or a person nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased spouse;

(4) an adult child of the respondent;

(5) a parent of the respondent, or an individual nominated by will or other signed writing executed in the same manner as a health care directive pursuant to chapter 145C of a deceased parent; ~~and~~

(6) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(7) an adult who is related to the respondent by blood, adoption, or marriage; and

(8) any other adult or a professional guardian.

(b) The court, acting in the best interest of the respondent, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(c) Any individual or agency which provides residence, custodial care, medical care, employment training or other care or services for which they receive a fee may not be appointed as guardian unless related to the respondent by blood, marriage, or adoption.

Sec. 8. Minnesota Statutes 2008, section 524.5-310, is amended to read:

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited guardian for a respondent only if it finds by clear and convincing evidence that:

(1) the respondent is an incapacitated person; and

(2) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may treat the petition as one for a protective order under section 524.5-401, enter any other appropriate order, or dismiss the proceeding.

(c) The court shall grant to a guardian only those powers necessitated by the ward's limitations and demonstrated needs and, whenever feasible, make appointive and other orders that will encourage the development of the ward's maximum self-reliance and independence. Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the ward.

(d) Within 14 days after an appointment, a guardian shall send or deliver to the ward, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the ward of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward and to interested persons of record with the court a notice of the right to request termination or modification of the guardianship or to request an order that is in the best interests of the ward or for other appropriate relief, and notice of the status of the ward's right to vote.

Sec. 9. Minnesota Statutes 2008, section 524.5-315, is amended to read:

524.5-315 RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS.

(a) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for expenditures made on behalf of the ward, in a manner consistent with section 524.5-502.

(b) A guardian is not liable to a third person for acts of the ward solely by reason of the relationship. A guardian who exercises reasonable care in choosing a third person providing

medical or other care, treatment, or service for the ward is not liable for injury to the ward resulting from the wrongful conduct of the third person.

(c) ~~A guardian, without authorization of the court, may revoke the appointment of an agent of a health care directive of which the ward is the principal, but the guardian may not, absent a court order, revoke the health care directive itself. If a health care directive is in effect, absent an order of the court to the contrary, a health care decision of the guardian takes precedence over that of an agent.~~ A guardian may not revoke the health care directive of a ward or protected person absent a court order. A guardian may revoke the appointment of an agent of a health care directive for which the ward is the principal only under the following circumstances:

(1) the agent was appointed in the previous 60 days;

(2) multiple agents have been appointed; or

(3) when a court has determined that the ward lacks capacity to appoint an agent of a health care directive and the court has expressly granted the guardian the power to give necessary consent to enable the ward to receive medical care, treatment, or service.

In all other circumstances, the guardian may not revoke the appointment of an agent of a health care directive for which the ward is principal absent a court order. Unless the appointment of a health care directive is revoked in accordance with this section, a health care decision of the agent takes precedence over that of the guardian.

(d) A guardian may not initiate the commitment of a ward to an institution except in accordance with section 524.5-313.

Sec. 10. Minnesota Statutes 2008, section 524.5-316, is amended to read:

524.5-316 REPORTS; MONITORING OF GUARDIANSHIP; COURT ORDERS.

(a) A guardian shall report to the court in writing on the condition of the ward at least annually and whenever ordered by the court. A copy of the report must be provided to the ward and to interested persons of record with the court. A report must state or contain:

(1) the current mental, physical, and social condition of the ward;

(2) the living arrangements for all addresses of the ward during the reporting period;

(3) any restrictions placed on the ward's right to communication and visitation with persons of the ward's choice and the factual bases for those restrictions;

~~(3)~~ (4) the medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care; and

~~(4)~~ (5) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.

(b) A ward or interested person of record with the court may submit to the court a written statement disputing statements or conclusions regarding the condition of the ward that are contained in the report and may petition the court for an order that is in the best interests of the ward or for other appropriate relief.

(c) The court may appoint a visitor to review a report, interview the ward or guardian, and make any other investigation the court directs.

~~(c)~~ (d) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause.

Sec. 11. Minnesota Statutes 2008, section 524.5-317, is amended to read:

524.5-317 TERMINATION OR MODIFICATION OF GUARDIANSHIP; COURT ORDERS.

(a) A guardianship terminates upon the death of the ward or upon order of the court.

(b) On petition of any person interested in the ward's welfare the court may terminate a guardianship if the ward no longer needs the assistance or protection of a guardian. The court may modify the type of appointment or powers granted to the guardian if the extent of protection or assistance previously granted is currently excessive or insufficient or the ward's capacity to provide for support, care, education, health, and welfare has so changed as to warrant that action. The court may make any other order that is in the best interests of the ward or may grant other appropriate relief.

(c) Except as otherwise ordered by the court for good cause, the court, before terminating a guardianship, shall follow the same procedures to safeguard the rights of the ward as apply to a petition for guardianship. Upon presentation by the petitioner of evidence establishing a prima facie case for termination, the court shall order the termination and discharge the guardian unless it is proven that continuation of the guardianship is in the best interest of the ward.

Sec. 12. Minnesota Statutes 2008, section 524.5-406, is amended to read:

524.5-406 ORIGINAL PETITION: PERSONS UNDER DISABILITY; PRELIMINARIES TO HEARING.

(a) Upon the filing of a petition for a conservatorship or other protective order for a respondent for reasons other than being a minor, the court shall set a date for hearing and the court may appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition.

(b) A respondent has the right to be represented by counsel at any proceeding under this article. The court shall appoint counsel to represent the respondent for the initial proceeding held pursuant to section 524.5-408 if neither the respondent nor others provide counsel, unless in a meeting with a visitor, the proposed respondent makes an informed decision in writing to specifically ~~waives~~ waive the right to counsel. Before appointment, and at anytime during the course of the representation when a risk of a conflict of interest may arise, the proposed or appointed counsel shall disclose to the court, the proposed protected person or protected person, and interested persons whether there are concurrent proceedings in which the counsel is the attorney for the proposed conservator or conservator and whether there is a risk of a conflict of interest under Rule 1.7 of the Rules of Professional Conduct so that the representation of the proposed protected person or protected person will be materially limited by counsel's concurrent responsibilities to the proposed conservator or conservator. If there is a risk of a conflict of interest, the counsel must not be appointed, unless:

(1) the court determines that the proposed protected person or protected person is able to give informed consent to the representation and, if the proposed protected person or protected person consents, the consent is confirmed in writing pursuant to Rule 1.7; or

(2) the court determines that there is not a risk of a conflict of interest under Rule 1.7 requiring the appointment of different counsel.

Counsel must be appointed immediately after any petition under this part is served pursuant to section 524.5-404. Counsel has the full right of subpoena. In all proceedings under this part, counsel shall:

(1) consult with the respondent before any hearing;

(2) be given adequate time to prepare for all hearings; and

(3) continue to represent the respondent throughout any proceedings under section 524.5-408, provided that such appointment shall expire upon the expiration of the appeal time for the order appointing conservator or the order dismissing a petition, or upon such other time or event as the court may direct.

The court need not appoint counsel to represent the respondent on a voluntary petition, and the court may remove a court-appointed attorney at any time if the court finds that the respondent has made a knowing and intelligent waiver of the right to counsel or has obtained private counsel.

(c) The visitor shall personally serve the notice and petition upon the respondent and shall offer to read the notice and petition to the respondent, and if so requested, the visitor shall read the notice and petition to such person. The visitor shall also interview the respondent in person, and to the extent that the respondent is able to understand:

(1) explain to the respondent the substance of the petition and the nature, purpose, and effect of the proceeding;

(2) if the appointment of a conservator is requested, inform the respondent of the general powers and duties of a conservator and determine the respondent's views regarding the proposed conservator, the proposed conservator's powers and duties, and the scope and duration of the proposed conservatorship;

(3) inform the respondent of the respondent's rights, including the right to employ and consult with a lawyer at the respondent's own expense, and the right to request a court-appointed lawyer; and

(4) inform the respondent that all costs and expenses of the proceeding, including respondent's attorney fees, will be paid from the respondent's estate.

(d) In addition to the duties set out in paragraph (c), the visitor shall make any other investigations the court directs.

(e) The visitor shall promptly file a report with the court which must include:

(1) recommendations regarding the appropriateness of a conservatorship, including whether less restrictive means of intervention are available, the type of conservatorship, and, if a limited conservatorship, the powers and duties to be granted the limited conservator, and the assets over

which the conservator should be granted authority;

(2) a statement as to whether the respondent approves or disapproves of the proposed conservator, and the powers and duties proposed or the scope of the conservatorship; and

(3) any other matters the court directs.

(f) While a petition to establish a conservatorship or for another protective order is pending, after preliminary hearing and without notice to others, the court may make orders to preserve and apply the property of the respondent as may be required for the support of the respondent or individuals who are in fact dependent upon the respondent, and may appoint an agent to assist in that task.

(g) Before the initial appointment, and annually within 30 days after the anniversary date of the appointment, the proposed conservator or conservator shall file an informational statement with the court. The statement must be a sworn affidavit containing the following information:

(1) the person's educational background and relevant work and other experience;

(2) an address and telephone number where the conservator can be contacted;

(3) whether the person has ever been removed for cause from serving as a guardian or conservator and if so, the case number and court location;

(4) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study conducted pursuant to section 524.5-118; and

(5) if applicable, the amount of reimbursement for services rendered to the protected person that the person has received during the previous year.

Sec. 13. Minnesota Statutes 2008, section 524.5-409, is amended to read:

524.5-409 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited conservator for a respondent only if it finds that:

(1) by clear and convincing evidence, the individual is unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance, or because the individual is missing, detained, or unable to return to the United States;

(2) by a preponderance of evidence, the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money; and

(3) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may enter any other appropriate order, or dismiss the proceeding.

(c) The court, whenever feasible, shall grant to a conservator only those powers necessitated by

the protected person's limitations and demonstrated needs and make appointive and other orders that will encourage the development of the protected person's maximum self-reliance and independence.

(d) Within 14 days after an appointment, the conservator shall send or deliver to the protected person, if the protected person has attained 14 years of age and is not missing, detained, or unable to return to the United States, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the protected person of the right to appeal the conservatorship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a conservator shall send or deliver to the protected person and to interested persons of record with the court a notice of the right to request termination or modification of the conservatorship or for any order that is in the best interests of the protected person or for other appropriate relief.

(f) The appointment of a conservator or the entry of another protective order is not a determination of incapacity of the protected person.

Sec. 14. Minnesota Statutes 2008, section 524.5-413, is amended to read:

524.5-413 WHO MAY BE CONSERVATOR; PRIORITIES.

(a) Except as otherwise provided in paragraph (d), the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(1) a conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;

(2) a person nominated as conservator by the respondent, including the respondent's most recent nomination made in a durable power of attorney, if the respondent has attained 14 years of age and at the time of the nomination had sufficient capacity to express a preference;

(3) an agent appointed by the respondent to manage the respondent's property under a durable power of attorney;

(4) the spouse of the respondent;

(5) an adult child of the respondent;

(6) a parent of the respondent; ~~and~~

(7) an adult with whom the respondent has resided for more than six months before the filing of the petition;

(8) an adult who is related to the respondent by blood, adoption, or marriage; and

(9) any other adult or a professional conservator.

(b) A person having priority under paragraph (a), clause (1), (4), (5), or (6), may designate in writing a substitute to serve instead and thereby transfer the priority to the substitute.

(c) The court, acting in the best interest of the protected person, may decline to appoint a person having priority and appoint a person having a lower priority or no priority. With respect to persons having equal priority, the court shall select the one it considers best qualified.

(d) In any proceeding where the value of the personal property of the estate of the proposed protected person in the initial inventory of the estate filed by the conservator under section 524.5-419 is expected to be at least $10,000, the court shall require the conservator to post a bond. The bond requirement under this paragraph does not apply to conservators appointed before August 1, 2009, but shall apply as current conservatorships are reviewed by the court after August 1, 2009.

(e) Any individual or agency which provides residence, custodial care, medical care, employment training, or other care or services for which they receive a fee may not be appointed as conservator unless related to the respondent by blood, marriage, or adoption.

Sec. 15. Minnesota Statutes 2008, section 524.5-414, is amended to read:

524.5-414 PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT.

(a) A protected person or an interested person may file a petition in the appointing court for an order:

(1) requiring bond or collateral or additional bond or collateral, or reducing bond;

(2) requiring an accounting for the administration of the protected person's estate;

(3) directing distribution;

(4) removing the conservator and appointing a temporary or successor conservator;

(5) modifying the type of appointment or powers granted to the conservator if the extent of protection or management previously granted is currently excessive or insufficient or the protected person's ability to manage the estate and business affairs has so changed as to warrant the action; or

(6) acting in the protected person's best interests or granting other appropriate relief.

(b) A conservator may petition the appointing court for instructions concerning fiduciary responsibility.

(c) On notice and hearing the petition, the court may give appropriate instructions and make any appropriate order.

(d) The court may, at its own discretion, waive the notice or hearing requirements for the relief requested in a petition filed under this section.

Sec. 16. Minnesota Statutes 2008, section 524.5-420, is amended to read:

524.5-420 REPORTS; APPOINTMENT OF VISITOR; MONITORING; COURT ORDERS.

(a) A conservator shall report to the court for administration of the estate annually unless the court otherwise directs, upon resignation or removal, upon termination of the conservatorship, and at other times as the court directs. An order, after notice and hearing, allowing an intermediate report of a conservator adjudicates liabilities concerning the matters adequately disclosed in the accounting. An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities relating to the conservatorship.

(b) A report must state or contain a listing of the assets of the estate under the conservator's

control and a listing of the receipts, disbursements, and distributions during the reporting period.

(c) A protected person or an interested person of record with the court may submit to the court a written statement disputing account statements regarding the administration of the estate that are contained in the report and may petition the court for any order that is in the best interests of the protected person and the estate or for other appropriate relief.

(d) The court may appoint a visitor to review a report or plan, interview the protected person or conservator, and make any other investigation the court directs. In connection with a report, the court may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.

~~(d)~~ (e) The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' reports and plans. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause."

Delete the title and insert:

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

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Paul Thissen, Joe Mullery, Paul Anderson

Senate Conferees: (Signed) Mee Moua, Ron Latz, David Hann

Senator Moua moved that the foregoing recommendations and Conference Committee Report on H.F. No. 804 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 804 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 56 and nays 4, as follows:

Those who voted in the affirmative were:

Bakk	Erickson Ropes	Kubly	Olson, G.	Saltzman
Berglin	Fobbe	Langseth	Olson, M.	Scheid
Betzold	Foley	Latz	Ortman	Senjem
Bonoff	Gerlach	Lourey	Pappas	Sheran
Carlson	Gimse	Lynch	Pariseau	Sieben
Chaudhary	Hann	Marty	Pogemiller	Skoe
Clark	Higgins	Metzen	Prettner Solon	Skogen
Dahle	Ingebrigtsen	Michel	Rest	Sparks
Day	Johnson	Moua	Robling	Stumpf
Dibble	Kelash	Murphy	Rosen	Tomassoni
Doll	Koch	Olseen	Rummel	Vickerman

Wiger

Those who voted in the negative were:

Jungbauer Koering Limmer Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 928, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 928 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 928

A bill for an act relating to transportation; modifying various provisions related to transportation or public safety; prohibiting certain acts; amending Minnesota Statutes 2008, sections 161.14, subdivision 62, as added, by adding subdivisions; 168.33, subdivision 2; 169.011, by adding a subdivision; 169.045; 169.15; 169.306; 169.71, subdivision 1; 171.12, subdivision 6; 174.86, subdivision 5; 221.012, subdivision 38, by adding a subdivision; 221.0252, by adding a subdivision; 473.167, subdivision 2a; Laws 2008, chapter 287, article 1, section 122; proposing coding for new law in Minnesota Statutes, chapters 160; 171; 174; 299C.

May 15, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 928 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. 928 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 160.165, as added by Laws 2009, chapter 36, article 3, section 2, is amended to read:

160.165 MITIGATION OF TRANSPORTATION CONSTRUCTION IMPACTS ON BUSINESS.

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

(1) "project" means construction work to maintain, construct, reconstruct, or improve a street or highway or for a rail transit project;

(2) "substantial business impacts" means impairment of road access, parking, or visibility for one or more business establishments as a result of a project, for a minimum period of one month; and

(3) "transportation authority" means the commissioner, as to trunk highways; the county board, as to county state-aid highways and county highways; the town board, as to town roads; ~~and~~ statutory or home rule charter cities, as to city streets; the Metropolitan Council, for rail transit projects located entirely within the metropolitan area as defined in section 473.121, subdivision 2; and the commissioner, for all other rail transit projects.

Subd. 2. **Business liaison.** (a) Before beginning construction work on a project, a transportation authority shall identify whether the project is anticipated to include substantial business impacts. For such projects, the transportation authority shall designate an individual to serve as business liaison between the transportation authority and affected businesses.

(b) The business liaison shall consult with affected businesses before and during construction to investigate means of mitigating project impacts to businesses. The mitigation considered must include signage. The business liaison shall provide information to the identified businesses before and during construction, concerning project duration and timetables, lane and road closures, detours, access impacts, customer parking impacts, visibility, noise, dust, vibration, and public participation opportunities.

Subd. 3. **Exception.** This section does not apply to construction work in connection with the Central Corridor light rail or transit line that will connect downtown Minneapolis and downtown St. Paul.

EFFECTIVE DATE. Subdivision 1 is effective July 1, 2011. Subdivision 3 is effective July 1, 2009.

Sec. 2. **[160.2755] PROHIBITED ACTIVITIES AT REST AREAS.**

Subdivision 1. **Prohibited activities.** It is unlawful at rest areas to:

(1) dispose of travel-related trash and rubbish, except if depositing it in a designated receptacle;

(2) dump household or commercial trash and rubbish into containers or anywhere else on site;

(3) drain or dump refuse or waste from any trailer, recreational vehicle, or other vehicle except where receptacles are provided and designated to receive the refuse or waste;

(4) stop and park continuously for a period in excess of six hours, except for:

(i) commercial motor vehicle operators as provided for under section 160.2721; and

(ii) employees on duty at the rest area;

(5) pitch tents or sleep overnight outside a vehicle; or

(6) allow a motor vehicle to remain unattended when no member of a party or group traveling in association with the motor vehicle or trailer is present at the rest area.

Subd. 2. **Penalty.** Violation of this section is a petty misdemeanor.

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

Sec. 3. Minnesota Statutes 2008, section 161.14, subdivision 62, as added by Laws 2009, chapter 18, section 1, is amended to read:

Subd. 62. **Clearwater County Veterans Memorial Highway.** (a) The following described route is designated the "Clearwater County Veterans Memorial Highway": that portion of Legislative Route No. 168, marked on the effective date of this section as Trunk Highway 200, from its intersection with Clearwater County State-Aid Highway ~~37~~ 39 to its intersection with Legislative Route No. 169, marked on the effective date of this section as Trunk Highway 92; and that portion of Route No. 169 to its intersection with Clearwater County State-Aid Highway 5.

(b) The commissioner shall adopt a suitable marking design to mark this highway and erect appropriate signs, subject to section 161.139.

Sec. 4. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 64. **Veterans Memorial Highway.** Legislative Route No. 31, signed as Trunk Highway 200 as of the effective date of this section, from the border with North Dakota to the city of Mahnomen, is designated as the "Veterans Memorial Highway." The commissioner shall adopt a suitable design to mark this highway and erect appropriate signs, subject to section 161.139.

Sec. 5. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 65. **Becker County Veterans Memorial Highway.** Marked Trunk Highway 34, from its intersection with Washington Avenue in Detroit Lakes to its intersection with County State-Aid Highway 39; and marked Trunk Highway 87, from its intersection with County State-Aid Highway 33 to its intersection with County State-Aid Highway 39, is named and designated the "Becker County Veterans Memorial Highway." Subject to section 161.139, the commissioner shall adopt a suitable marking design to mark this highway and erect appropriate signs.

Sec. 6. Minnesota Statutes 2008, section 161.14, is amended by adding a subdivision to read:

Subd. 66. **Granite City Crossing.** The bridge over the Mississippi River on marked Trunk Highway 23 in St. Cloud is designated "Granite City Crossing." The commissioner of transportation shall adopt a suitable design to mark this bridge and erect appropriate signs, subject to section 161.139.

Sec. 7. Minnesota Statutes 2008, section 165.14, subdivision 4, is amended to read:

Subd. 4. **Prioritization of bridge projects.** (a) The commissioner shall classify all bridges in the program into tier 1, 2, or 3 bridges, where tier 1 is the highest tier. Unless the commissioner

identifies a reason for proceeding otherwise, before commencing bridge projects in a lower tier, all bridge projects within a higher tier must to the extent feasible be selected and funded in the approved state transportation improvement program, at any stage in the project development process, solicited for bids, in contract negotiation, under construction, or completed.

(b) The classification of each tier is as follows:

(1) tier 1 consists of any bridge in the program that (i) has an average daily traffic count that is above 1,000 and has a sufficiency rating that is at or below 50, or (ii) is identified by the commissioner as a priority project;

(2) tier 2 consists of any bridge that is not a tier 1 bridge, and (i) is classified as fracture-critical, or (ii) has a sufficiency rating that is at or below 80; and

(3) tier 3 consists of any other bridge in the program that is not a tier 1 or tier 2 bridge.

(c) By June 30, 2018, all tier 1 and tier 2 bridges originally included in the program must be under contract for repair or replacement with a new bridge that contains a load-path-redundant design, except that a specific bridge may remain in continued service if the reasons are documented in the report required under subdivision 5.

(d) All bridge projects funded under this section in fiscal year 2010 or later must include bicycle and pedestrian accommodations if both sides of the bridge are located in a city or the bridge links a pedestrian way, shared-use path, trail, or scenic bikeway.

Bicycle and pedestrian accommodations would not be required if:

(1) a comprehensive assessment demonstrates that there is an absence of need for bicycle and pedestrian accommodations for the life of the bridge; or

(2) there is a reasonable alternative bicycle and pedestrian crossing within one-quarter mile of the bridge project.

All bicycle and pedestrian accommodations should enable a connection to any existing bicycle and pedestrian infrastructure in close proximity to the bridge. All pedestrian facilities must meet or exceed federal accessibility requirements as outlined in Title II of the Americans with Disabilities Act, codified in United States Code, title 42, chapter 126, subchapter II, and Section 504 of the Rehabilitation Act of 1973, codified in United States Code, title 29, section 794.

(e) The commissioner shall establish criteria for determining the priority of bridge projects within each tier, and must include safety considerations as a criterion.

Sec. 8. Minnesota Statutes 2008, section 165.14, subdivision 5, is amended to read:

Subd. 5. **Statewide transportation planning report.** In conjunction with each update to the Minnesota statewide transportation plan, or at least every six years, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over transportation finance. The report must include:

(1) an explanation of the criteria and decision-making processes used to prioritize bridge projects;

(2) a historical and projected analysis of the extent to which all trunk highway bridges meet bridge performance targets and comply with the accessibility requirements of Title II of the Americans with Disabilities Act;

(3) a summary of bridge projects (i) completed in the previous six years or since the last update to the Minnesota statewide transportation plan, and (ii) currently in progress under the program;

(4) a summary of bridge projects scheduled in the next four fiscal years and included in the state transportation improvement program;

(5) a projection of annual needs over the next 20 years;

(6) a calculation of funding necessary to meet the completion date under subdivision 4, paragraph (c), compared to the total amount of bridge-related funding available; and

(7) for any tier 1 fracture-critical bridge that is repaired but not replaced, an explanation of the reasons for repair instead of replacement.

Sec. 9. Minnesota Statutes 2008, section 168.33, subdivision 2, is amended to read:

Subd. 2. **Deputy registrars.** (a) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, without regard to whether the county auditor of the county in which the city is situated has been appointed as the deputy registrar for the county or has been discontinued as the deputy registrar for the county, and without regard to whether the county in which the city is situated has established a county license bureau that issues motor vehicle licenses as provided in section 373.32.

(b) The commissioner may appoint, and for cause discontinue, a deputy registrar for any statutory or home rule charter city as the public interest and convenience may require, if the auditor for the county in which the city is situated chooses not to accept appointment as the deputy registrar for the county or is discontinued as a deputy registrar, or if the county in which the city is situated has not established a county license bureau that issues motor vehicle licenses as provided in section 373.32. The individual appointed by the commissioner as a deputy registrar for any statutory or home rule charter city must be a resident of the county in which the city is situated.

(c) The commissioner may appoint, and for cause discontinue, the county auditor of each county as a deputy registrar.

(d) Despite any other provision, a person other than a county auditor or a director of a county license bureau, who was appointed by the registrar before August 1, 1976, as a deputy registrar for any statutory or home rule charter city, may continue to serve as deputy registrar and may be discontinued for cause only by the commissioner. The county auditor who appointed the deputy registrars is responsible for the acts of deputy registrars appointed by the auditor.

(e) Each deputy, before entering upon the discharge of duties, shall take and subscribe an oath to faithfully discharge the duties and to uphold the laws of the state.

(f) If a deputy registrar appointed under this subdivision is not an officer or employee of a county or statutory or home rule charter city, the deputy shall in addition give bond to the state in the sum of $10,000, or a larger sum as may be required by the commissioner, conditioned upon the faithful discharge of duties as deputy registrar.

(g) ~~Until January 1, 2012,~~ A corporation governed by chapter 302A may be appointed a deputy registrar. Upon application by an individual serving as a deputy registrar and the giving of the requisite bond as provided in this subdivision, personally assured by the individual or another individual approved by the commissioner, a corporation named in an application then becomes the duly appointed and qualified successor to the deputy registrar. ~~The appointment of any corporation as a deputy registrar expires January 1, 2012. The commissioner shall appoint an individual as successor to the corporation as a deputy registrar. The commissioner shall appoint as the successor agent to a corporation whose appointment expires under this paragraph an officer of the corporation if the officer applies for appointment before July 1, 2012.~~

(h) Each deputy registrar appointed under this subdivision shall keep and maintain office locations approved by the commissioner for the registration of vehicles and the collection of taxes and fees on vehicles.

(i) The deputy registrar shall keep records and make reports to the commissioner as the commissioner requires. The records must be maintained at the offices of the deputy registrar. The records and offices of the deputy registrar must at all times be open to the inspection of the commissioner or the commissioner's agents. The deputy registrar shall report to the commissioner by the next working day following receipt all registrations made and taxes and fees collected by the deputy registrar.

(j) The filing fee imposed under subdivision 7 must be deposited in the treasury of the place for which appointed or, if not a public official, a deputy shall retain the filing fee, but the registration tax and any additional fees for delayed registration the deputy registrar has collected the deputy registrar shall deposit by the next working day following receipt in an approved state depository to the credit of the state through the commissioner of finance. The place for which the deputy registrar is appointed through its governing body must provide the deputy registrar with facilities and personnel to carry out the duties imposed by this subdivision if the deputy is a public official. In all other cases, the deputy shall maintain a suitable facility for serving the public.

Sec. 10. Minnesota Statutes 2008, section 168.33, subdivision 7, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

(1) $4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and

(2) $8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) The statutory fees and taxes, and the filing fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the statutory fees, taxes, and filing fee not greater than the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public safety. The surcharge must be used to pay the cost of processing credit and debit card transactions.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into

the vehicle services operating account in the special revenue fund under section 299A.705. Of the fee collected under paragraph (a), clause (2), by the department, $3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

EFFECTIVE DATE. This section is effective for fees collected on and after August 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 168B.06, subdivision 1, is amended to read:

Subdivision 1. **Written notice of impound.** (a) When an impounded vehicle is taken into custody, the unit of government or impound lot operator taking it into custody shall give written notice of the taking within five days to the registered vehicle owner and any lienholders.

(b) The notice must:

(1) set forth the date and place of the taking;

(2) provide the year, make, model, and serial number of the impounded motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held;

(3) inform the owner and any lienholders of their right to reclaim the vehicle under section 168B.07;

(4) state that failure of the owner or lienholders to:

(i) exercise their right to reclaim the vehicle within the appropriate time allowed under section 168B.051, subdivision 1, 1a, or 2, and under the conditions set forth in section 168B.07, subdivision 1, constitutes a waiver by them of all right, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle pursuant to section 168B.08; or

(ii) exercise their right to reclaim the contents of the vehicle within the appropriate time allowed and under the conditions set forth in section 168B.07, subdivision 3, constitutes a waiver by them of all right, title, and interest in the contents and consent to sell or dispose of the contents under section 168B.08; and

(5) state that a vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, ~~or has a household income at or below 50 percent of state median income~~ has the unencumbered right to retrieve any and all contents without charge.

Sec. 12. Minnesota Statutes 2008, section 168B.07, subdivision 3, is amended to read:

Subd. 3. **Retrieval of contents.** (a) For purposes of this subdivision:

(1) "contents" does not include any permanently affixed mechanical or nonmechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players; and

(2) "relief based on need" includes, but is not limited to, receipt of MFIP and Diversionary Work Program, medical assistance, general assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, MSA-emergency assistance, MinnesotaCare, Supplemental Security Income, energy assistance, emergency assistance, food stamps, earned

income tax credit, or Minnesota working family tax credit.

(b) A unit of government or impound lot operator shall establish reasonable procedures for retrieval of vehicle contents, and may establish reasonable procedures to protect the safety and security of the impound lot and its personnel.

(c) At any time before the expiration of the waiting periods provided in section 168B.051, a registered owner who provides documentation from a government or nonprofit agency or legal aid office that the registered owner is homeless, receives relief based on need, or is eligible for legal aid services, ~~or has a household income at or below 50 percent of state median income~~ has the unencumbered right to retrieve any and all contents without charge and regardless of whether the registered owner pays incurred charges or fees, transfers title, or reclaims the vehicle.

Sec. 13. Minnesota Statutes 2008, section 169.011, is amended by adding a subdivision to read:

Subd. 40a. **Mini truck.** (a) "Mini truck" means a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements.

(b) A mini truck does not include:

(1) a neighborhood electric vehicle or a medium-speed electric vehicle; or

(2) a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

Sec. 14. Minnesota Statutes 2008, section 169.041, subdivision 5, is amended to read:

Subd. 5. **Towing prohibited.** ~~Unless the vehicle is described in subdivision 4,~~ (a) A towing authority may not tow a motor vehicle because:

(1) the vehicle has expired registration tabs that have been expired for less than 90 days; or

(2) the vehicle is at a parking meter on which the time has expired and the vehicle has fewer than five unpaid parking tickets.

(b) A towing authority may tow a motor vehicle, notwithstanding paragraph (a), if:

(1) the vehicle is parked in violation of snow emergency regulations;

(2) the vehicle is parked in a rush-hour restricted parking area;

(3) the vehicle is blocking a driveway, alley, or fire hydrant;

(4) the vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited;

(5) the vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign;

(6) the vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates;

(7) the vehicle is parked in an area that has been posted for temporary restricted parking (A) at least 12 hours in advance in a home rule charter or statutory city having a population under 50,000, or (B) at least 24 hours in advance in another political subdivision;

(8) the vehicle is parked within the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed there;

(9) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police, public safety, or emergency vehicles;

(10) the vehicle is unlawfully parked on property at the Minneapolis-St. Paul International Airport owned by the Metropolitan Airports Commission;

(11) a law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to obtain or preserve the evidence;

(12) the driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping;

(13) a law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses;

(14) the vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs;

(15) the vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle;

(16) the vehicle is parked, on a school day during prohibited hours, in a school zone on a public street where official signs prohibit parking; or

(17) the vehicle is a junk, abandoned, or unauthorized vehicle, as defined in section 168B.011, and subject to immediate removal under chapter 168B.

Sec. 15. Minnesota Statutes 2008, section 169.045, is amended to read:

169.045 SPECIAL VEHICLE USE ON ROADWAY.

Subdivision 1. **Designation of roadway, permit.** The governing body of any county, home rule charter or statutory city, or town may by ordinance authorize the operation of motorized golf carts, ~~or~~ four-wheel all-terrain vehicles, or mini trucks, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck is by permit only. For purposes of this section, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds, and a mini truck has the meaning given in section 169.011, subdivision 40a.

Subd. 2. **Ordinance.** The ordinance shall designate the roadways, prescribe the form of the application for the permit, require evidence of insurance complying with the provisions of section 65B.48, subdivision 5 and may prescribe conditions, not inconsistent with the provisions of this section, under which a permit may be granted. Permits may be granted for a period of not to exceed one year, and may be annually renewed. A permit may be revoked at any time if there is evidence

that the permittee cannot safely operate the motorized golf cart ~~or,~~ four-wheel all-terrain vehicle, or mini truck on the designated roadways. The ordinance may require, as a condition to obtaining a permit, that the applicant submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart ~~or,~~ four-wheel all-terrain vehicle, or mini truck on the roadways designated.

Subd. 3. **Times of operation.** Motorized golf carts and four-wheel all-terrain vehicles may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

Subd. 4. **Slow-moving vehicle emblem.** Motorized golf carts shall display the slow-moving vehicle emblem provided for in section 169.522, when operated on designated roadways.

Subd. 5. **Crossing intersecting highways.** The operator, under permit, of a motorized golf cart ~~or,~~ four-wheel all-terrain vehicle, or mini truck may cross any street or highway intersecting a designated roadway.

Subd. 6. **Application of traffic laws.** Every person operating a motorized golf cart ~~or,~~ four-wheel all-terrain vehicle, or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of this chapter, except when those provisions cannot reasonably be applied to motorized golf carts ~~or,~~ four-wheel all-terrain vehicles, or mini trucks and except as otherwise specifically provided in subdivision 7.

Subd. 7. **Nonapplication of certain laws.** The provisions of chapter 171 are applicable to persons operating mini trucks, but are not applicable to persons operating motorized golf carts or four-wheel all-terrain vehicles under permit on designated roadways pursuant to this section. Except for the requirements of section 169.70, the provisions of this chapter relating to equipment on vehicles ~~is~~ are not applicable to motorized golf carts or four-wheel all-terrain vehicles operating, under permit, on designated roadways.

Subd. 8. **Insurance.** In the event persons operating a motorized golf cart ~~or,~~ four-wheel, all-terrain vehicle, or mini truck under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile ~~Assigned Risk~~ Insurance Plan under sections 65B.01 to 65B.12 at a rate to be determined by the commissioner of commerce.

Sec. 16. Minnesota Statutes 2008, section 169.045, is amended by adding a subdivision to read:

Subd. 7a. **Required equipment on mini trucks.** Notwithstanding sections 169.48 to 169.68, or any other law, a mini truck may be operated under permit on designated roadways if it is equipped with:

(1) at least two headlamps;

(2) at least two taillamps;

(3) front and rear turn-signal lamps;

(4) an exterior mirror mounted on the driver's side of the vehicle and either (i) an exterior mirror

mounted on the passenger's side of the vehicle or (ii) an interior mirror;

(5) a windshield;

(6) a seat belt for the driver and front passenger; and

(7) a parking brake.

Sec. 17. Minnesota Statutes 2008, section 169.15, is amended to read:

169.15 IMPEDING TRAFFIC; INTERSECTION GRIDLOCK.

Subdivision 1. **Impeding traffic; drive at slow speed.** No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or except when the vehicle is temporarily unable to maintain a greater speed due to a combination of the weight of the vehicle and the grade of the highway.

Subd. 2. **Intersection gridlock; stop or block traffic.** No driver of a motor vehicle shall enter an intersection controlled by a signal light until the vehicle is able to move completely through the intersection without impeding or blocking the subsequent movement of cross traffic, unless such movement is at the direction of a city-authorized traffic-control agent or a police officer or to facilitate passage of an authorized emergency vehicle. A violation of this subdivision does not constitute grounds for suspension or revocation of the violator's driver's license.

EFFECTIVE DATE. This section is effective January 1, 2010, and applies to acts committed on or after that date.

Sec. 18. Minnesota Statutes 2008, section 169.306, is amended to read:

169.306 USE OF SHOULDERS BY BUSES.

(a) The commissioner of transportation ~~may~~ is authorized to permit the use by transit buses and Metro Mobility buses of a shoulder, as designated by the commissioner, of a freeway or expressway, as defined in section 160.02, ~~in the seven-county metropolitan area~~ in Minnesota.

(b) If the commissioner permits the use of a freeway or expressway shoulder by transit buses, the commissioner shall ~~also~~ permit the use on that shoulder of a bus (1) with a seating capacity of 40 passengers or more operated by a motor carrier of passengers, as defined in section 221.012, subdivision 26, while operating in intrastate commerce or (2) providing regular route transit service, as defined in section 174.22, subdivision 8, or Metro Mobility services, and operated by or under contract with the Metropolitan Council, a local transit authority, or a transit authority created by the legislature. Drivers of these buses must have adequate training in the requirements of paragraph (c), as determined by the commissioner.

(c) Buses authorized to use the shoulder under this section may be operated on the shoulder only when main-line traffic speeds are less than 35 miles per hour. Drivers of buses being operated on the shoulder may not exceed the speed of main-line traffic by more than 15 miles per hour and may never exceed 35 miles per hour. Drivers of buses being operated on the shoulder must yield to merging, entering, and exiting traffic and must yield to other vehicles on the shoulder. Buses operated on the shoulder must be registered with the Department of Transportation.

(d) For the purposes of this section, the term "Metro Mobility bus" means a motor vehicle of not less than 20 feet in length engaged in providing special transportation services under section 473.386 that is:

(1) operated by ~~the Metropolitan Council, or operated by~~ or under contract with a public or private entity receiving financial assistance to provide transit services from the Metropolitan Council or the commissioner of transportation; and

(2) authorized by the ~~council~~ commissioner to use freeway or expressway shoulders.

(e) This section does not apply to the operation of buses on dynamic shoulder lanes.

Sec. 19. Minnesota Statutes 2008, section 169.71, subdivision 1, as amended by Laws 2009, chapter 59, article 5, section 5, is amended to read:

Subdivision 1. **Prohibitions generally; exceptions.** (a) A person shall not drive or operate any motor vehicle with:

(1) a windshield cracked or discolored to an extent to limit or obstruct proper vision;

(2) any objects suspended between the driver and the windshield, other than:

(i) sun visors;

(ii) rearview mirrors;

(iii) driver feedback and safety-monitoring equipment when mounted immediately behind, slightly above, or slightly below the rearview mirror;

~~(iii)~~ (iv) global positioning systems or navigation systems when mounted or located near the bottommost portion of the windshield; and

~~(iv)~~ (v) electronic toll collection devices; or

(3) any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear windows of the vehicle, other than a certificate or other paper required to be so displayed by law or authorized by the state director of the Division of Emergency Management or the commissioner of public safety.

(b) Paragraph (a), clauses (2) and (3), do not apply to law enforcement vehicles.

(c) Paragraph (a), clause (2), does not apply to authorized emergency vehicles.

Sec. 20. Minnesota Statutes 2008, section 169.865, subdivision 1, is amended to read:

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

(1) 90,000 pounds; and

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

(b) Notwithstanding subdivision ~~4~~ 3, paragraph (a), clause (4), a vehicle or combination of vehicles operated under this subdivision and transporting only sealed intermodal containers may be operated on an interstate highway if allowed by the United States Department of Transportation.

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

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 21. Minnesota Statutes 2008, section 169.87, is amended by adding a subdivision to read:

Subd. 7. **Cargo tank vehicles.** (a) Weight restrictions imposed by the commissioner under subdivisions 1 and 2 do not apply to cargo tank vehicles with two or three permanent axles when delivering propane for heating or dyed fuel oil on seasonally weight-restricted roads if the vehicle is loaded at no more than 50 percent capacity of the cargo tank.

(b) To be exempt from weight restrictions under paragraph (a), a cargo tank vehicle used for propane must have an operating gauge on the cargo tank that shows the amount of propane as a percent of capacity of the cargo tank. Documentation of the capacity of the cargo tank must be available on the cargo tank or in the cab of the vehicle. For purposes of this subdivision, propane weighs 4.2 pounds per gallon.

(c) To be exempt from weight restrictions under paragraph (a), a cargo tank vehicle used for dyed fuel oil must utilize the forward two tank compartments and must carry documentation of the empty weight of the cargo tank vehicle from a certified scale in the cab of the vehicle. For purposes of this subdivision, dyed fuel oil weighs seven pounds per gallon.

(d) To the extent practicable, cargo tank vehicles that are exempt from weight restrictions under paragraph (a) shall complete deliveries on seasonally weight restricted roads by 12:00 p.m. and before the last week of April.

Sec. 22. Minnesota Statutes 2008, section 169A.275, subdivision 7, as amended by Laws 2009, chapter 29, section 1, is amended to read:

Subd. 7. **Exception.** (a) A judge is not required to sentence a person as provided in this section if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

(b) This subdivision expires July 1, 2011.

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

Sec. 23. Minnesota Statutes 2008, section 171.306, subdivision 1, as amended by Laws 2009, chapter 29, section 2, is amended to read:

Subdivision 1. **Pilot project established; reports.** The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. The pilot project must begin on July 1, 2009, and continue until June 30, 2011. The commissioner shall submit a preliminary report by September 30, 2010, and a final report by September 30, 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project.

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

Sec. 24. Minnesota Statutes 2008, section 171.306, subdivision 3, as amended by Laws 2009, chapter 29, section 3, is amended to read:

Subd. 3. **Pilot project components.** (a) Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked under chapter 169A for an impaired driving incident if the person qualifies under this section and agrees to all of the conditions of the project.

(b) The commissioner must denote the person's driver's license record to indicate the person's participation in the program. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.

(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock pilot program shall be subject to this program, and when the person is eligible to be issued:

(1) a limited driver's license subject to the ignition interlock restriction;

(2) full driving privileges subject to the ignition interlock restriction; and

(3) a driver's license without an ignition interlock restriction.

(d) A person participating in this pilot project shall agree to participate in any treatment recommended by a chemical use assessment.

(e) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.

(f) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an ignition interlock device.

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

Sec. 25. Minnesota Statutes 2008, section 174.01, subdivision 1, is amended to read:

Subdivision 1. **Department created.** In order to provide ~~a balanced~~ an integrated transportation system~~, including~~ of aeronautics, highways, motor carriers, ports, public transit, railroads, and pipelines, and including facilities for walking and bicycling, a Department of Transportation is created. The department is the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans, and programs.

Sec. 26. Minnesota Statutes 2008, section 174.01, subdivision 2, is amended to read:

Subd. 2. **Transportation goals.** The goals of the state transportation system are as follows:

(1) to ~~provide safe transportation~~ minimize fatalities and injuries for transportation users throughout the state;

(2) to provide multimodal and intermodal transportation ~~that enhances mobility and economic development and provides access to all persons and businesses in Minnesota while ensuring that there is no~~ facilities and services to increase access for all persons and businesses and to ensure economic well-being and quality of life without undue burden placed on any community;

(3) to provide a reasonable travel time for commuters;

(4) to enhance economic development and provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;

(5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists and to enhance the appeal, through transportation investments, of tourist destinations across the state;

(6) to provide transit services ~~throughout~~ to all counties in the state to meet the needs of transit users;

(7) to promote ~~productivity~~ accountability through ~~system~~ systematic management of system performance and productivity through the utilization of technological advancements;

(8) to maximize the long-term benefits received for each state transportation investment;

(9) to provide for and prioritize funding ~~for~~ of transportation investments that~~, at a minimum, preserves the transportation infrastructure~~ ensures that the state's transportation infrastructure is maintained in a state of good repair;

(10) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state;

(11) to promote and increase the use of high-occupancy vehicles and low-emission vehicles;

(12) to provide an air transportation system sufficient to encourage economic growth and allow all regions of the state the ability to participate in the global economy;

(13) to increase ~~transit~~ use of transit as a percentage of all trips statewide by giving highest priority to the transportation modes with the greatest people-moving capacity and lowest long-term economic and environmental cost;

(14) to promote and increase bicycling and walking as a percentage of all trips as ~~an~~ energy-efficient, nonpolluting, and ~~healthful form~~ healthy forms of transportation;

(15) to reduce greenhouse gas emissions from the state's transportation sector; and

(16) to accomplish these goals with minimal impact on the environment.

Sec. 27. Minnesota Statutes 2008, section 174.02, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency; legislative report, recommendations.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) minimize the degradation of air ~~and~~, water quality, and the climate, including reduction in greenhouse gas emissions;

(4) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(5) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(6) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(7) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(8) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 28. **[174.285] MINNESOTA COUNCIL ON TRANSPORTATION ACCESS.**

Subdivision 1. **Council established.** A Minnesota Council on Transportation Access is established to study, evaluate, oversee, and make recommendations to improve the coordination, availability, accessibility, efficiency, cost-effectiveness, and safety of transportation services provided to the transit public. "Transit public" means those persons who utilize public transit and those who, because of mental or physical disability, income status, or age are unable to transport themselves and are dependent upon others for transportation services.

Subd. 2. **Duties of council.** In order to accomplish the purposes in subdivision 1, the council shall adopt a biennial work plan that must incorporate the following activities:

(1) compile information on existing transportation alternatives for the transit public, and serve as a clearinghouse for information on services, funding sources, innovations, and coordination efforts;

(2) identify best practices and strategies that have been successful in Minnesota and in other states for coordination of local, regional, state, and federal funding and services;

(3) recommend statewide objectives for providing public transportation services for the transit public;

(4) identify barriers prohibiting coordination and accessibility of public transportation services and aggressively pursue the elimination of those barriers;

(5) recommend policies and procedures for coordinating local, regional, state, and federal funding and services for the transit public;

(6) identify stakeholders in providing services for the transit public, and seek input from them concerning barriers and appropriate strategies;

(7) recommend guidelines for developing transportation coordination plans throughout the state;

(8) encourage all state agencies participating in the council to purchase trips within the coordinated system;

(9) facilitate the creation and operation of transportation brokerages to match riders to the appropriate service, promote shared dispatching, compile and disseminate information on transportation options, and promote regional communication;

(10) encourage volunteer driver programs and recommend legislation to address liability and insurance issues;

(11) recommend minimum performance standards for delivery of services;

(12) identify methods to eliminate fraud and abuse in special transportation services;

(13) develop a standard method for addressing liability insurance requirements for transportation services purchased, provided, or coordinated;

(14) design and develop a contracting template for providing coordinated transportation services;

(15) recommend an interagency uniform contracting and billing and accounting system for providing coordinated transportation services;

(16) encourage the design and development of training programs for coordinated transportation services;

(17) encourage the use of public school transportation vehicles for the transit public;

(18) develop an allocation methodology that equitably distributes transportation funds to compensate units of government and all entities that provide coordinated transportation services;

(19) identify policies and necessary legislation to facilitate vehicle sharing; and

(20) advocate aggressively for eliminating barriers to coordination, implementing coordination strategies, enacting necessary legislation, and appropriating resources to achieve the council's objectives.

Subd. 3. **Membership.** (a) The council is comprised of the following 17 members:

(1) two members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, one of whom must be a member of the minority;

(2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(3) one representative from the Office of the Governor;

(4) one representative from the Council on Disability;

(5) one representative from the Minnesota Public Transit Association;

(6) the commissioner of transportation or a designee;

(7) the commissioner of human services or a designee;

(8) the commissioner of health or a designee;

(9) the chair of the Metropolitan Council or a designee;

(10) the commissioner of education or a designee;

(11) the commissioner of veterans affairs or a designee;

(12) one representative from the Board on Aging;

(13) the commissioner of employment and economic development or a designee;

(14) the commissioner of commerce or a designee; and

(15) the commissioner of finance or a designee.

(b) All appointments required by paragraph (a) must be completed by August 1, 2009.

(c) The commissioner of transportation or a designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council. The members shall elect a chairperson from their membership at the first meeting.

(d) The Department of Transportation and the Department of Human Services shall provide necessary staff support for the council.

Subd. 4. **Report.** By January 15 of each year, beginning in 2011, the council shall report its findings, recommendations, and activities to the governor's office and to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation, health, and human services, and to the legislature as provided under section 3.195.

Subd. 5. **Compensation.** Members of the council shall receive compensation and reimbursement of expenses as provided in section 15.059, subdivision 3.

Subd. 6. **Expiration.** This section expires June 30, 2013.

Sec. 29. Minnesota Statutes 2009, section 174.632, as added by Laws 2009, chapter 36, article 3, section 16, is amended to read:

174.632 PASSENGER RAIL; COMMISSIONER'S DUTIES.

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

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

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

(d) The commissioner shall preserve all railroad employee rights under the Railway Labor Act, Federal Employers Liability Act, and Railroad Retirement and Unemployment Insurance Act, and federal railroad safety, occupational safety, and health laws.

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

Sec. 30. Minnesota Statutes 2008, section 174.86, subdivision 5, is amended to read:

Subd. 5. **Commuter Rail Corridor Coordinating Committee.** (a) A Commuter Rail Corridor Coordinating Committee ~~shall be~~ is established to advise the commissioner on issues relating to the alternatives analysis, environmental review, advanced corridor planning, preliminary engineering, final design, implementation method, construction of commuter rail, public involvement, land use, service, and safety. The Commuter Rail Corridor Coordinating Committee shall consist of:

(1) one member representing each significant funding partner in whose jurisdiction the line or lines are located;

(2) one member appointed by each county in which the corridors are located;

(3) one member appointed by each city in which advanced corridor plans indicate that a station may be located;

(4) two members appointed by the commissioner, one of whom shall be designated by the commissioner as the chair of the committee;

(5) one member appointed by each metropolitan planning organization through which the commuter rail line may pass; ~~and~~

(6) one member appointed by the president of the University of Minnesota, if a designated corridor provides direct service to the university~~.~~; and

(7) two ex-officio members who are members of labor organizations operating in, and with authority for, trains or rail yards or stations junctioning with freight and commuter rail lines on corridors, with one member appointed by the speaker of the house and the other member appointed by the senate Rules and Administration Subcommittee on Committees.

(b) A joint powers board existing on April 1, 1999, consisting of local governments along a commuter rail corridor, shall perform the functions set forth in paragraph (a) in place of the committee.

(c) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 31. Minnesota Statutes 2008, section 219.01, is amended to read:

219.01 TRACK SAFETY STANDARDS; SAFETY TECHNOLOGY GRANTS.

(a) The track safety standards of the United States Department of Transportation and Federal Railroad Administration apply to railroad trackage and are the standards for the determination of unsafe trackage within the state.

(b) The commissioner of transportation shall apply to the Federal Railroad Administration under Public Law 110-432, the Railroad Safety Enhancement Act of 2008 (the act), for (1) railroad safety technology grant funding available under section 105 of the act and (2) development and installation of rail safety technology, including provision for switch position indicator signals in nonsignalized main track territory, under section 406 of the act. The commissioner shall respond and make application to the Federal Railroad Administration notice of funds availability under the Rail Safety Assurance Act in a timely manner and before the date of the program deadline to assure full consideration of the application. The commissioner shall (i) prioritize grant requests for the

installation of switch indicator signals on all segments of nonsignalized track where posted speeds are in excess of 20 miles per hour and (ii) apply for grant funding in each year after 2009 until all nonsignalized track territory in the state has switch indicator signals installed and in operation.

(c) Prior to applying for funds under paragraph (b), the commissioner shall solicit grant requests from all eligible railroads. The commissioner shall submit written notice to the chairs of the legislative committees with jurisdiction over transportation policy and finance of an acceptance by a class I or class II railroad of federal grant program funding for switch point indicator monitor systems.

(d) Participating railroads shall provide the 20 percent nonfederal match. Railroads shall provide all technical documentation requested by the commissioner and required by the Federal Railroad Administration for the applications under paragraph (b). Railroads are responsible for developing, acquiring, and installing all rail safety technology obtained under this section in accordance with requirements established by the Federal Railroad Administration.

Sec. 32. Minnesota Statutes 2008, section 221.012, is amended by adding a subdivision to read:

Subd. 27a. **Motor carrier of railroad employees.** "Motor carrier of railroad employees" means a motor carrier engaged in the for-hire transportation of railroad employees of a class I or II common carrier, as defined in Code of Federal Regulations, title 49, part 1201, general instruction 1-1, under the terms of a contractual agreement with a common carrier, as defined in section 218.011, subdivision 10.

Sec. 33. Minnesota Statutes 2008, section 221.012, subdivision 38, is amended to read:

Subd. 38. **Small vehicle passenger service.** (a) "Small vehicle passenger service" means a service provided by a person engaged in the for-hire transportation of passengers in a vehicle designed to transport seven or fewer persons, including the driver.

(b) In the metropolitan area as defined in section 473.121, subdivision 2, "small vehicle passenger service" also includes for-hire transportation of persons who are certified by the Metropolitan Council to use special transportation service provided under section 473.386, in a vehicle designed to transport not more than 15 persons including the driver, that is equipped with a wheelchair lift and at least three wheelchair securement positions.

(c) "Small vehicle passenger service" does not include a motor carrier of railroad employees.

Sec. 34. **[221.0255] MOTOR CARRIER OF RAILROAD EMPLOYEES.**

(a) A motor carrier of railroad employees must meet the requirements specified in this section, is subject to section 221.291, and is otherwise exempt from the provisions of this chapter.

(b) A vehicle operator for a motor carrier of railroad employees who transports passengers must:

(1) have a valid driver's license under chapter 171; and

(2) submit to a physical examination.

(c) The carrier must implement a policy that provides for annual training and certification of the operator in:

(1) safe operation of the vehicle transporting railroad employees;

(2) knowing and understanding relevant laws, rules of the road, and safety policies;

(3) handling emergency situations;

(4) proper use of seat belts;

(5) performance of pretrip and post-trip vehicle inspections, and inspection record keeping; and

(6) proper maintenance of required records.

(d) The carrier must:

(1) perform a background check or background investigation of the operator;

(2) annually verify the operator's driver's license;

(3) document meeting the requirements in this subdivision, and maintain the file at the carrier's business location;

(4) maintain liability insurance in a minimum amount of $5,000,000 regardless of the seating capacity of the vehicle; and

(5) maintain uninsured and underinsured coverage in a minimum amount of $1,000,000.

If a party contracts with the motor carrier on behalf of the railroad to transport the railroad employees, then the insurance requirements may be satisfied by either that party or the motor carrier, so long as the motor carrier is a named insured or additional insured under any policy.

(e) A person who sustains a conviction of violating section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under sections 169A.50 to 169A.53 of the implied consent law, or who is convicted of or has their driver's license revoked under a similar statute or ordinance of another state, may not operate a vehicle under this subdivision for five years from the date of conviction. A person who sustains a conviction of a moving offense in violation of chapter 169 within three years of the first of three other moving offenses may not operate a vehicle under this subdivision for one year from the date of the last conviction. A person who has ever been convicted of a disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not operate a vehicle under this subdivision.

(f) An operator who sustains a conviction as described in paragraph (e) while employed by the carrier shall report the conviction to the carrier within ten days of the date of the conviction.

(g) A carrier must implement a mandatory alcohol and controlled substance testing program as provided under sections 181.950 to 181.957 that consists of preemployment testing, post-accident testing, random testing, reasonable suspicion testing, return-to-duty testing, and follow-up testing.

(h) A motor carrier of railroad employees shall not allow or require a driver to drive or remain on duty for more than: ten hours after eight consecutive hours off duty; 15 hours of combined on-duty time and drive time since last obtaining eight consecutive hours of off-duty time; or 70 hours of on-duty and drive time in any period of eight consecutive days. After 24 hours off duty, a driver begins a new seven consecutive day period and on-duty time is reset to zero.

(i) An operator who encounters an emergency and cannot, because of that emergency, safely complete a transportation assignment within the ten-hour maximum driving time permitted under paragraph (h), may drive for not more than two additional hours in order to complete that transportation assignment or to reach a place offering safety for the occupants of the vehicle and security for the transport motor vehicle, if the transportation assignment reasonably could have been completed within the ten-hour period absent the emergency.

(j) A carrier shall maintain and retain for a period of six months accurate time records that show the time the driver reports for duty each day; the total number of hours of on-duty time for each driver for each day; the time the driver is released from duty each day; and the total number of hours driven each day.

(k) For purposes of this subdivision, the following terms have the meanings given:

(1) "conviction" has the meaning given in section 609.02; and

(2) "on-duty time" means all time at a terminal, facility, or other property of a contract carrier or on any public property waiting to be dispatched. "On-duty time" includes time spent inspecting, servicing, or conditioning the vehicle.

EFFECTIVE DATE. Paragraph (d), clause (5), is effective July 1, 2010.

Sec. 35. Minnesota Statutes 2008, section 360.031, is amended to read:

360.031 DEFINITION OF MUNICIPALITY.

For the purposes of sections 360.031 to ~~360.045~~ 360.074, (except section 360.042), "municipality" means any county, city, town, or airport authority of this state.

Sec. 36. Minnesota Statutes 2008, section 360.0425, is amended to read:

360.0425 GENERAL POWERS OF AUTHORITY.

An airport authority created under section 360.0426 has all the powers granted a municipality under sections 360.032 to ~~360.046~~ 360.074.

Sec. 37. Minnesota Statutes 2008, section 473.167, subdivision 2a, is amended to read:

Subd. 2a. **~~Hardship~~ Loans for acquisition and relocation.** (a) The council may make ~~hardship~~ loans to acquiring authorities within the metropolitan area to purchase homestead property located in a proposed state trunk highway right-of-way or project, and to provide relocation assistance. Acquiring authorities are authorized to accept the loans and to acquire the property. Except as provided in this subdivision, the loans shall be made as provided in subdivision 2. Loans shall be in the amount of the fair market value of the homestead property plus relocation costs and less salvage value. Before construction of the highway begins, the acquiring authority shall convey the property to the commissioner of transportation at the same price it paid, plus relocation costs and less its salvage value. Acquisition and assistance under this subdivision must conform to sections 117.50 to 117.56.

(b) The council may make ~~hardship~~ loans only when:

(1) the owner of affected homestead property requests acquisition and relocation assistance from

an acquiring authority;

(2) federal or state financial participation is not available;

(3) the owner is unable to sell the homestead property at its appraised market value because the property is located in a proposed state trunk highway right-of-way or project as indicated on an official map or plat adopted under section 160.085, 394.361, or 462.359; and

(4) the council agrees to and approves the fair market value of the homestead property, which approval shall not be unreasonably withheld~~; and~~.

~~(5) the owner of the homestead property is burdened by circumstances that constitute a hardship, such as catastrophic medical expenses; a transfer of the homestead owner by the owner's employer to a distant site of employment; or inability of the owner to maintain the property due to physical or mental disability or the permanent departure of children from the homestead.~~

(c) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Acquiring authority" means counties, towns, and statutory and home rule charter cities in the metropolitan area.

(2) "Homestead property" means a single-family dwelling occupied by the owner, and the surrounding land, not exceeding a total of ten acres.

(3) "Salvage value" means the probable sale price of the dwelling and other property that is severable from the land if offered for sale on the condition that it be removed from the land at the buyer's expense, allowing a reasonable time to find a buyer with knowledge of the possible uses of the property, including separate use of serviceable components and scrap when there is no other reasonable prospect of sale.

Sec. 38. Minnesota Statutes 2008, section 473.411, subdivision 5, is amended to read:

Subd. 5. **Use of public roadways and appurtenances.** The council may use for the purposes of sections 473.405 to 473.449 upon the conditions stated in this subdivision any state highway or other public roadway, parkway, or lane, or any bridge or tunnel or other appurtenance of a roadway, without payment of any compensation, provided the use does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance or entail any substantial additional costs for maintenance. The provisions of this subdivision do not apply to the property of any common carrier railroad or common carrier railroads. The consent of the public agency in charge of such state highway or other public highway or roadway or appurtenance is not required; except that if the council seeks to use a designated parkway for regular route service in the city of Minneapolis, it must obtain permission from and is subject to reasonable limitations imposed by a joint board consisting of two representatives from the council, two members of the board of park commissioners, and a fifth member jointly selected by the ~~representatives of the council and the park~~ other members of the board. If the use is a designated Minneapolis parkway for regular route service adjacent to the city of Minneapolis, it must obtain permission from and is subject to reasonable limitations imposed by a joint board consisting of two representatives from the council, two members of the board of park commissioners, and a fifth member jointly selected by other members of the board. The joint board must include a nonvoting member appointed by the council of the city in which the parkway is located.

The board of park commissioners and the council may designate persons to sit on the joint board. In considering a request by the council to use designated parkways for additional routes or trips, the joint board consisting of the council or their designees, the board of park commissioners or their designees, and the fifth member, shall base its decision to grant or deny the request based on the criteria to be established by the joint board. The decision to grant or deny the request must be made within 45 days of the date of the request. The park board must be notified immediately by the council of any temporary route detours. If the park board objects to the temporary route detours within five days of being notified, the joint board must convene and decide whether to grant the request, otherwise the request is deemed granted. If the agency objects to the proposed use or claims reimbursement from the council for additional cost of maintenance, it may commence an action against the council in the district court of the county wherein the highway, roadway, or appurtenance, or major portion thereof, is located. The proceedings in the action must conform to the Rules of Civil Procedure applicable to the district courts. The court shall sit without jury. If the court determines that the use in question interferes unreasonably with the public use or maintenance of the roadway or appurtenance, it shall enjoin the use by the council. If the court determines that the use in question does not interfere unreasonably with the public use or maintenance of the roadway or appurtenance, but that it entails substantial additional maintenance costs, the court shall award judgment to the agency for the amount of the additional costs. Otherwise the court shall award judgment to the council. An aggrieved party may appeal from the judgment of the district court in the same manner as is provided for such appeals in other civil actions. The council may also use land within the right-of-way of any state highway or other public roadway for the erection of traffic control devices, other signs, and passenger shelters upon the conditions stated in this subdivision and subject only to the approval of the commissioner of transportation where required by statute, and subject to the express provisions of other applicable statutes and to federal requirements where necessary to qualify for federal aid.

Sec. 39. Minnesota Statutes 2008, section 514.18, subdivision 1a, is amended to read:

Subd. 1a. **Towed motor vehicles.** A person who tows and stores a motor vehicle at the request of a law enforcement officer shall have a lien on the motor vehicle for the value of the storage and towing and the right to retain possession of the motor vehicle until the lien is lawfully discharged. This section does not apply to tows ~~authorized in section 169.041, subdivision 4, clause (1)~~ of vehicles parked in violation of snow emergency regulations.

Sec. 40. Laws 2008, chapter 287, article 1, section 118, is amended to read:

Sec. 118. **STUDY OF TRANSPORTATION LONG-RANGE SOLUTIONS.**

(a) The commissioner of transportation shall conduct a study in consultation with other state agencies and key stakeholders to evaluate the current and long-range needs of the state's transportation system, and investigate possible strategies to meet these needs.

(b) The study must include, but is not limited to:

(1) evaluation of the current needs of the state's highway systems, bridges, and transit;

(2) analysis and quantification of the needs for the next 20 years of the state's highway systems, bridges, and transit;

(3) comparison of estimates of revenues raised by current transportation funding sources, with

long-term needs of the state's transportation system;

(4) identification of options for maintenance and improvement of the state's transportation system with specific reference to the effects of potential increases in vehicle fuel economy, availability of alternative modes of transportation, and extreme fuel price volatility on future transportation revenues;

(5) analysis of alternative pricing options utilized in other states and countries, and their potential for use, public acceptance, alleviation of congestion, and revenue generation in this state; ~~and~~

(6) identification of options for road-use pricing, other alternative financing mechanisms with particular consideration of key environmental impacts such as air quality, water quality, and greenhouse gas emissions, and estimates of implementation costs, user costs, and revenue; and

(7) analysis of the potential impact of recent and forecast demographic, socioeconomic, and travel trends on systemwide travel demand and the impact of changing travel demand on:

(i) transportation system needs, including infrastructure, facilities, and services;

(ii) air pollution; and

(iii) future transportation revenues.

The analysis required in clause (7) must take into account variability among the department's districts and must consider findings from the 2008 National Household Travel Survey. The commissioner shall collaborate with the Metropolitan Council on the council's land use and planning resources report to help determine how land use variability may play a role in future travel demand.

(c) The commissioner shall report the results of the study to the legislature no later than ~~November 1, 2009~~ January 15, 2010.

Sec. 41. Laws 2008, chapter 287, article 1, section 122, is amended to read:

Sec. 122. **NULLIFICATION OF EXPEDITED TOWN ROAD EXTINGUISHMENT.**

(a) Any extinguishment of town interest in a town road under Minnesota Statutes, section 164.06, subdivision 2, is hereby nullified if:

(1) the interest was not recorded or filed with the county recorder but was recorded or filed with the county auditor prior to 1972;

(2) the state or a political subdivision has constructed or funded a road or bridge improvement on a right-of-way affected by the interest;

(3) the affected road was the only means of access to a property;

(4) the extinguishment took place within the last ten years; and

(5) a person whose only access to property was lost because of the extinguishment files a petition of a nullification with the town board stating that the person's property became landlocked because of the extinguishment and that the road satisfies all of the requirements of paragraph (a), clauses (1) to (4). A copy of the road order found filed or recorded with the county auditor must be attached to

the petition. The town shall file the petition with the county auditor and record it with the county recorder.

(b) Notwithstanding Minnesota Statutes, sections 164.08, subdivision 1, and 541.023, for any nullification under paragraph (a), the affected road is hereby deemed to be a cartway. No additional damages or other payments may be required other than those paid at the time the fee interest was originally acquired and the order filed with the county auditor. A cartway created by this paragraph may be converted to a private driveway under Minnesota Statutes, section 164.08, subdivision 2.

(c) For purposes of this section, "affected road" means the road in which the town board extinguished its interest.

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

Sec. 42. **TRUNK HIGHWAY 19 CLOSURE IN NEW PRAGUE.**

The commissioner of transportation shall annually authorize the city of New Prague to close Route No. 100, signed as Trunk Highway 19 on the effective date of this section, from the intersection with Route No. 13, signed as Trunk Highways 13 and 21 on the effective date of this section, to 10th Avenue SE, located in the city of New Prague. The closure under this section is limited to one weekend in the month of September of each year, and is for the city's annual Dozinky Festival. The commissioner shall (1) establish reasonable requirements for traffic flow, traffic control devices, and safety related to implementation of an appropriate detour route; and (2) allow the road closure from 5:30 p.m. on Friday until 6:00 a.m. on Sunday.

Sec. 43. **ADDITIONAL DEPUTY REGISTRAR OF MOTOR VEHICLES FOR CITY OF FARMINGTON.**

Notwithstanding Minnesota Statutes, section 168.33, and rules adopted by the commissioner of public safety, limiting sites for the office of deputy registrar based on either the distance to an existing deputy registrar office or the annual volume of transactions processed by any deputy registrar, the commissioner of public safety shall appoint a municipal deputy registrar of motor vehicles for the city of Farmington to operate a new full-service Office of Deputy Registrar, with full authority to function as a registration and motor vehicle tax collection bureau, at the city hall in the city of Farmington. All other provisions regarding the appointment and operation of a deputy registrar of motor vehicles under Minnesota Statutes, section 168.33, and Minnesota Rules, chapter 7406, apply to the office.

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

Sec. 44. **ENVIRONMENTAL IMPACT STATEMENT COMPLETION.**

Subdivision 1. **Highway 14; New Ulm to Highway 6 segment.** By December 31, 2010, the commissioner of transportation shall submit the final environmental impact statement for the segment of marked Trunk Highway 14 from the City of New Ulm to County State-Aid Highway 6 in the county of Nicollet to the Federal Highway Administration in the United States Department of Transportation.

Subd. 2. **Highway 14; Highway 218 to Highway 56 segment.** By May 31, 2010, the

commissioner of transportation shall submit the final environmental impact statement for the segment of marked Trunk Highway 14 from its intersection with marked Trunk Highway 218 in Owatonna to marked Trunk Highway 56 in Dodge Center to the Federal Highway Administration in the United States Department of Transportation.

Subd. 3. **Monthly report.** If the commissioner of transportation does not meet the requirements of subdivision 1 or 2, the commissioner must report monthly, by the 15th of each month in writing, to the chairs and ranking members of the standing committees of the house of representatives and senate having jurisdiction over transportation issues, and post on the department's Web site the following information:

(1) the stage of the environmental impact statement process in which the department failed to meet the environmental impact statement submission deadline specified in subdivision 1 or 2;

(2) the cause of the department's failure to meet the environmental impact statement submission deadline;

(3) the estimated time needed to resolve the cause of the failure to meet the environmental impact statement submission deadline; and

(4) the revised date of completing and submitting the environmental impact statement, if applicable.

Monthly reports required under this subdivision must begin January 15, 2011, if the deadline specified in subdivision 1 is not met, and June 15, 2010, if the deadline specified in subdivision 2 is not met. The monthly reports must continue and be updated to reflect new information until the required environmental impact statements are submitted to the United States Department of Transportation.

Subd. 4. **Resources.** The commissioner shall perform the duties required under this section within existing appropriations allocated to transportation districts 6 and 7.

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

Sec. 45. **RAIL GRANT FUNDING APPLICATION.**

The commissioner of transportation shall work in cooperation with the state of Wisconsin to prepare and submit timely application for grant funding relating to the planning, design, development, and construction of a high-speed passenger rail line connecting Chicago, La Crosse, and the Twin Cities including the Union Depot Concourse Multimodal Transit Hub.

Sec. 46. **REPEALER.**

(a) Minnesota Statutes 2008, sections 13.721, subdivision 4; and 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, and 18, are repealed.

(b) Minnesota Statutes 2008, section 169.041, subdivisions 3 and 4, are repealed.

Sec. 47. **EFFECTIVE DATE.**

Sections 13, 15, and 16 are effective August 1, 2009, and expire July 31, 2012."

Delete the title and insert:

"A bill for an act relating to transportation; modifying or adding provisions relating to transportation construction impacts on business, rest areas, highways, bridges, deputy registrars, vehicles, fees, impounds, mini trucks, towing, intersection gridlock, bus operation, various traffic regulations, cargo tank vehicle weight exemptions, transportation department goals and mission, a Minnesota Council of Transportation Access, a Commuter Rail Corridor Coordinating Committee, railroad track safety, motor carriers of railroad employees, airport authorities, property acquisition for highways, transit, town road interest extinguishment nullification, closure of highway 19, submission of final environmental impact statements regarding highways, and rail grant funding; requiring study and reports; making technical and clarifying changes; amending Minnesota Statutes 2008, sections 160.165, as added; 161.14, subdivision 62, as added, by adding subdivisions; 165.14, subdivisions 4, 5; 168.33, subdivisions 2, 7; 168B.06, subdivision 1; 168B.07, subdivision 3; 169.011, by adding a subdivision; 169.041, subdivision 5; 169.045; 169.15; 169.306; 169.71, subdivision 1, as amended; 169.865, subdivision 1; 169.87, by adding a subdivision; 169A.275, subdivision 7, as amended; 171.306, subdivisions 1, as amended, 3, as amended; 174.01, subdivisions 1, 2; 174.02, subdivision 1a; 174.632, as added; 174.86, subdivision 5; 219.01; 221.012, subdivision 38, by adding a subdivision; 360.031; 360.0425; 473.167, subdivision 2a; 473.411, subdivision 5; 514.18, subdivision 1a; Laws 2008, chapter 287, article 1, sections 118; 122; proposing coding for new law in Minnesota Statutes, chapters 160; 174; 221; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 169.041, subdivisions 3, 4; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Frank Hornstein, Marsha Swails, Terry Morrow, Bobby Joe Champion, Dean Urdahl

Senate Conferees: (Signed) Steve Murphy, D. Scott Dibble, Dick Day, John Doll, Katie Sieben

Senator Murphy moved that the foregoing recommendations and Conference Committee Report on H.F. No. 928 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. 928 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 59 and nays 2, as follows:

Those who voted in the affirmative were:

Bakk	Fischbach	Koering	Olson, G.	Senjem
Berglin	Fobbe	Kubly	Olson, M.	Sheran
Betzold	Foley	Langseth	Ortman	Sieben
Bonoff	Gerlach	Limmer	Pappas	Skoe
Carlson	Gimse	Lourey	Pariseau	Skogen
Chaudhary	Hann	Lynch	Pogemiller	Sparks
Clark	Higgins	Marty	Prettner Solon	Stumpf
Dahle	Ingebrigtsen	Metzen	Robling	Tomassoni
Day	Johnson	Michel	Rosen	Vandeveer
Dibble	Jungbauer	Moua	Rummel	Vickerman
Doll	Kelash	Murphy	Saltzman	Wiger
Erickson Ropes	Koch	Olseen	Scheid	

Those who voted in the negative were:

Latz Rest

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1849, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1849 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 17, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1849

A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; changing appropriations for certain costs of Office of Administrative Hearings; amending Minnesota Statutes 2008, sections 16C.28, subdivision 1a; 306.243, by adding a subdivision; 326B.145; 344.18; 365.28; 375.055, subdivision 1; 375.12, subdivision 2; 382.265; 383B.021; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 415.11, by adding a subdivision; 429.041, subdivisions 1, 2; 469.015; 473.862; 641.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4.

May 17, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1849 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. 1849 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[14.128] EFFECTIVE DATE FOR RULES REQUIRING LOCAL IMPLEMENTATION.**

Subdivision 1. **Determination.** An agency must determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule. An agency must make this determination before the close of the hearing record or before the agency submits the record to the administrative law judge if there is no hearing. The administrative law judge must review and approve or disapprove the agency's determination. "Local government" means a town, county, or home rule charter or statutory city.

Subd. 2. **Effective dates.** If the agency determines that the proposed rule requires adoption or amendment of an ordinance or other regulation, or if the administrative law judge disapproves the agency's determination that the rule does not have this effect, the rule may not become effective until:

(1) the next July 1 or January 1 after notice of final adoption is published in the State Register; or

(2) a later date provided by law or specified in the proposed rule.

Subd. 3. **Exceptions.** Subdivision 2 does not apply:

(1) to a rule adopted under section 14.388, 14.389, or 14.3895, or under another law specifying that the rulemaking procedures of this chapter do not apply;

(2) if the agency has been directed by law to adopt the rule or to commence the rulemaking process;

(3) if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate that requires the rule to take effect before the date specified in subdivision 1; or

(4) if the governor waives application of subdivision 2.

Sec. 2. Minnesota Statutes 2008, section 168.33, subdivision 7, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

(1) $4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and

(2) $8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) The fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the fee not to exceed the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public safety.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into the vehicle services operating account in the special revenue fund under section 299A.705. Of the

fee collected under paragraph (a), clause (2), by the department, $3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

EFFECTIVE DATE. This section is effective for fees collected after July 31, 2009.

Sec. 3. Minnesota Statutes 2008, section 306.243, is amended by adding a subdivision to read:

Subd. 6. **Abandonment; end of operation as cemetery.** A county that has accepted responsibility for an abandoned cemetery may prohibit further burials in the abandoned cemetery, and may cease all acceptance of responsibility for new burials.

Sec. 4. Minnesota Statutes 2008, section 326B.145, is amended to read:

326B.145 ANNUAL REPORT.

~~Beginning with the first report filed by June 30, 2003,~~ Each municipality shall annually report by June 30 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors if the cumulative fees collected exceeded $5,000 in the reporting year, except that, for reports due June 30, 2009, to June 30, 2013, the reporting threshold is $10,000. The report must include:

(1) the number and valuation of units for which fees were paid;

(2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and

(3) the expenses associated with the municipal activities for which fees were collected.

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

Sec. 5. Minnesota Statutes 2008, section 331A.02, subdivision 1, is amended to read:

Subdivision 1. **Qualification.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is a qualified newspaper. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. To be qualified, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 1,000 square inches, or 800 square inches if the political subdivision the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;

(b) if a daily, be distributed at least five days each week. If not a daily, the newspaper may be distributed twice a month with respect to the publishing of government public notices. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its

total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the political subdivision which it purports to serve, and either have at least ~~500~~ 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population of under 1,300, or have at least ~~500~~ 400 copies regularly distributed without charge to local residents, or 250 copies distributed without charge to local residents if the political subdivision it purports to serve has a population of under 1,300;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the political subdivision which the newspaper purports to serve, or in an adjoining county;

(f) file a copy of each issue immediately with the State Historical Society;

(g) be made available at single or subscription prices to any person or entity requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from the date of the filing described in paragraph (j) through December 31 of that year; and

(j) after publication, submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of $25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

Sec. 6. Minnesota Statutes 2008, section 344.18, is amended to read:

344.18 COMPENSATION OF VIEWERS.

Fence viewers must be paid for their services by the person employing them ~~at the rate of $15 each for each day's employment. $60 must be deposited with the town or city treasurer before the service is performed. Upon completion of the service, any of the $60 not spent to compensate the fence viewers must be returned to the depositor~~. The town board may by resolution require the person employing the fence viewers to post a bond or other security acceptable to the board for the total estimated costs before the viewing takes place. The total estimated costs may include the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses which the town may incur in connection with the viewing.

Sec. 7. Minnesota Statutes 2008, section 365.28, is amended to read:

365.28 PUBLIC BURIAL GROUND IS TOWN'S AFTER TEN YEARS.

A tract of land in a town becomes town property after it has been used as a public burial ground for ten years if the tract is not owned by a cemetery association. The town board shall control the burial ground as it controls other town cemeteries. A town that has accepted responsibility for an abandoned cemetery may prohibit further burials in the abandoned cemetery, and may cease all acceptance of responsibility for new burials.

Sec. 8. Minnesota Statutes 2008, section 375.055, subdivision 1, is amended to read:

Subdivision 1. **Fixed by county board.** (a) The county commissioners in all counties, except Hennepin and Ramsey, shall receive as compensation for services rendered by them for their respective counties, annual salaries and in addition may receive per diem payments and reimbursement for necessary expenses in performing the duties of the office as set by resolution of the county board. The salary and schedule of per diem payments shall not be effective until January 1 of the next year. The resolution shall contain a statement of the new salary on an annual basis. The board may establish a schedule of per diem payments for service by individual county commissioners on any board, committee, or commission of county government including committees of the board, or for the performance of services by individual county commissioners when required by law. In addition to its publication in the official newspaper of the county as part of the proceedings of the meeting of the county board, the resolution setting the salary and schedule of per diem payments shall be published in one other newspaper of the county, if there is one located in a different municipality in the county than the official newspaper. The salary of a county commissioner or the schedule of per diem payments shall not change except in accordance with this subdivision.

(b) Notwithstanding paragraph (a), a resolution adopted by the county board to decrease commissioners' salaries or per diem payments may take effect at any time.

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

Sec. 9. Minnesota Statutes 2008, section 375.12, subdivision 2, is amended to read:

Subd. 2. **Small claims totaled.** Individualized itemized accounts, claims or demands allowed by the county board pursuant to section 471.38, subdivision 1, need not be published pursuant to subdivision 1, if the amount allowed from each claim is ~~$300~~ $2,000 or less. The official proceedings following the itemization of accounts required shall contain a statement showing the total number of claims that did not exceed ~~$300~~ $2,000 and their total dollar amount.

Sec. 10. Minnesota Statutes 2008, section 382.265, is amended to read:

382.265 CLERK HIRE IN CERTAIN COUNTIES.

In all counties of this state where the amount of clerk hire now or hereafter provided by law for any county office shall be insufficient to meet the requirements of said office, the county officer in need of additional clerk hire shall prepare a petition and statement setting forth therein the amount of additional clerk hire needed and file the same with the county auditor, who shall present the same to the board of county commissioners at the next meeting of said board. If the board of county commissioners shall grant said petition by majority vote of all members elected to the board, then the amount of additional clerk hire requested in said petition shall thereupon become effective for said office. Said board shall act on any such petition within 60 days from the time it has been filed with the county auditor. If the board of county commissioners shall determine that the amount of additional

clerk hire requested in said petition is excessive and more than is necessary for said office, it shall fix the amount of such additional clerk hire to be allowed, if any, and notify such officer thereof. ~~If said county officer or any taxpayer of the county shall be dissatisfied with the decision of the board of county commissioners, the officer may, at the officer's own expense, within ten days after the decision of said board, appeal to the district court. The district court, either in term or vacation and upon ten days' notice to the chair of the board of county commissioners, shall hear such appeal and summarily determine the amount of additional clerk hire needed by an order, a copy of which shall be filed with the county auditor.~~

Sec. 11. Minnesota Statutes 2008, section 383B.021, is amended to read:

383B.021 COMPENSATION.

No per diem payment shall be allowed county board members for service on the county board or any other county body. County board members shall pay for parking in county owned parking facilities where payment is required. County board members may be allowed mileage for use of their personal automobile at a rate per mile.

The Hennepin County board may set the salary of board members by resolution limited to that subject. The salary must be stated as a fixed dollar amount. Adjustments in commissioners' salaries shall be adopted by the county board by resolution prior to a general election to take effect January 1 of the succeeding year, except that a resolution adopted by the county board to decrease commissioners' salaries may take effect at any time. Any resolution that makes an adjustment must state the change and the resulting salary for a member as fixed dollar amounts.

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

Sec. 12. Minnesota Statutes 2008, section 384.151, subdivision 1a, is amended to read:

Subd. 1a. **Implementation.** (a) The county board of each of the counties ~~specified in subdivision 1~~ of less than 75,000 population annually shall set by resolution the salary of the county auditor which shall be paid to the county auditor at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county auditor the board shall set by resolution the minimum salary to be paid the county auditor for the term next following.

(c) In the event a vacancy occurs in the office of county auditor the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board, in any case specified in this subdivision, may not set the annual salary at an amount less than the minimums provided in this subdivision but it may set the salary in excess of such minimums.~~

~~(e)~~ (d) The salary of the county auditor shall not be reduced during the term for which the auditor was elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the auditor which are in addition to duties as auditor, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which

the additional compensation is to be paid.

Sec. 13. Minnesota Statutes 2008, section 385.373, subdivision 1a, is amended to read:

Subd. 1a. **Implementation.** (a) The county board of each of the counties ~~specified in subdivision 1~~ of less than 75,000 population annually shall set by resolution the salary of the county treasurer which shall be paid to the county treasurer at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county treasurer the board shall set by resolution the minimum salary to be paid the county treasurer for the term next following.

(c) In the event a vacancy occurs in the office of county treasurer the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in no case may set the annual salary at an amount less than the minimums provided in this subdivision but it may set the salary in excess of the minimums.~~

~~(e)~~ (d) The salary of the county treasurer shall not be reduced during the term for which the treasurer was elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the treasurer which are in addition to duties as treasurer, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Sec. 14. Minnesota Statutes 2008, section 386.015, subdivision 2, is amended to read:

Subd. 2. **Board's salary procedure.** (a) The county board of each of the counties ~~specified in subdivision 1~~ of less than 75,000 population annually shall set by resolution the salary of the county recorder which shall be paid to the county recorder at such intervals as the board shall determine but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county recorder the board shall set by resolution the minimum salary to be paid county recorder for the term next following.

(c) In the event a vacancy occurs in the office of the county recorder the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in any case specified in this subdivision may not set the annual salary at an amount less than the minimum provided in subdivision 1 but it may set the salary in excess of such minimums.~~

~~(e)~~ (d) The salary of the county recorder shall not be reduced during the term for which the recorder is elected or appointed.

~~(f)~~ (e) In the event that duties are assigned to the county recorder which are in addition to duties as county recorder, additional compensation may be provided for the additional duties. The county board by resolution shall determine the additional compensation which shall be paid and specify the duties for which the additional compensation is to be paid.

Sec. 15. Minnesota Statutes 2008, section 387.20, subdivision 1, is amended to read:

Subdivision 1. **Counties under 75,000.** ~~(a) The sheriffs of all counties of the state with less than 75,000 inhabitants according to the 1960 federal census shall receive yearly salaries for all services rendered by them for their respective counties, not less than the following amounts according to the then last preceding federal census:~~

~~(1) in counties with less than 10,000 inhabitants, $6,000;~~

~~(2) in counties with 10,000 but less than 20,000 inhabitants, $6,500;~~

~~(3) in counties with 20,000 but less than 30,000 inhabitants, $7,000;~~

~~(4) in counties with 30,000 but less than 40,000 inhabitants, $7,500;~~

~~(5) in counties with 40,000 or more inhabitants, $8,000.~~

~~(b)~~ (a) In addition to ~~such~~ the sheriff's salary ~~each~~, the sheriff shall be reimbursed for all expenses incurred in the performance of official duties for the sheriff's county and the claim for ~~such~~ the expenses shall be prepared, allowed, and paid in the same manner as other claims against counties are prepared, allowed, and paid except that the expenses incurred by ~~such~~ the sheriffs in the performance of service required of them in connection with insane persons either by a district court or by law and a per diem for deputies and assistants necessarily required under ~~such~~ the performance of ~~such~~ the services shall be allowed and paid as provided by the law regulating the apprehension, examination, and commitment of insane persons; provided that any sheriff or deputy receiving an annual salary shall pay over any per diem received to the county in the manner and at the time prescribed by the county board, but not less often than once each month.

~~(c)~~ (b) All claims for livery hire shall state the purpose for which such livery was used and have attached thereto a receipt for the amount paid for such livery signed by the person of whom it was hired.

~~(d)~~ (c) A county may pay a sheriff or deputy as compensation for the use of a personal automobile in the performance of official duties a mileage allowance prescribed by the county board or a monthly or other periodic allowance in lieu of mileage. The allowance for automobile use is not subject to limits set by other law.

Sec. 16. Minnesota Statutes 2008, section 387.20, subdivision 2, is amended to read:

Subd. 2. **Board procedure, details.** (a) The county board of each of the counties ~~specified in this section~~ of less than 75,000 population annually shall set by resolution the salary of the county sheriff which shall be paid to the county sheriff at such intervals as the board shall determine, but not less often than once each month.

(b) At the January meeting prior to the first date on which applicants may file for the office of county sheriff the board shall set by resolution the minimum salary to be paid the county sheriff for the term next following.

(c) In the event a vacancy occurs in the office of county sheriff, the board may set the annual salary for the remainder of the calendar year at an amount less than was set for that year.

~~(d) The board in any case specified in this subdivision may not set the annual salary at an amount~~

~~less than the minimum provided in this subdivision, but it may set the salary in excess of such minimums.~~

~~(e)~~ (d) The salary of the county sheriff shall not be reduced during the term for which the sheriff was elected or appointed.

Sec. 17. Minnesota Statutes 2008, section 415.11, is amended by adding a subdivision to read:

Subd. 3. **Temporary reductions.** Notwithstanding subdivision 2 or a charter provision to the contrary, the governing body may enact an ordinance to take effect before the next succeeding municipal election that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted.

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

Sec. 18. Minnesota Statutes 2008, section 429.041, subdivision 1, is amended to read:

Subdivision 1. **Plans and specifications, advertisement for bids.** When the council determines to make any improvement, it shall let the contract for all or part of the work, or order all or part of the work done by day labor or otherwise as authorized by subdivision 2, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement. The council shall cause plans and specifications of the improvement to be made, or if previously made, to be modified, if necessary, and to be approved and filed with the clerk, and if the estimated cost exceeds ~~$50,000~~ the amount in section 471.345, subdivision 3, shall advertise for bids for the improvement in the newspaper and such other papers and for such length of time as it may deem advisable. If the estimated cost exceeds ~~$100,000~~ twice the amount in section 471.345, subdivision 3, publication shall be made no less than three weeks before the last day for submission of bids once in the newspaper and at least once in either a newspaper published in a city of the first class or a trade paper. To be eligible as such a trade paper, a publication shall have all the qualifications of a legal newspaper except that instead of the requirement that it shall contain general and local news, such trade paper shall contain building and construction news of interest to contractors in this state, among whom it shall have a general circulation. The advertisement shall specify the work to be done, shall state the time when the bids will be publicly opened for consideration by the council, which shall be not less than ten days after the first publication of the advertisement when the estimated cost is less than ~~$100,000~~ twice the amount in section 471.345, subdivision 3, and not less than three weeks after such publication in other cases, and shall state that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, cashier's check, bid bond, or certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify. In providing for the advertisement for bids the council may direct that the bids shall be opened publicly by two or more designated officers or agents of the municipality and tabulated in advance of the meeting at which they are to be considered by the council. Nothing herein shall prevent the council from advertising separately for various portions of the work involved in an improvement, or from itself, supplying by such means as may be otherwise authorized by law, all or any part of the materials, supplies, or equipment to be used in the improvement or from combining two or more improvements in a single set of plans and specifications or a single contract.

Sec. 19. Minnesota Statutes 2008, section 429.041, subdivision 2, is amended to read:

Subd. 2. **Contracts; day labor.** In contracting for an improvement, the council shall require the execution of one or more written contracts and bonds, conditioned as required by law. The council shall award the contract to the lowest responsible bidder or it may reject all bids. If any bidder to whom a contract is awarded fails to enter promptly into a written contract and to furnish the required bond, the defaulting bidder shall forfeit to the municipality the amount of the defaulter's cash deposit, cashier's check, bid bond, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder. When it appears to the council that the cost of the entire work projected will be less than ~~$50,000~~ the amount in section 471.345, subdivision 3, or whenever no bid is submitted after proper advertisement or the only bids submitted are higher than the engineer's estimate, the council may advertise for new bids or, without advertising for bids, directly purchase the materials for the work and do it by the employment of day labor or in any other manner the council considers proper. The council may have the work supervised by the city engineer or other qualified person but shall have the work supervised by a registered engineer if done by day labor and it appears to the council that the entire cost of all work and materials for the improvement will be more than ~~$25,000~~ the lowest amount in section 471.345, subdivision 4. In case of improper construction or unreasonable delay in the prosecution of the work by the contractor, the council may order and cause the suspension of the work at any time and relet the contract, or order a reconstruction of any portion of the work improperly done, and where the cost of completion or reconstruction necessary will be less than ~~$50,000~~ the amount in section 471.345, subdivision 3, the council may do it by the employment of day labor.

Sec. 20. Minnesota Statutes 2008, section 469.015, is amended to read:

469.015 LETTING OF CONTRACTS; PERFORMANCE BONDS.

Subdivision 1. **Bids; notice.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 469.001 to 469.047, that involve expenditure of ~~$50,000~~ the amount in section 471.345, subdivision 3, or more shall be awarded by contract. Before receiving bids the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials. The notice shall state the nature of the work and the terms and conditions upon which the contract is to be let, naming a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, provided that the authority reserves the right to reject any or all bids. Each contract shall be executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority may establish reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet the qualifications before bids are accepted.

Subd. 1a. **Best value alternative.** As an alternative to the procurement method described in subdivision 1, the authority may issue a request for proposals and award the contract to the vendor or contractor offering the best value under a request for proposals as described in section 16C.28, subdivision 1, paragraph (a), clause (2), and paragraph (c).

Subd. 2. **Exception; emergency.** If the authority by a vote of four-fifths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material

or supplies at a cost in excess of ~~$50,000~~ the amount in section 471.345, subdivision 3, but not exceeding ~~$75,000~~ one-half again as much as the amount in section 471.345, subdivision 3, or making of emergency repairs, it shall not be necessary to advertise for bids, but the material, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, for purposes of this subdivision, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy of human life or property.

Subd. 3. **Performance and payment bonds.** Performance and payment bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of sections 574.26 to 574.31 except for contracts entered into by an authority for an expenditure of less than ~~$50,000~~ the minimum threshold amount in section 471.345, subdivision 3.

Subd. 4. **Exceptions.** (a) An authority need not require competitive bidding in the following circumstances:

(1) in the case of a contract for the acquisition of a low-rent housing project:

(i) for which financial assistance is provided by the federal government;

(ii) which does not require any direct loan or grant of money from the municipality as a condition of the federal financial assistance; and

(iii) for which the contract provides for the construction of the project upon land that is either owned by the authority for redevelopment purposes or not owned by the authority at the time of the contract but the contract provides for the conveyance or lease to the authority of the project or improvements upon completion of construction;

(2) with respect to a structured parking facility:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of tax increment or parking ramp general obligation or revenue bonds;

(3) until August 1, 2009, with respect to a facility built for the purpose of facilitating the operation of public transit or encouraging its use:

(i) constructed in conjunction with, and directly above or below, a development; and

(ii) financed with the proceeds of parking ramp general obligation or revenue bonds or with at least 60 percent of the construction cost being financed with funding provided by the federal government; and

(4) in the case of any building in which at least 75 percent of the usable square footage constitutes a housing development project if:

(i) the project is financed with the proceeds of bonds issued under section 469.034 or from nongovernmental sources;

(ii) the project is either located on land that is owned or is being acquired by the authority only for development purposes, or is not owned by the authority at the time the contract is entered into

but the contract provides for conveyance or lease to the authority of the project or improvements upon completion of construction; and

(iii) the authority finds and determines that elimination of the public bidding requirements is necessary in order for the housing development project to be economical and feasible.

(b) An authority need not require a performance bond for the following projects:

(1) a contract described in paragraph (a), clause (1);

(2) a construction change order for a housing project in which 30 percent of the construction has been completed;

(3) a construction contract for a single-family housing project in which the authority acts as the general construction contractor; or

(4) a services or materials contract for a housing project.

For purposes of this paragraph, "services or materials contract" does not include construction contracts.

Subd. 5. **Security in lieu of bond.** The authority may accept a certified check or cashier's check in the same amount as required for a bond in lieu of a performance bond for contracts entered into by an authority for an expenditure of less than ~~$50,000~~ the minimum threshold amount in section 471.345, subdivision 3. The check must be held by the authority for 90 days after the contract has been completed. If no suit is brought within the 90 days, the authority must return the amount of the check to the person making it. If a suit is brought within the 90-day period, the authority must disburse the amount of the check pursuant to the order of the court.

Sec. 21. Minnesota Statutes 2008, section 471.661, is amended to read:

471.661 OUT-OF-STATE TRAVEL.

~~By January 1, 2006,~~ The governing body of each statutory or home rule charter city, county, school district, regional agency, or other political subdivision, except a town, must ~~develop~~ have on record a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government. The policy must be approved by a recorded vote and specify:

(1) when travel outside the state is appropriate;

(2) applicable expense limits; and

(3) procedures for approval of the travel.

The policy must be made available for public inspection upon request ~~and reviewed annually~~. Subsequent changes to the policy must be approved by a recorded vote.

Sec. 22. Minnesota Statutes 2008, section 473.862, is amended to read:

473.862 METRO COUNTIES OTHER THAN HENNEPIN, RAMSEY, ANOKA, AND DAKOTA.

Subdivision 1. **Contents of plan.** Comprehensive plans of counties shall contain at least the following:

(a) Except for the counties of Hennepin ~~and~~, Ramsey, Anoka, and Dakota, a land use plan as specified in section 473.859, subdivision 2, for all unincorporated territory within the county;

(b) A public facilities plan which shall include all appropriate matters specified in section 473.859, subdivision 3, including a transportation plan, and a description of existing and projected solid waste disposal sites and facilities;

(c) An implementation program, as specified in section 473.859, subdivision 4.

Subd. 2. **Towns with no plan by 1976.** Each county other than Hennepin ~~and~~, Ramsey, Anoka, and Dakota shall prepare, with the participation and assistance of the town, the comprehensive plan for any town within the county which fails by December 31, 1976, to take action by resolution pursuant to section 473.861, subdivision 2 and shall prepare all or part of any plan delegated to it pursuant to section 473.861, subdivision 2.

Subd. 3. **Towns that cannot plan.** Each county other than Hennepin ~~and~~, Ramsey, Anoka, and Dakota shall prepare, with the participation and assistance of the town, the comprehensive plan for each town within the county not authorized to plan under sections 462.351 to 462.364, or under special law.

Sec. 23. Minnesota Statutes 2008, section 641.12, subdivision 1, is amended to read:

Subdivision 1. **Fee.** A county board may require that each person who is booked for confinement at a county or regional jail, and not released upon completion of the booking process, pay a fee ~~of up to $10~~ to the sheriff's department of the county in which the jail is located to cover costs incurred by the county in the booking of that person. The fee is payable immediately from any money then possessed by the person being booked, or any money deposited with the sheriff's department on the person's behalf. If the person has no funds at the time of booking or during the period of any incarceration, the sheriff shall notify the district court in the county where the charges related to the booking are pending, and shall request the assessment of the fee. Notwithstanding section 609.10 or 609.125, upon notification from the sheriff, the district court must order the fee paid to the sheriff's department as part of any sentence or disposition imposed. If the person is not charged, is acquitted, or if the charges are dismissed, the sheriff shall return the fee to the person at the last known address listed in the booking records.

Sec. 24. **RECORD RETENTION TASK FORCE; REPORT TO LEGISLATURE.**

The Records Retention Task Force of the Minnesota Clerks and Finance Officers Association, in conjunction with the Minnesota Historical Society, must conduct a study to review the permanent retention schedules applicable to the records of all governmental bodies in the state. The task force study must contain recommendations for future methods of determining the appropriate time for the retention of various classes of records maintained by the governmental bodies and the task force must report its findings to the appropriate standing committees of the senate and house of representatives whose jurisdiction includes the maintenance of public records by February 15, 2010.

Sec. 25. **REPEALER.**

Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1 and 3; 385.373, subdivisions 1 and 3; 386.015, subdivisions 1 and 4; and 387.20, subdivision 4, are repealed."

Delete the title and insert:

"A bill for an act relating to local government; removing, extending, or modifying certain mandates upon local governmental units; changing requirements for a qualified newspaper; amending Minnesota Statutes 2008, sections 168.33, subdivision 7; 306.243, by adding a subdivision; 326B.145; 331A.02, subdivision 1; 344.18; 365.28; 375.055, subdivision 1; 375.12, subdivision 2; 382.265; 383B.021; 384.151, subdivision 1a; 385.373, subdivision 1a; 386.015, subdivision 2; 387.20, subdivisions 1, 2; 415.11, by adding a subdivision; 429.041, subdivisions 1, 2; 469.015; 471.661; 473.862; 641.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2008, sections 373.42; 384.151, subdivisions 1, 3; 385.373, subdivisions 1, 3; 386.015, subdivisions 1, 4; 387.20, subdivision 4."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Michael V. Nelson, Frank Hornstein, Morrie Lanning

Senate Conferees: (Signed) Ann H. Rest, Chris Gerlach, Tony Lourey

Senator Rest moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1849 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1849 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 61 and nays 1, as follows:

Those who voted in the affirmative were:

Bakk	Fobbe	Langseth	Pappas	Skoe
Berglin	Foley	Latz	Pariseau	Skogen
Betzold	Gerlach	Lourey	Pogemiller	Sparks
Bonoff	Gimse	Lynch	Prettner Solon	Stumpf
Carlson	Hann	Marty	Rest	Tomassoni
Chaudhary	Higgins	Metzen	Robling	Torres Ray
Clark	Ingebrigtsen	Michel	Rosen	Vandeveer
Dahle	Johnson	Moua	Rummel	Vickerman
Day	Jungbauer	Murphy	Saltzman	Wiger
Dibble	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	
Erickson Ropes	Koering	Olson, M.	Sheran	
Fischbach	Kubly	Ortman	Sieben	

Those who voted in the negative were:

Limmer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 492 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 492

A bill for an act relating to transportation; regulating use and operation of mini trucks on public roadways; amending Minnesota Statutes 2008, sections 169.011, by adding a subdivision; 169.045.

May 17, 2009.

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 492 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 492 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 6.74, is amended to read:

6.74 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.

The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, information as to the assessment of property, collection of taxes, receipts from licenses and other sources including administrative fines assessed and collected pursuant to section 169.999, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful. The data shall be supplied upon forms prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all forms so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information.

Sec. 2. Minnesota Statutes 2008, section 169.011, is amended by adding a subdivision to read:

Subd. 40a. **Mini truck.** (a) "Mini truck" means a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements.

(b) A mini truck does not include:

(1) a neighborhood electric vehicle or a medium-speed electric vehicle; or

(2) a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

Sec. 3. Minnesota Statutes 2008, section 169.045, is amended to read:

169.045 SPECIAL VEHICLE USE ON ROADWAY.

Subdivision 1. **Designation of roadway, permit.** The governing body of any county, home rule charter or statutory city, or town may by ordinance authorize the operation of motorized golf carts, ~~or~~ four-wheel all-terrain vehicles, or mini trucks, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck is by permit only. For purposes of this section, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds, and a mini truck has the meaning given in section 169.011, subdivision 40a.

Subd. 2. **Ordinance.** The ordinance shall designate the roadways, prescribe the form of the application for the permit, require evidence of insurance complying with the provisions of section 65B.48, subdivision 5 and may prescribe conditions, not inconsistent with the provisions of this section, under which a permit may be granted. Permits may be granted for a period of not to exceed one year, and may be annually renewed. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck on the designated roadways. The ordinance may require, as a condition to obtaining a permit, that the applicant submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck on the roadways designated.

Subd. 3. **Times of operation.** Motorized golf carts and four-wheel all-terrain vehicles may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

Subd. 4. **Slow-moving vehicle emblem.** Motorized golf carts shall display the slow-moving vehicle emblem provided for in section 169.522, when operated on designated roadways.

Subd. 5. **Crossing intersecting highways.** The operator, under permit, of a motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck may cross any street or highway intersecting a designated roadway.

Subd. 6. **Application of traffic laws.** Every person operating a motorized golf cart ~~or~~, four-wheel all-terrain vehicle, or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of this chapter, except when those provisions cannot reasonably be applied to motorized golf carts ~~or~~, four-wheel all-terrain vehicles, or mini trucks and except as otherwise specifically provided in subdivision 7.

Subd. 7. **Nonapplication of certain laws.** The provisions of chapter 171 are applicable to persons operating mini trucks, but are not applicable to persons operating motorized golf carts or four-wheel all-terrain vehicles under permit on designated roadways pursuant to this section. Except for the requirements of section 169.70, the provisions of this chapter relating to equipment on vehicles ~~is~~ are not applicable to motorized golf carts or four-wheel all-terrain vehicles operating, under permit, on designated roadways.

Subd. 7a. **Required equipment on mini trucks.** Notwithstanding sections 169.48 to 169.68, or any other law, a mini truck may be operated under permit on designated roadways if it is equipped with:

(1) at least two headlamps;

(2) at least two taillamps;

(3) front and rear turn-signal lamps;

(4) an exterior mirror mounted on the driver's side of the vehicle and either (i) an exterior mirror mounted on the passenger's side of the vehicle or (ii) an interior mirror;

(5) a windshield;

(6) a seat belt for the driver and front passenger; and

(7) a parking brake.

Subd. 8. **Insurance.** In the event persons operating a motorized golf cart ~~or~~, four-wheel, all-terrain vehicle, or mini truck under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile ~~Assigned Risk~~ Insurance Plan under sections 65B.01 to 65B.12, at a rate to be determined by the commissioner of commerce.

Sec. 4. Minnesota Statutes 2008, section 169.985, is amended to read:

169.985 TRAFFIC CITATION QUOTA PROHIBITED.

A law enforcement agency may not order, mandate, require, or suggest to a peace officer a quota for the issuance of traffic citations, including administrative citations authorized under section 169.999, on a daily, weekly, monthly, quarterly, or yearly basis.

Sec. 5. Minnesota Statutes 2008, section 169.99, subdivision 1, is amended to read:

Subdivision 1. **Form.** (a) Except as provided in subdivision 3, and section 169.999, subdivision 3, there shall be a uniform ticket issued throughout the state by the police and peace officers or by any other person for violations of this chapter and ordinances in conformity thereto. Such uniform traffic ticket shall be in the form and have the effect of a summons and complaint. Except as provided in paragraph (b), the uniform ticket shall state that if the defendant fails to appear in court in response to the ticket, an arrest warrant may be issued. The uniform traffic ticket shall consist of four parts, on paper sensitized so that copies may be made without the use of carbon paper, as follows:

(1) the complaint, with reverse side for officer's notes for testifying in court, driver's past record, and court's action, printed on white paper;

(2) the abstract of court record for the Department of Public Safety, which shall be a copy of the complaint with the certificate of conviction on the reverse side, printed on yellow paper;

(3) the police record, which shall be a copy of the complaint and of the reverse side of copy (1), printed on pink paper; and

(4) the summons, with, on the reverse side, such information as the court may wish to give concerning the Traffic Violations Bureau, and a plea of guilty and waiver, printed on off-white tag stock.

(b) If the offense is a petty misdemeanor, the uniform ticket must state that a failure to appear

will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.

Sec. 6. **[169.999] ADMINISTRATIVE CITATIONS FOR CERTAIN TRAFFIC OFFENSES.**

Subdivision 1. **Authority.** (a) Except for peace officers employed by the state patrol, prior to a peace officer issuing an administrative citation under this section, the governing body for the local unit of government that employs the peace officer must pass a resolution that:

(1) authorizes issuance of administrative citations;

(2) obligates the local unit of government to provide a neutral third party to hear and rule on challenges to administrative citations; and

(3) bars peace officers from issuing administrative citations in violation of this section.

(b) A peace officer may issue an administrative citation to a vehicle operator who:

(1) violates section 169.14, and the violation consists of a speed under ten miles per hour in excess of the lawful speed limit;

(2) fails to obey a stop line in violation of section 169.30; or

(3) operates a vehicle that is in violation of sections 169.46 to 169.68 and 169.69 to 169.75.

(c) The authority to issue an administrative citation is exclusively limited to those offenses listed in this subdivision.

(d) A peace officer who issues an administrative citation for the infraction of speeding under ten miles per hour over the speed limit must use the actual speed a violator's vehicle was traveling at the time of the infraction and may not reduce the recorded speed for purposes of qualifying the offense for an administrative citation. An administrative citation issued for speeding must list the actual speed the vehicle was traveling at the time of the infraction.

(e) A local unit of government shall notify the commissioner of public safety after it passes a resolution described in paragraph (a).

Subd. 2. **Officer's authority.** The authority to issue an administrative citation is reserved exclusively to licensed peace officers. An officer may not be required by ordinance or otherwise to issue a citation under this section instead of a criminal citation.

Subd. 3. **Uniform citation.** There must be a uniform administrative citation issued throughout the state by licensed peace officers for violations of this section. No other citation is authorized for violations of this section. The commissioner of public safety shall prescribe the detailed form of the uniform administrative citation and shall revise the uniform administrative citation on such subsequent occasions as necessary and proper. The uniform administrative citation must include notification that the person has the right to contest the citation.

Subd. 4. **Right to contest citation.** (a) A peace officer who issues an administrative citation must inform the vehicle operator that the person has the right to contest the citation.

(b) Except as provided in paragraph (c), the local unit of government that employs the peace

officer who issues an administrative citation must provide a civil process for a person to contest the administrative citation. The person must be allowed to challenge the citation before a neutral third party. A local unit of government may employ a person to hear and rule on challenges to administrative citations or contract with another local unit of government or a private entity to provide the service.

(c) The state patrol may contract with local units of government or private entities to collect administrative fines and to provide a neutral third party to hear and rule on challenges to administrative citations. An administrative citation issued by a state patrol trooper must clearly state how and where a violator can challenge the citation.

Subd. 5. **Fines; disbursement.** (a) A person who commits an administrative violation under subdivision 1 must pay a fine of $60.

(b) Except as provided in paragraph (c), two-thirds of a fine collected under this section must be credited to the general revenue fund of the local unit of government that employs the peace officer who issued the citation, and one-third must be transferred to the commissioner of finance to be deposited in the state general fund. A local unit of government receiving fine proceeds under this section must use at least one-half of the funds for law enforcement purposes. The funds must be used to supplement but not supplant any existing law enforcement funding.

(c) For fines collected under this section from administrative citations issued by state patrol troopers, one-third must be credited to the general fund of the local unit of government or entity that collects the fine and provides a hearing officer and two-thirds must be transferred to the commissioner of finance to be deposited in the state general fund.

Subd. 6. **Commercial drivers' licenses and commercial vehicles; exceptions.** An administrative citation may not be issued under this section to (1) the holder of a commercial driver's license, or (2) the driver of a commercial vehicle in which the administrative violation was committed.

Subd. 7. **Driving records.** A violation under this section may not be recorded by the Department of Public Safety on the violator's driving record and does not constitute grounds for revocation or suspension of the violator's driver's license.

Subd. 8. **Administrative penalty reporting.** (a) A county, statutory or home rule city, or town that employs peace officers who issue administrative citations and that collects administrative fines under this section must include that information and the amount collected as separate categories in any financial report, summary, or audit.

(b) The state auditor shall annually report to the commissioner of public safety information concerning administrative fines collected by local units of government under section 169.999. Upon request, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding summarizing the reports the commissioner received under this paragraph.

Subd. 9. **Local preemption.** The authority to issue an administrative citation is exclusively limited to those offenses listed in subdivision 1. Notwithstanding any contrary charter provision or ordinance, no statutory or home rule charter city, county, or town may impose administrative penalties to enforce any other provision of this chapter.

Sec. 7. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

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

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

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

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

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

(f) The surcharge does not apply to administrative citations issued pursuant to section 169.999.

Sec. 8. **COMMISSIONER OF PUBLIC SAFETY; CREATE UNIFORM ADMINISTRATIVE CITATION.**

No later than October 1, 2009, the commissioner of public safety shall create a uniform administrative citation to be issued under Minnesota Statutes, section 169.999. The commissioner shall consult with representatives from the Sheriff's Association of Minnesota, the Minnesota Chiefs of Police Association, and the Minnesota Police and Peace Officers Association on the form and content of the uniform administrative citation.

Sec. 9. **SEVERABILITY.**

If any provision of this act, or the applicability of any provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this act is not affected and must be given effect to the fullest extent practicable.

Sec. 10. **EFFECTIVE DATE.**

Sections 2 and 3 are effective August 1, 2009, and the amendments made in sections 2 and 3 to Minnesota Statutes, sections 169.011 and 169.045 expire July 31, 2012."

Delete the title and insert:

"A bill for an act relating to transportation; regulating use and operation of mini trucks on public roadways; authorizing administrative traffic citations; amending Minnesota Statutes 2008, sections 6.74; 169.011, by adding a subdivision; 169.045; 169.985; 169.99, subdivision 1; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 169."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Dan Skogen, Tarryl Clark, Bill Ingebrigtsen

House Conferees: (Signed) Brita Sailer, Larry Hosch, Bev Scalze, Roger Reinert, Tony Cornish

Senator Skogen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 492 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. 492 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 44 and nays 17, as follows:

Those who voted in the affirmative were:

Bakk	Fischbach	Kelash	Olson, G.	Sheran
Bonoff	Fobbe	Koch	Olson, M.	Sieben
Carlson	Gerlach	Koering	Pariseau	Skogen
Chaudhary	Gimse	Langseth	Prettner Solon	Sparks
Clark	Hann	Latz	Rosen	Stumpf
Dahle	Higgins	Lourey	Saltzman	Torres Ray
Day	Ingebrigtsen	Marty	Saxhaug	Vandeveer
Dibble	Johnson	Murphy	Scheid	Vickerman
Erickson Ropes	Jungbauer	Olseen	Senjem	

Those who voted in the negative were:

Berglin	Kubly	Moua	Rest	Wiger
Betzold	Limmer	Ortman	Robling	
Doll	Lynch	Pappas	Skoe	
Foley	Metzen	Pogemiller	Tomassoni	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1219: A bill for an act relating to occupations and professions; creating licensing standards for full-time firefighters; establishing fees; amending Minnesota Statutes 2008, section 299N.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299N.

Senate File No. 1219 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

CONCURRENCE AND REPASSAGE

Senator Rest moved that the Senate concur in the amendments by the House to S.F. No. 1219 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1219 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 59 and nays 2, as follows:

Those who voted in the affirmative were:

Bakk	Fischbach	Langseth	Ortman	Sheran
Berglin	Fobbe	Latz	Pappas	Sieben
Betzold	Foley	Limmer	Pariseau	Skoe
Bonoff	Gerlach	Lourey	Pogemiller	Skogen
Carlson	Gimse	Lynch	Prettner Solon	Sparks
Chaudhary	Hann	Marty	Rest	Stumpf
Clark	Higgins	Metzen	Robling	Tomassoni
Dahle	Ingebrigtsen	Moua	Rosen	Torres Ray
Day	Johnson	Murphy	Saltzman	Vandeveer
Dibble	Kelash	Olseen	Saxhaug	Vickerman
Doll	Koch	Olson, G.	Scheid	Wiger
Erickson Ropes	Kubly	Olson, M.	Senjem	

Those who voted in the negative were:

Jungbauer	Koering

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1481: A bill for an act relating to the budget reserve; modifying priorities for additional revenues in general fund forecasts; requiring a report; amending Minnesota Statutes 2008, sections 16A.103, subdivisions 1a, 1b, by adding a subdivision; 16A.11, subdivision 1, by adding a subdivision; 16A.152, subdivision 2, by adding a subdivision.

Senate File No. 1481 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 17, 2009

Senator Pogemiller, for Senator Cohen, moved that the Senate do not concur in the amendments by the House to S.F. No. 1481, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Marty moved that the name of Senator Tomassoni be added as a co-author to S.F. No. 2165. The motion prevailed.

Senator Rest moved that S.F. No. 137, No. 12 on General Orders, be stricken and returned to its author. The motion prevailed.

Senator Rest moved that her name be stricken as chief author, and the name of Senator Moua be shown as chief author to S.F. No. 164. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR

H.F. No. 354: A bill for an act relating to real property; providing for mediation prior to commencement of mortgage foreclosure proceedings on homestead property; creating a homestead-lender mediation account; amending Minnesota Statutes 2008, sections 357.18, subdivision 1; 508.82, subdivision 1; 508A.82, subdivision 1; 580.021; 580.022, subdivision 1; 580.23, by adding a subdivision; 582.30, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 583.

CALL OF THE SENATE

Senator Scheid imposed a call of the Senate for the balance of the proceedings on H.F. No. 354. The Sergeant at Arms was instructed to bring in the absent members.

H.F. 354 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 35 and nays 31, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Higgins	Moua	Rest
Berglin	Dahle	Kelash	Murphy	Rummel
Betzold	Dibble	Langseth	Olseen	Saltzman
Bonoff	Doll	Latz	Olson, M.	Scheid
Carlson	Erickson Ropes	Lourey	Pappas	Sieben
Chaudhary	Fobbe	Lynch	Pogemiller	Torres Ray
Clark	Foley	Marty	Prettner Solon	Wiger

Those who voted in the negative were:

Bakk	Ingebrigtsen	Metzen	Saxhaug	Tomassoni
Day	Johnson	Michel	Senjem	Vandeveer
Fischbach	Jungbauer	Olson, G.	Sheran	Vickerman
Frederickson	Koch	Ortman	Skoe	
Gerlach	Koering	Pariseau	Skogen	
Gimse	Kubly	Robling	Sparks	
Hann	Limmer	Rosen	Stumpf	

So the bill passed and its title was agreed to.

H.F. No. 1237: A bill for an act relating to natural resources; modifying wild rice season and harvest authority; modifying certain definitions; modifying state park permit requirements; modifying authority to establish secondary units; eliminating liquor service at John A. Latsch State Park; providing for establishment of boater waysides; modifying watercraft and off-highway motorcycle operation requirements; expanding snowmobile grant-in-aid program; modifying state trails; modifying Water Law; providing for appeals and enforcement of certain civil penalties; providing for taking wild animals to protect public safety; modifying Board of Water and Soil Resources membership; modifying local water program; modifying Reinvest in Minnesota Resources Law; modifying certain easement authority; providing for notice of changes to public waters inventory; modifying critical habitat plate eligibility; modifying cost-share program; amending Minnesota Statutes 2008, sections 84.105; 84.66, subdivision 2; 84.793, subdivision 1; 84.83, subdivision 3; 84.92, subdivision 8; 85.015, subdivisions 13, 14; 85.053, subdivision 3; 85.054, by adding subdivisions; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 97A.321; 103B.101, subdivisions 1, 2; 103B.3355; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 168.1296, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2008, sections 85.0505, subdivision 2; 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530, subparts 1, 2, 2a; 8400.3560.

With unanimous consent of the Senate, Senator Frederickson moved to amend H.F. No. 1237, the second unofficial engrossment, as follows:

Page 68, delete section 8

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1237 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olson, G.	Scheid
Bakk	Fischbach	Koering	Olson, M.	Senjem
Berglin	Fobbe	Kubly	Ortman	Sheran
Betzold	Foley	Langseth	Pappas	Sieben
Bonoff	Frederickson	Latz	Pariseau	Skoe
Carlson	Gerlach	Limmer	Pogemiller	Skogen
Chaudhary	Gimse	Lourey	Prettner Solon	Sparks
Clark	Hann	Lynch	Rest	Stumpf
Cohen	Higgins	Marty	Robling	Tomassoni
Dahle	Ingebrigtsen	Metzen	Rosen	Torres Ray
Day	Johnson	Michel	Rummel	Vandeveer
Dibble	Jungbauer	Murphy	Saltzman	Vickerman
Doll	Kelash	Olseen	Saxhaug	Wiger

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

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 1276: Senators Lynch, Rest and Hann.

H.F. No. 705: Senators Olson, M.; Sheran and Prettner Solon.

H.F. No. 1728: Senators Torres Ray, Marty and Koch.

S.F. No. 1481: Senators Cohen, Clark and Stumpf.

H.F. No. 1853: Senators Sparks; Olson, M. and Moua.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Executive and Official Communications and Messages From the House.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 15, 2009

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 764, 99, 802 and 237.

Sincerely,
Tim Pawlenty, Governor

May 15, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2009 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2009	Date Filed 2009
764		80	10:59 a.m. May 15	May 15

99		82	11:05 a.m. May 15	May 15
802		83	11:46 a.m. May 15	May 15
237		87	11:48 a.m. May 15	May 15
	988	92	11:47 a.m. May 15	May 15

Sincerely,
Mark Ritchie
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 191: A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public

Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 471.61, subdivision 1; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29,

subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

Senate File No. 191 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Senator Betzold moved that the Senate do not concur in the amendments by the House to S.F. No. 191, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 191: Senators Betzold; Pappas; Olson, M.; Lynch and Rosen.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1331 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1331

A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; changing certain caucus and campaign provisions; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1;

10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2; 205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 211B.20, subdivisions 1, 2; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5.

May 17, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1331 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1331 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

ELECTIONS AND VOTING

Section 1. Minnesota Statutes 2008, section 10A.31, subdivision 6, is amended to read:

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue ~~on September 1~~ one week before the state primary, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate files the affidavit required by section 10A.323 after September 1 of the general election year, the board must pay the candidate's allocation to the candidate at the next regular payment date for public subsidies for that election cycle that occurs at least 15 days after the candidate files the affidavit.~~

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 2. Minnesota Statutes 2008, section 10A.321, is amended to read:

10A.321 ESTIMATES OF MINIMUM AMOUNTS TO BE RECEIVED.

Subdivision 1. **Calculation and certification of estimates.** The commissioner of revenue must calculate and certify to the board one week before ~~July 1~~ the first day for filing for office in each election year an estimate of the total amount in the state general account of the state elections campaign fund and the amount of money each candidate who qualifies, as provided in section 10A.31, subdivisions 6 and 7, may receive from the candidate's party account in the state elections campaign fund. This estimate must be based upon the allocations and formulas in section 10A.31, subdivisions 5 and 5a, any necessary vote totals provided by the secretary of state to apply the formulas in section 10A.31, subdivisions 5 and 5a, and the amount of money expected to be available after 100 percent of the tax returns have been processed.

Subd. 2. **Publication, certification, and notification procedures.** Before the first day of filing for office, the board must publish and forward to all filing officers the estimates calculated and certified under subdivision 1 along with a copy of section 10A.25, subdivision 10. Within ~~seven~~

~~days~~ one week after the last day for filing for office, the secretary of state must certify to the board the name, address, office sought, and party affiliation of each candidate who has filed with that office an affidavit of candidacy or petition to appear on the ballot. The auditor of each county must certify to the board the same information for each candidate who has filed with that county an affidavit of candidacy or petition to appear on the ballot. ~~By August 15~~ Within two weeks after the last day for filing for office, the board must notify all candidates of their estimated minimum amount. The board must include with the notice a form for the agreement provided in section 10A.322 along with a copy of section 10A.25, subdivision 10.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 3. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board ~~by September 1 preceding the candidate's general election or a special election held at the general election~~ at least three weeks before the candidate's state primary. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the candidate files the affidavit of candidacy or nominating petition for the office.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 4. Minnesota Statutes 2008, section 10A.323, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that ~~during that calendar year~~ between January 1 of the election year and the cutoff date for transactions included in the report of receipts and expenditures due before the primary election, the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first $50 received from each contributor:

(1) candidates for governor and lieutenant governor running together, $35,000;

(2) candidates for attorney general, $15,000;

(3) candidates for secretary of state and state auditor, separately, $6,000;

(4) candidates for the senate, $3,000; and

(5) candidates for the house of representatives, $1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of $50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the ~~cutoff date~~ deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after filing the affidavit of candidacy.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 5. Minnesota Statutes 2008, section 13.607, subdivision 7, is amended to read:

Subd. 7. **Absentee ballots.** Disclosure of names of voters submitting absentee ballots is governed by section ~~203B.12, subdivision 7~~ 203B.121, subdivision 2.

Sec. 6. Minnesota Statutes 2008, section 135A.17, subdivision 2, is amended to read:

Subd. 2. **~~Residential housing list~~ List of enrolled students.** ~~All postsecondary institutions that enroll students accepting state or federal financial aid may~~ (a) Institutions within the Minnesota State Colleges and Universities must prepare a current list of students enrolled in the institution and residing ~~in the institution's housing or within ten miles of the institution's campus~~ in Minnesota. The list ~~shall~~ must include each student's name and current address, unless the name or address is not designated as public data under section 13.32, subdivision 5. The list ~~shall~~ must be certified and sent to the ~~appropriate county auditor or auditors~~ secretary of state no earlier than 30 and no later than 25 days before the November general election, in an electronic format specified by the secretary of state, for use in election day registration as provided under section 201.061, subdivision 3. The certification must be dated and signed by the chief officer or designee of the postsecondary educational institution, or for institutions within the Minnesota State Colleges and Universities, by the chancellor, and must state that the list is current and accurate and includes only the names of currently enrolled students residing in Minnesota as of the date of certification. The secretary of state must combine the data received from each postsecondary educational institution under this subdivision and must process the data to locate the precinct in which the address provided for each student is located. If the data submitted by the postsecondary educational institution is insufficient for the secretary of state to locate the proper precinct, the associated student name must not appear in any list forwarded to a county auditor under this subdivision.

At least 14 days before the November general election, the secretary of state must forward to the appropriate county auditor lists of students containing the students' names and addresses for which precinct determinations have been made along with their postsecondary educational institutions. The list must be sorted by precinct and student last name and must be forwarded in an electronic format specified by the secretary of state or other mutually agreed upon medium, if a written agreement specifying the medium is signed by the secretary of state and the county auditor at least 90 days before the November general election. A written agreement is effective for all elections until rescinded by either the secretary of state or the county auditor.

(b) Other postsecondary institutions may provide lists as provided by this subdivision or as provided by the rules of the secretary of state. The University of Minnesota is requested to comply with this subdivision.

(c) A residential housing list provided under this subdivision may not be used or disseminated by a county auditor or the secretary of state for any other purpose.

Sec. 7. Minnesota Statutes 2008, section 201.016, subdivision 1a, is amended to read:

Subd. 1a. **Violations; penalty.** (a) The county auditor shall mail a ~~violation~~ notice to any voter who the county auditor can determine has ~~voted~~: (1) provided the address at which the voter maintains residence, but was allowed to vote in a precinct other than the precinct in which the voter maintains residence; and (2) not voted in the wrong precinct previously. The notice must be in the form provided by the secretary of state.

(b) The county auditor shall mail a violation notice to any voter who otherwise voted in a precinct in which the voter did not maintain residence on election day. The county auditor shall also change the status of the voter in the statewide registration system to "challenged" and the voter shall be required to provide proof of residence to either the county auditor or to the election judges in the voter's precinct before voting in the next election. Any of the forms authorized by section 201.061 for registration at the polling place may be used for this purpose.

~~(b)~~ (c) A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice as provided in this subdivision is guilty of a petty misdemeanor.

~~(c)~~ (d) A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor under paragraph (b) is guilty of a misdemeanor.

~~(d)~~ (e) Reliance by the voter on inaccurate information regarding the location of the voter's polling place provided by the state, county, or municipality is an affirmative defense to a prosecution under this subdivision.

Sec. 8. Minnesota Statutes 2008, section 201.016, subdivision 2, is amended to read:

Subd. 2. **Duration of residence.** The governing body of any city by resolution may require an eligible voter to maintain residence in a precinct for a period of 30 days prior to voting on any question affecting only that precinct or voting to elect public officials representing only that precinct. The governing body of any town by resolution may require an eligible voter to maintain residence in that town for a period of 30 days prior to voting in a town election. The school board of any school district by resolution may require an eligible voter to maintain residence in that school district for a period of 30 days prior to voting in a school district election. If a political boundary, including a precinct, municipal, or school district boundary, is redrawn within the 30 days prior to an election in a manner that places an eligible voter in a new jurisdiction and the eligible voter has not changed residence during the 30 days prior to the election, the eligible voter meets any residency requirement imposed under this subdivision.

Sec. 9. Minnesota Statutes 2008, section 201.056, is amended to read:

201.056 SIGNATURE OF REGISTERED VOTER; MARKS ALLOWED.

An individual who is unable to write the individual's name shall be required to sign a registration application in the manner provided by section 645.44, subdivision 14. If the individual registers in person and signs by making a mark, the clerk or election judge accepting the registration shall certify the mark by signing the individual's name. If the individual registers by mail and signs by making a mark, the mark shall be certified by having a voter registered in the individual's precinct sign the individual's name and the voter's own name and give the voter's own address. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 10. Minnesota Statutes 2008, section 201.061, subdivision 1, is amended to read:

Subdivision 1. **Prior to election day.** At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071, subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten business days after the applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Sec. 11. Minnesota Statutes 2008, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

(1) presenting a current, valid driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) presenting any document approved by the secretary of state as proper identification;

(3) presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 ~~and certified to the county auditor~~ or in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct, or who is an employee employed by

and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to 15 proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof-of-residence oaths. For each proof-of-residence oath, the form must include a statement that the voter is registered to vote in the precinct, personally knows that the individual is a resident of the precinct, and is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.

The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application.

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

(c) "Residential facility" means transitional housing as defined in section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.

(d) For tribal band members, an individual may prove residence for purposes of registering by:

(1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or

(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

(e) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

Sec. 12. Minnesota Statutes 2008, section 201.091, is amended by adding a subdivision to read:

Subd. 5a. **Registration confirmation to registered voter.** The secretary of state must ensure that the secretary of state's Web site is capable of providing voter registration confirmation to a registered voter. An individual requesting registration confirmation must provide the individual's name, address, and date of birth. If the information provided by the individual completely matches an active voter record in the statewide voter registration system, the Web site must inform the individual that the individual is a registered voter and must provide the individual with the individual's polling place location. If the information provided by the individual does not completely match an active voter record in the statewide voter registration system, the Web site must inform the individual that a voter record with that name and date of birth at the address provided cannot be confirmed and the Web site must advise the individual to contact the county auditor for further information.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the Web site has been tested, has been shown to properly retrieve information from the correct voter's record, and can handle the expected volume of use.

Sec. 13. Minnesota Statutes 2008, section 201.11, is amended to read:

201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES.

Subdivision 1. **Precinct boundaries changed.** When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. **House number or street address changed.** If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction which includes the affected residence.

Sec. 14. Minnesota Statutes 2008, section 201.12, is amended to read:

201.12 PROPER REGISTRATION; VERIFICATION BY MAIL; CHALLENGES.

Subdivision 1. **Notice of registration.** To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

Subd. 2. **Moved within state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address in this state, the county auditor may change the voter's status to "inactive" in the statewide registration system and shall ~~notify~~ transmit a copy of the mailing to the auditor of the county in which the new address is located. ~~Upon receipt of the notice,~~ If an election is scheduled to occur in the precinct in which the voter resides in the next 47 days, the county auditor shall promptly update the voter's address in the statewide voter registration system ~~and~~. If there is not an election scheduled, the auditor may wait to update the voter's address until after the next list of address changes is received from the secretary of state. Once updated, the county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling

place. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

Subd. 3. **Moved out of state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address outside this state, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence. If the notice is not received by the deadline, ~~the county auditor shall change~~ the voter's status shall be changed to "inactive" in the statewide voter registration system.

Subd. 4. **Challenges.** If any nonforwardable mailing from an election official is returned as undeliverable but with no forwarding address, the county auditor shall change the registrant's status to "challenged" in the statewide voter registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote. If a notice mailed at least 60 days after the return of the first nonforwardable mailing is also returned by the postal service, the county auditor shall change the registrant's status to "inactive" in the statewide voter registration system.

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

Sec. 15. Minnesota Statutes 2008, section 201.13, is amended to read:

201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.

Subdivision 1. **Commissioner of health; reports of deceased residents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 2. **Deceased nonresidents.** After receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased." Notice must be in the form of a printed obituary or a written statement signed by a registered voter ~~of the county~~.

Subd. 3. **Use of change of address system.** (a) At least once each month the secretary of state shall obtain a list of individuals registered to vote in this state who have filed with the United States Postal Service a change of their permanent address. However, the secretary of state shall not obtain this list within the 47 days before the state primary or 47 days before a November general election.

(b) If the address is changed to another address in this state, the secretary of state shall locate the precinct in which the voter resides, if possible. If the secretary of state is able to locate the precinct in which the voter resides, the secretary must transmit the information about the changed address by electronic means to the county auditor of the county in which the new address is located. If the voter has not voted or submitted a voter registration application since the address change,

upon receipt of the information, the county auditor shall update the voter's address in the statewide voter registration system ~~and~~. The county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, unless the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, in which case the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

~~(b)~~ (c) If the change of permanent address is to an address outside this state, the secretary of state shall notify by electronic means the auditor of the county where the voter formerly resided that the voter has moved to another state. If the voter has not voted or submitted a voter registration application since the address change, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Request for removal of voter record.** If a voter makes a written request for removal of the voter's record, the county auditor shall remove the record of the voter from the statewide voter registration system.

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

Sec. 16. **[201.35] REPORT TO LEGISLATURE; UNDELIVERABLE REGISTRATION NOTICES.**

By January 15 of each odd-numbered year, the secretary of state shall report to the chair and ranking minority members of the house of representatives and senate committees with jurisdiction over election issues on the number of registration notices returned as undeliverable. The report must include the total number of notices returned statewide, organized by county and by precinct. Each county auditor must cooperate with the secretary of state in providing the data required by this section in a timely manner.

Sec. 17. Minnesota Statutes 2008, section 202A.14, subdivision 3, is amended to read:

Subd. 3. **Notice.** The county or legislative district chair shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus~~, and~~. The state party chair shall deliver the same information to the ~~municipal clerk and county auditor~~ secretary of state in an electronic format designated by the secretary of state at least ~~20~~ 30 days before the precinct caucus. The ~~county auditor~~ secretary of state shall make this information available in electronic format via the secretary of state Web site at least ten days before the date of the caucuses ~~to persons who request it~~.

Sec. 18. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2 or by

section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state~~, notwithstanding rules on absentee ballot forms,~~ and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

~~(a)~~ (1) the county auditor of the county where the applicant maintains residence; or

~~(b)~~ (2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. The application ~~may~~ must contain a request for the ~~voter's~~ applicant's date of birth, ~~which~~ the applicant's Minnesota driver's license or state identification card number, and the last four digits of the applicant's Social Security number, if the applicant has these numbers, an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury. An applicant's full date of birth, driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision ~~5~~ 6 to automatically receive an absentee ballot ~~application~~.

Sec. 19. Minnesota Statutes 2008, section 203B.04, subdivision 6, is amended to read:

Subd. 6. **Ongoing absentee status; termination.** (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. The voter may decline to receive an absentee ballot for one or more elections if that request is received by the county auditor or municipal clerk at least five days before the deadline in section 204B.35 for delivering ballots for the election to which it applies. Sixty days before each state primary, the county auditor must send each voter with ongoing absentee ballot status a nonforwardable postcard to notify the voter when the voter can expect to receive the ballots. Each applicant must automatically be provided with an absentee ballot ~~application~~ for each ensuing election other than an election by mail conducted under section 204B.45, or as otherwise requested by the voter, and must have the status of ongoing absentee voter indicated on the voter's registration record.

(b) Ongoing absentee voter status ends on:

(1) the voter's written request;

(2) the voter's death;

(3) return of an ongoing absentee ballot as undeliverable;

(4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or

(5) placement of the voter's registration on inactive status under section 201.171.

By May 1, 2010, each county auditor shall mail an explanation of the changes to the ongoing absentee balloting process and an updated ongoing absentee voter application to every voter with ongoing absentee ballot status in their county. A voter must return the application to maintain the voter's status as an ongoing absentee voter. Upon receipt of a completed application, the county auditor shall scan an image of the application and update the voter's record with any new or changed information.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested and shown to properly allow for the issuance of ballots to ongoing absentee voters.

Sec. 20. Minnesota Statutes 2008, section 203B.05, is amended to read:

203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER ABSENTEE VOTING LAWS.

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 if:

~~(a)~~ (1) the county auditor of that county has designated the clerk to administer them; or

~~(b)~~ (2) the clerk has given the county auditor of that county notice of intention to administer them.

A clerk may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training.

Subd. 2. **City, school district, and town elections.** For city, town, and school district elections not held on the same day as a statewide election, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 21. Minnesota Statutes 2008, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section ~~203B.13~~ 203B.121, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 22. **[203B.065] RECORDING APPLICATIONS.**

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide registration system the voter's name, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter, that an absentee ballot has been transmitted to the voter, the method of transmission, and the date of transmission.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 23. Minnesota Statutes 2008, section 203B.07, subdivision 2, is amended to read:

Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. ~~If the voter was not previously registered,~~ The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Sec. 24. Minnesota Statutes 2008, section 203B.07, subdivision 3, is amended to read:

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number or to indicate that they do not have one, and a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot, that the ballots were unmarked when received by the voter, and that the voter personally marked the ballots without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them. If the voter was not previously registered at that address, the certificate shall also contain space for a statement signed by a person who is ~~registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths~~ a United States citizen of voting age stating that~~:~~

~~(1) the ballots were displayed to that individual unmarked;~~

~~(2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and~~

~~(3) if the voter was not previously registered,~~ the voter has provided proof of residence as required by section 201.061, subdivision 3.

Sec. 25. Minnesota Statutes 2008, section 203B.08, subdivision 2, is amended to read:

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address

return envelopes to allow direct mailing of the absentee ballots to~~:~~

~~(a)~~ the county auditor or municipal clerk who ~~sent the ballots to the voter;~~ has the responsibility to accept and reject the absentee ballots.

~~(b) the clerk of the town or city in which the absent voter is eligible to vote; or~~

~~(c) the appropriate election judges.~~

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 26. Minnesota Statutes 2008, section 203B.08, subdivision 3, is amended to read:

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to the ~~appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk~~ ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 27. Minnesota Statutes 2008, section 203B.08, is amended by adding a subdivision to read:

Subd. 5. **Absentee ballot status.** The secretary of state must ensure that the secretary of state's Web site is capable of providing voters with information about the status of their absentee ballots. An individual requesting the status of the individual's absentee ballot must provide the individual's name, address, date of birth, Minnesota driver's license number, state identification number, or the last four digits of the individual's Social Security number. If the information provided by the individual completely matches an absentee voter record in the statewide voter registration system, the Web site must provide the individual with the status of the individual's absentee ballot. If the information provided by the individual does not completely match an absentee voter record in the statewide voter registration system, the Web site must inform the individual that a voter record with that name and date of birth at the address provided cannot be confirmed and the Web site must advise the individual how to obtain further information.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the Web site has been tested and shown to properly retrieve information from the correct voter's record, and can handle the expected volume of use.

Sec. 28. Minnesota Statutes 2008, section 203B.081, is amended to read:

203B.081 LOCATIONS FOR ABSENTEE VOTING IN PERSON.

An eligible voter may vote by absentee ballot during the 30 days before the election up until

the fourth day before the election in the office of the county auditor and at any other polling place designated by the county auditor. On the day before the election, voters who had planned on voting in person in the polling place and only learned of circumstances in the last four days that will prevent them from doing so may vote by absentee ballot. The county auditor shall make such designations at least 90 days before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 29. Minnesota Statutes 2008, section 203B.085, is amended to read:

203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the fourth day ~~immediately~~ preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. On the day before the election, the office must be open for acceptance of absentee ballot applications and to allow a voter to cast an absentee ballot if the voter provides additional certification stating that the voter had planned on voting in person at the polling place but became aware of circumstances within the four days preceding the day before the election that prevent the voter from voting in person at the polling place. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and shown to be able to handle the expected volume of use.

Sec. 30. **[203B.121] BALLOT BOARDS.**

Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22. The board may consist of staff trained as election judges, in which case the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in the appointment of judges, and is also exempt from the duties otherwise required to be performed by ballot board members or election judges of two different major political parties.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law

apply to a ballot board.

Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board of different major political parties shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision.

(b) The members of the ballot board shall mark the return envelope "accepted" and initial or sign the return envelope below the word "accepted" if a majority of the members of the ballot board are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as the number provided on the voter's application for ballots. If the number does not match the number as submitted on the application, or if a number was not submitted on the application, the election judges must make a reasonable effort to determine through other information provided by the applicant that the ballots were returned by the same person to whom the ballots were transmitted;

(4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

The ballots from return envelopes marked "accepted" shall be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. These duties must be performed by ballot board members of two different major political parties. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided by section 204C.25 for return of spoiled ballots, and may not be counted.

(c)(1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "rejected," initial or sign it below the word "rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot. Notwithstanding any rule to the contrary, the official in charge of the election is not required to write "replacement" on the replacement ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or electronic mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The names of voters who have submitted an absentee ballot return envelope to the county auditor or municipal clerk that has not been accepted by a ballot board may not be made available for public inspection until the close of voting on election day.

Subd. 3. **Record of voting.** (a) The county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted in order to prevent the voter from casting more than one ballot at an election. After a voter's record has been marked, the individual must not be allowed to vote again at that election. In a state primary, state general, or state special election, the auditor or clerk must also record in the statewide voter registration system that the voter has cast a ballot.

(b) The roster must be marked, or a supplemental report created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either:

(1) by the municipal clerk before election day;

(2) by the ballot board before election day; or

(3) by the election judges at the polling place on election day.

The record of a voter who cast an absentee ballot in person on the day prior to the election, or whose absentee ballot was received by the county auditor on the day of, or the day prior to the election, is not required to be marked on the roster or contained in a supplemental report as required by this paragraph.

Subd. 4. **Storage and counting of absentee ballots.** (a) On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board of different major political parties must:

(1) remove the ballots from the ballot box at the end of the day;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and

(3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board of different major political parties must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify within 48 hours after election day that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. This task must be completed before the members of the ballot board take any additional steps to process and count these ballots.

EFFECTIVE DATE. The provisions of this section are effective when the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 31. Minnesota Statutes 2008, section 203B.125, is amended to read:

203B.125 SECRETARY OF STATE TO MAKE RULES.

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section ~~203B.12~~ 204C.20, subdivision 1.

Sec. 32. Minnesota Statutes 2008, section 203B.23, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained and certified as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of the ballot board of different major political parties.

Sec. 33. Minnesota Statutes 2008, section 203B.23, subdivision 2, is amended to read:

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

Except for federal write-in absentee ballots, the ballots from return envelopes marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. These duties must be performed by two members of the ballot board of different major political parties.

Federal write-in absentee ballots marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box after 5:00 p.m. on the fourth day before the election, unless the voter has submitted another absentee ballot with a later postmark that has been accepted

by the board.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from absentee ballots may be made public before the close of voting on election day.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 34. Minnesota Statutes 2008, section 203B.24, subdivision 1, is amended to read:

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the ~~election judges~~ members of the ballot board shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. ~~The election judges~~ Two members of the ballot board of different major political parties shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if ~~the election judges~~ a majority of the members of the ballot board are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents; ~~and~~

(4) the voter is not known to have died; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the ~~election judges~~ members of the ballot board must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to ~~(4)~~ (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

~~Election judges~~ Members of the ballot board must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the

provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 35. Minnesota Statutes 2008, section 203B.26, is amended to read:

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and ~~provided to the election judges in the polling place on election day, along with the returned envelopes marked "accepted" by the absentee ballot board. The content of the record must be in a form prescribed by the secretary of state. The election judges in the polling place must note on the record any envelopes that had been marked "accepted" by the absentee ballot board but were not counted. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day~~ retained with the other election materials.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 36. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, except as otherwise provided for partisan offices in section 204D.10, subdivision 2~~, and for nonpartisan offices in section 204B.13, subdivision 4~~.

Sec. 37. Minnesota Statutes 2008, section 204B.04, subdivision 3, is amended to read:

Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office ~~except in the event of a vacancy in nomination as provided in section 204B.13~~.

Sec. 38. Minnesota Statutes 2008, section 204B.07, subdivision 1, is amended to read:

Subdivision 1. **Form of petition.** A nominating petition may consist of one or more separate pages each of which shall state:

(a) the office sought;

(b) the candidate's name and residence address, including street and number if any; and

(c) the candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used

to designate the party or principle. ~~A candidate who files by nominating petition to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.~~

Sec. 39. Minnesota Statutes 2008, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. **Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filled at the state general election shall be filed not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions on or before the state primary day pursuant to section 204B.07. ~~Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13.~~ No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

EFFECTIVE DATE. The amendment to paragraph (a) is effective for the state primary in 2010 and thereafter.

Sec. 40. Minnesota Statutes 2008, section 204B.09, subdivision 3, is amended to read:

Subd. 3. **Write-in candidates.** (a) A candidate for county, state, or federal office who wants write-in votes for the candidate to be counted must file a written request with the filing office for the office sought no later than the seventh day before the general election. The filing officer shall provide copies of the form to make the request.

(b) A candidate for president of the United States who files a request under this subdivision must include the name of a candidate for vice-president of the United States. The request must also include the name of at least one candidate for presidential elector. The total number of names of candidates for presidential elector on the request may not exceed the total number of electoral votes to be cast by Minnesota in the presidential election.

(c) A candidate for governor who files a request under this subdivision must include the name of a candidate for lieutenant governor.

(d) A candidate who files a request under this subdivision must also pay the filing fee for that

office or submit a petition in place of a filing fee, as provided in section 204B.11. The fee for a candidate for president of the United States is equal to that of the office of senator in Congress.

Sec. 41. Minnesota Statutes 2008, section 204B.11, subdivision 2, is amended to read:

Subd. 2. **Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 ~~or 204B.13, subdivision 4,~~ is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

(a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;

(b) for a congressional office, 1,000;

(c) for a county or legislative office, or for the office of district judge, 500; and

(d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

Sec. 42. Minnesota Statutes 2008, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

~~(a)~~ (1) a major political party candidate ~~or nonpartisan candidate~~ who was nominated at a primary dies ~~or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a~~ before election day; or

~~(b) a candidate for a nonpartisan office, for which one or two candidates filed, dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1.~~ (2) a major political party candidate for state constitutional office or the candidate's legal guardian files an affidavit of vacancy at least one day prior to the general election with the same official who received the affidavit of candidacy that states that:

(i) the candidate has a catastrophic illness that was diagnosed after the deadline for withdrawal; and

(ii) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought.

The affidavit must be accompanied by a certificate verifying that the candidate's illness meets the requirements of this clause, signed by at least two licensed physicians.

Sec. 43. Minnesota Statutes 2008, section 204B.13, subdivision 2, is amended to read:

Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination ~~for partisan office~~ shall ~~be filled as provided in this subdivision~~ effectively remove that office from the ballot. Votes cast at the general election for that office are invalid and the office must be filled in a special election held in accordance with section 204D.17, except as provided by this section.

Except for the vacancy in nomination, all other candidates whose names would have appeared on the general election ballot for this race must appear on the special election ballot for this race. There must not be a primary to fill the vacancy in nomination.

A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all federal and state offices ~~elected statewide~~. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within ~~seven~~ 14 days after the vacancy in nomination occurs ~~or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election~~ but no later than seven days after the general election. The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

Sec. 44. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 7. **Date of special election.** The special election must be held on the second Tuesday in December.

Sec. 45. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 8. **Absentee voters.** The county auditor shall transmit an absentee ballot for the special election under this section to each applicant for an absentee ballot whose application for an absentee ballot for the preceding general election was recorded under section 203B.04 or 203B.17. If the vacancy in nomination is filled before the general election, the county auditor shall transmit the ballot no earlier than the general election and no later than five days after the general election. If the vacancy is filled after the general election, the county auditor must transmit the ballot no later than five days after the vacancy is filled.

Sec. 46. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 9. **Appropriation.** The secretary of state shall reimburse the counties and municipalities for expenses incurred in the administration of a special election held under section 204B.13, subdivision 2. The following expenses are eligible for reimbursement: preparation and printing of ballots; postage for absentee ballots; publication of the sample ballot; preparation of polling places; preparation of electronic voting equipment; compensation for temporary staff or overtime payments; salaries of election judges; and compensation of county canvassing board members.

Within 60 days after the special election, the county auditor and municipal clerk shall submit to the secretary of state a request for payment accompanied by an itemized description of actual

costs incurred for the special election. The secretary of state must not reimburse expenses unless the request for reimbursement has been submitted as required by this subdivision. The secretary of state shall complete the issuance of reimbursements to the counties and municipalities no later than 90 days after the special election.

When a special election is held under section 204B.13, subdivision 2, the secretary of state shall reimburse local election officials for costs incurred as provided in this subdivision. The amount necessary to make the payments under this subdivision is appropriated to the secretary of state from the general fund. No payment shall be made under this section until the secretary of state has given the commissioner of finance an estimate of the cost of the special election, the commissioner of finance has reported the estimate to the chairs and ranking minority members of the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives, and the commissioner of finance has approved the payment. After all reimbursements have been paid, the commissioner of finance shall report the actual cost to the chairs and ranking minority members of the Committee on Finance of the senate and the Committee on Ways and Means of the house of representatives.

Sec. 47. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 10. **Subsequent vacancy in nomination.** (a) A vacancy in nomination that occurs prior to a special election scheduled as a result of an earlier vacancy in nomination must be filled in the same manner as provided in this section, except that the previously scheduled special election must be canceled and a new special election held.

(b) A special election required by this subdivision must be held on the second Tuesday of the month following the month during which the prior special election was scheduled to be held, provided that if the new special election date falls on a federal holiday, the special election must be held on the next following Tuesday after the holiday.

Sec. 48. Minnesota Statutes 2008, section 204B.135, subdivision 1, is amended to read:

Subdivision 1. **Cities with wards.** Except as provided in this subdivision, a city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted in a year ending in one or two. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

In a city electing council members by wards in a year ending in one, if the legislature has not been redistricted by June 1 of that year, the ward boundaries must be reestablished no later than 14 days before the first day to file affidavits of candidacy for city council members. The ward boundaries may be modified after the legislature has been redistricted for the purpose of establishing precinct boundaries as provided in section 204B.14, subdivision 3, but no modification in ward boundaries may result in a change of the population of any ward of more than five percent, plus or minus.

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

Sec. 49. Minnesota Statutes 2008, section 204B.135, subdivision 3, is amended to read:

Subd. 3. **Voters rights.** (a) An eligible voter may apply to the district court for either a writ of mandamus requiring the redistricting of wards or local government election districts or to revise any plan adopted by the governing body responsible for redistricting of wards or local government

election districts.

(b) If a city adopts a ward redistricting plan at least 19 weeks before the primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 18 weeks before the state primary election in the year ending in two, notwithstanding any charter provision. If a city adopts a ward redistricting plan less than 19 weeks before either the municipal primary in a year ending in one or before the state primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in ~~the~~ that year ~~ending in two~~ must be filed with the district court no later than one week after the plan has been adopted, notwithstanding any charter provision.

(c) If a plan for redistricting of a local government election district is adopted at least 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 14 weeks before the state primary election in the year ending in two. If a plan for redistricting of a local government election district is adopted less than 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted.

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

Sec. 50. Minnesota Statutes 2008, section 204B.14, subdivision 2, is amended to read:

Subd. 2. **Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

(1) each city ward; and

(2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of ~~any~~ an odd-numbered year and no later than 14 weeks before the state primary in an even-numbered year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for two contiguous precincts in the same municipality that have a combined total of fewer than 500 registered voters;

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 200.02, subdivision 24, that are contained in the same county; or

(4) for noncontiguous precincts located in one or more counties.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined

polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of ~~any~~ an odd-numbered year and no later than 18 weeks before the state primary in an even-numbered year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 51. Minnesota Statutes 2008, section 204B.14, subdivision 3, is amended to read:

Subd. 3. **Boundary changes; prohibitions; exception.** Notwithstanding other law or charter provisions to the contrary, during the period from January 1 in any year ending in zero to the time when the legislature has been redistricted in a year ending in one or two, no changes may be made in the boundaries of any election precinct except as provided in this subdivision.

(a) If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

(b) A municipality or county may establish new election precincts lying entirely within the boundaries of any existing precinct and shall assign names to the new precincts which include the name of the former precinct.

(c) Precinct boundaries in a city electing council members by wards may be reestablished within 14 days after the adoption of ward boundaries in a year ending in one, as provided in section 204B.135, subdivision 1.

(d) Precinct boundaries must be reestablished within 60 days of the time when the legislature has been redistricted, or at least 19 weeks before the state primary election in a year ending in two, whichever comes first. The adoption of reestablished precinct boundaries becomes effective on the date of the state primary election in the year ending in two.

Precincts must be arranged so that no precinct lies in more than one legislative or congressional district.

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

Sec. 52. Minnesota Statutes 2008, section 204B.14, subdivision 4, is amended to read:

Subd. 4. **Administrative boundary change procedure.** Any change in the boundary of an election precinct ~~shall~~ must be adopted at least ~~90~~ 60 days before the date of the next election and, for the state primary and general election, no later than ~~June 1~~ 14 weeks before the state primary in the year of the state general election. The precinct boundary change shall not take effect until notice

of the change has been posted in the office of the municipal clerk or county auditor for at least ~~60~~ 42 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 53. Minnesota Statutes 2008, section 204B.14, is amended by adding a subdivision to read:

Subd. 4a. **Municipal boundary adjustment procedure.** A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective more than 21 days before a regularly scheduled election takes effect at the scheduled election.

A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective less than 21 days before a regularly scheduled election takes effect the day after the scheduled election.

Sec. 54. Minnesota Statutes 2008, section 204B.16, subdivision 1, is amended to read:

Subdivision 1. **Authority; location.** The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for a precinct in a city ~~or in a school district located in whole or in part in the metropolitan area defined by section 200.02, subdivision 24,~~ shall be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for a city pursuant to section 204B.14, subdivision 2, or a school district pursuant to section 205A.11. The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section 200.02, subdivision 24, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

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

Sec. 55. Minnesota Statutes 2008, section 204B.18, subdivision 1, is amended to read:

Subdivision 1. **Booths; voting stations.** Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf

at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall permit the voter to vote privately and independently. Each polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252. Local officials must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. Local officials who purchased the equipment may charge the other local jurisdictions for the costs of programming the equipment, as well as a prorated cost of maintenance on the equipment. Any funds received for use of the accessible voting equipment must be treated as program income and deposited into the jurisdiction's Help America Vote Act account. All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms. All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

Sec. 56. Minnesota Statutes 2008, section 204B.19, subdivision 2, is amended to read:

Subd. 2. **Individuals not qualified to be election judges.** (a) Except as provided in paragraph (b), no individual shall be appointed as an election judge for any precinct if that individual:

~~(a)~~ (1) is unable to read, write, or speak the English language;

~~(b)~~ (2) is the spouse, parent, child, including a stepchild, or sibling, including a stepsibling, of any election judge serving in the same precinct or of any candidate at that election; or

~~(c)~~ (3) is a candidate at that election.

(b) Individuals who are related to each other as provided in paragraph (a), clause (2), may serve as election judges in the same precinct, provided that they serve on separate shifts that do not run concurrently.

Sec. 57. Minnesota Statutes 2008, section 204B.21, subdivision 1, is amended to read:

Subdivision 1. **Appointment lists; duties of political parties and county auditor.** ~~On June 1~~ Within two weeks after the precinct caucuses in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

~~By June 15~~ Within four weeks after the precinct caucuses, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 58. Minnesota Statutes 2008, section 204B.21, subdivision 1, is amended to read:

Subdivision 1. **Appointment lists; duties of political parties and ~~county auditor~~ secretary of state.** On June 1 in a year in which there is an election for a partisan political office, ~~the county or legislative district chairs of~~ each major political party~~, whichever is designated by the state party,~~ shall prepare a list of eligible voters to act as election judges in each election precinct ~~in the county or legislative district~~. The ~~chairs~~ political parties shall furnish the lists electronically to the ~~county auditor of the county in which the precinct is located~~ secretary of state, in a format specified by the secretary of state. The secretary of state must combine the data received from each political party under this subdivision and must process the data to locate the precinct in which the address provided for each potential election judge is located. If the data submitted by a political party is insufficient for the secretary of state to locate the proper precinct, the associated name must not appear in any list forwarded to an appointing authority under this subdivision. The secretary of state shall notify political parties of any proposed election judges with addresses that could not be located in a precinct.

By June 15, the ~~county auditor~~ secretary of state shall furnish electronically to the ~~appointing authorities~~ county auditor a list of the appropriate names for each ~~election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party~~ county, noting the political party affiliation of each individual on the list. The county auditor must promptly forward the appropriate names to the appropriate municipal clerk.

Sec. 59. Minnesota Statutes 2008, section 204B.21, subdivision 2, is amended to read:

Subd. 2. **Appointing authority; powers and duties.** Election judges for precincts in a municipality shall be appointed by the governing body of the municipality. Election judges for precincts in unorganized territory and for performing election-related duties assigned by the county auditor shall be appointed by the county board. Election judges for a precinct composed of two or more municipalities must be appointed by the governing body of the municipality or municipalities responsible for appointing election judges as provided in the agreement to combine for election purposes. Except as otherwise provided in this section, appointments shall be made from lists furnished pursuant to subdivision 1 subject to the eligibility requirements and other qualifications established or authorized under section 204B.19. At least two election judges in each precinct must be affiliated with different major political parties. If no lists have been furnished or if additional election judges are required after all listed names in that municipality have been exhausted, the appointing authority may appoint other individuals who meet the qualifications to serve as an election judge, including persons who are not affiliated with a major political party. The appointments shall be made at least 25 days before the election at which the election judges will serve, except that the appointing authority may pass a resolution authorizing the appointment of additional election judges within the 25 days before the election if the appointing authority determines that additional election judges will be required.

Sec. 60. Minnesota Statutes 2008, section 204B.24, is amended to read:

204B.24 ELECTION JUDGES; OATH.

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate."

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other.

Sec. 61. Minnesota Statutes 2008, section 204B.27, subdivision 2, is amended to read:

Subd. 2. **Election law and instructions.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before ~~July~~ August 1 of every ~~even-numbered~~ odd-numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. On or before July 1 of every even-numbered year, the secretary of state shall prepare and make an electronic copy available on the office's Web site. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Sec. 62. Minnesota Statutes 2008, section 204B.33, is amended to read:

204B.33 NOTICE OF FILING.

(a) ~~Between June 1 and July 1 in each even-numbered year~~ At least 15 weeks before the state primary, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices and post a notice of the offices that will be on the ballot on their Web site, if one is available.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 63. **[204B.335] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

For state primary and general elections, the county auditor must enter the offices and questions to be voted on in the county and the list of candidates for each office into the election results reporting system provided by the secretary of state no later than 46 days prior to the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 64. Minnesota Statutes 2008, section 204B.35, subdivision 4, is amended to read:

Subd. 4. **Absentee ballots; preparation; delivery.** At least 45 days before a state primary or the

state general election and at least 30 days before other elections, ballots necessary to fill applications of absentee voters shall be prepared and delivered ~~at least 30 days before the election~~ to the officials who administer the provisions of chapter 203B.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 65. Minnesota Statutes 2008, section 204B.38, is amended to read:

204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.

When the similarity of surnames of two or more candidates for the same office at the same election may cause confusion to voters because the candidates also have similar first names, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

Sec. 66. Minnesota Statutes 2008, section 204B.44, is amended to read:

204B.44 ERRORS AND OMISSIONS; REMEDY.

(a) Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur:

~~(a)~~ (1) an error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot;

~~(b)~~ (2) any other error in preparing or printing any official ballot;

~~(c)~~ (3) failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination; or

~~(d)~~ (4) any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

(b) The petition shall describe the error, omission, or wrongful act and the correction sought by the petitioner. The petition shall be filed with any judge of the Supreme Court in the case of an election for state or federal office or any judge of the district court in that county in the case of an election for county, municipal, or school district office. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission, or wrongful act, and on any other party as required by the court. Upon receipt of the petition the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. The court shall issue its findings and a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

(c) An order issued under this section may not authorize the candidates in an election to determine whether an absentee ballot envelope was improperly rejected.

Sec. 67. Minnesota Statutes 2008, section 204B.45, subdivision 2, is amended to read:

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. Not more than 30 days nor later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk ~~may~~ must appoint ~~election judges~~ a ballot board to examine the return envelopes and mark them "accepted" or "rejected" ~~during the 30 days before the election.~~ within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of a ballot board of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must ~~be considered spoiled ballots~~ remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

The ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box. These duties must be performed by two members of the ballot board of different major political parties.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from mail or absentee ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 68. Minnesota Statutes 2008, section 204B.46, is amended to read:

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election must be given to the county auditor at least 53 days prior to the election. This

notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. No earlier than ~~20 or~~ 30 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of a ballot board of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

The ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the ballot board, and deposited in the appropriate ballot box. These duties must be performed by two members of the ballot board of different major political parties.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from ballots may be made public before the close of voting on election day.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 69. Minnesota Statutes 2008, section 204C.02, is amended to read:

204C.02 APPLICATION.

This chapter applies to all elections held in this state except as otherwise provided by law.

An individual who is unable to write the individual's name must sign election-related documents in the manner provided by section 645.44, subdivision 14. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 70. Minnesota Statutes 2008, section 204C.04, subdivision 1, is amended to read:

Subdivision 1. **Right to be absent.** Every employee who is eligible to vote in an election has the right to be absent from work ~~for the purpose of voting during the morning of~~ for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other

person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

Sec. 71. Minnesota Statutes 2008, section 204C.06, subdivision 1, is amended to read:

Subdivision 1. **Lingering near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote or a representative of the press who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. "Exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous questionnaire.

Sec. 72. Minnesota Statutes 2008, section 204C.08, is amended to read:

204C.08 OPENING OF POLLING PLACES.

Subdivision 1. **Arrival; ballots.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns.

Subd. 1a. **Display of flag.** Upon their arrival at the polling place on the day of election, the election judges shall cause the national flag to be displayed on a suitable staff at the entrance to the polling place. The flag shall be displayed continuously during the hours of voting and the election judges shall attest to that fact by signing the flag certification statement on the precinct summary statement. The election judges shall receive no compensation for any time during which they intentionally fail to display the flag as required by this subdivision.

Subd. ~~1a.~~ 1b. **Voter's Bill of Rights.** The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS

For all persons residing in this state who meet federal voting eligibility requirements:

(1) You have the right to be absent from work for the purpose of voting ~~during the morning of~~ without reduction to your pay, personal leave, or vacation time on election day.

(2) If you are in line at your polling place any time ~~between 7:00 a.m. and~~ before 8:00 p.m., you have the right to vote.

(3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.

(4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.

(5) You have the right to request special assistance when voting.

(6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.

(7) You have the right to bring your minor children into the polling place and into the voting booth with you.

(8) If you have been convicted of a felony but your felony sentence has expired (been completed) or you have been discharged from your sentence, you have the right to vote.

(9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.

(10) You have the right to vote without anyone in the polling place trying to influence your vote.

(11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.

(12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.

(13) You have the right to take a sample ballot into the voting booth with you.

(14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Subd. 2. **Posting of voting instructions.** Before the hours for voting are scheduled to begin, the election judges shall post any official voter instruction posters furnished to them in a conspicuous location or locations in the polling place.

Subd. 2a. **Sample ballots.** A At least two sample ~~ballot~~ ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout election day. The sample ~~ballot~~ ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.

Subd. 3. **Locking of ballot ~~boxes~~ box.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot ~~boxes~~ box in the presence of the individuals assembled at the polling place, ~~turn the boxes upside down to~~ demonstrate that it is empty ~~them~~, lock ~~them~~ it, and deliver the key to another election judge. Except as provided by this subdivision, the ~~boxes~~ box shall not be reopened ~~except to count the ballots~~ until after the hours for voting have ended and all voting has been concluded. The ~~boxes~~ box shall be kept in public view at all times during voting hours. After locking the ballot ~~boxes~~ box, the election judges shall proclaim that voting may begin, and shall post outside the polling place conspicuous written or printed notices of the time when voting is scheduled to end.

Two election judges of different major political parties may open the ballot box as needed to straighten the ballots or remove voted ballots to prevent the box from becoming full. The election judges shall not count or inspect the ballots.

If the election judges remove any ballots from the box, the election judges shall put the ballots into containers and seal them. The judges shall put any ballots taken from the ballot box's write-in compartment into containers separate from the other ballots and seal them. The judges shall label the ballot containers and secure them.

The judges shall note on the incident report that the ballot box was opened, the time the box was opened, and, if any ballots were removed, the number of any seals used to seal the ballot containers.

Subd. 4. **Ballot ~~boxes,~~ box boxcar seals.** The governing body of a municipality or school district by resolution may direct the municipal or school district clerk to furnish a boxcar seal for each ballot box in place of a lock and key. Each seal shall consist of a numbered ~~metal~~ strap with a self-locking device securely attached to one end of the strap so that the other end may be inserted and securely locked in the seal. No two ~~metal~~ straps shall bear the same number.

EFFECTIVE DATE. The amendment to subdivision 1b is effective for the state primary in 2010 and thereafter.

Sec. 73. Minnesota Statutes 2008, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

(a) An individual seeking to vote shall sign a polling place roster ~~which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "~~. The polling place roster must state: "I certify that I have not already voted in this election. I certify that I am at least 18 years of age and a citizen of the United States; that I reside at the address shown and have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person in which the court order revokes my right to vote, have not been found by a court to be legally incompetent to vote, and that if convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and that I am registered and will be voting only in this precinct. I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than $10,000, or both." The words "I have not already voted in this election" and "I understand that deliberately providing false information is a felony" must be in bold type.

(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth. If the ballot board has not marked the roster in accordance with section 203B.121, the election judge must review the supplemental list of those who have already voted to ensure that the voter's name is not on the list. If a voter's name is on the list, the voter must not be allowed to sign the roster or to vote on election day.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 74. Minnesota Statutes 2008, section 204C.13, subdivision 2, is amended to read:

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking and folding the ballots and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth ~~and~~ or, at the voter's discretion, the voter may choose to use another writing surface. The voter shall mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

Sec. 75. Minnesota Statutes 2008, section 204C.13, subdivision 6, is amended to read:

Subd. 6. **Challenge of voter; time limits; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter ~~and the deposit of any received absentee ballots in the ballot boxes~~. The election judges shall determine the eligibility of any voter who is present in the polling place in the manner provided in section 204C.12, and if the voter is found to be not eligible to vote, shall place the ballots of that voter unopened among the spoiled ballots. ~~The election judges shall determine whether to receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections 203B.12, 203B.24, and 203B.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section 203B.12.~~ A violation of this subdivision by an election judge is a gross misdemeanor.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 76. Minnesota Statutes 2008, section 204C.17, is amended to read:

204C.17 VOTING; SECRECY.

Except as authorized by section 204C.15, a voter shall not reveal to anyone in the polling place the name of any candidate for whom the voter intends to vote or has voted. A voter shall not ask for or receive assistance in the marking of a ballot from anyone within the polling place except as authorized by section 204C.15. If a voter, after marking a ballot, shows it to anyone except as authorized by law or takes a picture of the voter's ballot, the election judges shall refuse to deposit the ballot in any ballot box and shall place it among the spoiled ballots. Unless the showing of the ballot was clearly intentional, the voter shall receive another ballot as provided in section 204C.13, subdivision 3, ~~clause~~ paragraph (d).

Sec. 77. Minnesota Statutes 2008, section 204C.27, is amended to read:

204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS.

Subdivision 1. **Election supplies.** One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled white, pink, canary, and gray ballots; and the envelopes containing the white, pink, canary, and gray ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements

and returns, all unused and spoiled municipal and school district ballots, the envelopes containing municipal and school district ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting. The municipal or school district clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.

Subd. 2. **Rejected absentee ballots.** All absentee ballots that were rejected and their accompanying absentee ballot applications must be delivered to the county auditor within 48 hours after the end of the hours for voting.

Sec. 78. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 3. **Review of rejected absentee ballots.** Prior to the meeting of the county canvassing board to canvass the results of the state general election, the county auditor must review any absentee ballots that were marked rejected to determine whether any were rejected in error. If the county canvassing board agrees that any ballots were rejected in error, the board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The county canvassing board must protect the privacy of voters' choices to the extent practicable. Except as provided in this subdivision, a rejected absentee ballot may not be reviewed outside of an election contest under chapter 209.

Sec. 79. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 4. **Election results reporting; state primary and general elections.** For state primary and general elections, the county auditor shall enter the votes in each precinct for the questions and offices voted on into the election results reporting system provided by the secretary of state.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 80. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office ~~on or before the seventh day~~ between the third and tenth days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

(a) the number of individuals voting at the election in the county and in each precinct;

(b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct~~, including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied~~;

(d) the number of votes counted for and against a proposed change of county lines or county seat; and

(e) the number of votes counted for and against a constitutional amendment or other question in

the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or ~~federal~~ county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit ~~one of the~~ a certified ~~copies~~ copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Sec. 81. Minnesota Statutes 2008, section 204C.33, subdivision 3, is amended to read:

Subd. 3. **State canvass.** The State Canvassing Board shall meet at the secretary of state's office on the ~~second~~ third Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

(a) the number of individuals voting in the state and in each county;

(b) the number of votes received by each of the candidates, specifying the counties in which they were cast; and

(c) the number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast.

All members of the State Canvassing Board shall sign the report and certify its correctness. The State Canvassing Board shall declare the result within three days after completing the canvass.

Sec. 82. Minnesota Statutes 2008, section 204C.37, is amended to read:

204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.

~~Two copies~~ A copy of the ~~reports~~ report required by sections 204C.32, subdivision 1, and 204C.33, subdivision 1, shall be certified under the official seal of the county auditor. ~~Each~~ The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words "Election Returns" endorsed on the envelope. The copy of the canvassing board report ~~not sent by express mail~~ and the precinct summary statements must be ~~mailed~~ sent by express mail or delivered to the secretary of state. If ~~neither~~ the copy is not received by the secretary of state within ten days following the applicable election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

Sec. 83. Minnesota Statutes 2008, section 204D.03, subdivision 1, is amended to read:

Subdivision 1. **State primary.** The state primary shall be held on the ~~first~~ second Tuesday ~~after the second Monday~~ in ~~September~~ August in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 84. Minnesota Statutes 2008, section 204D.04, subdivision 2, is amended to read:

Subd. 2. **Instructions to printer; printer's bond.** (a) The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding $1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

Sec. 85. Minnesota Statutes 2008, section 204D.09, subdivision 2, is amended to read:

Subd. 2. **Sample ballot.** At least two weeks before the state primary the county auditor shall prepare a sample state partisan primary ballot and a sample state and county nonpartisan primary ballot for public inspection. The names of all of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged ~~alphabetically according to the surname~~ in the base rotation as determined by section 206.61, subdivision 5. Only one sample state partisan primary ballot and one sample state and county nonpartisan ballot shall be prepared for any county. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

Sec. 86. Minnesota Statutes 2008, section 204D.28, subdivision 5, is amended to read:

Subd. 5. **Regular state primary.** "Regular state primary" means:

(a) the state primary at which candidates are nominated for offices elected at the state general election; or

(b) a primary held ~~four weeks before~~ on the first Tuesday after the ~~first~~ second Monday in ~~November~~ September of odd-numbered years.

Sec. 87. Minnesota Statutes 2008, section 204D.28, subdivision 6, is amended to read:

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least ~~six~~ nine weeks before the regular state primary preceding that election. If the vacancy occurs less than ~~six~~ nine weeks before the regular state primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Sec. 88. Minnesota Statutes 2008, section 204D.28, subdivision 8, is amended to read:

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than ~~ten~~ 12 weeks before the special primary, except that if the vacancy occurs ~~ten~~ 12 weeks or less before the special primary, the secretary of state shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purposes of those provisions of sections 204D.17 to 204D.27 that apply generally to special elections, this notice shall be used in place of the writ of the governor.

Sec. 89. Minnesota Statutes 2008, section 204D.28, subdivision 9, is amended to read:

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open ~~six~~ ten weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close ~~four~~ eight weeks before the special primary.

Sec. 90. **[204D.29] CONTINUITY OF CONGRESS.**

Subdivision 1. **In general.** (a) If the speaker of the United States House of Representatives announces that vacancies in the representation from the states in the House of Representatives exceed 100 and one of those vacancies is in this state, the governor shall issue a writ of election to fill such vacancy by special election.

(b) As used in this section, "speaker" means the speaker of the United States House of Representatives.

Subd. 2. **Timing of special election.** A special election held under this section to fill a vacancy shall take place not later than 49 days after the speaker announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy:

(1) a regularly scheduled general election for the office involved is to be held; or

(2) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the governor prior to the date of the announcement of the vacancy by the speaker.

Subd. 3. **Nominations by parties.** If a special election is to be held under this section, the chairs of the political parties of the state shall, not later than ten days after the speaker announces that the vacancy exists, certify to the secretary of state the name of the person nominated to fill this vacancy.

Subd. 4. **Nominating petitions.** Other candidates must file an affidavit of candidacy and a nominating petition under section 204B.07 not later than ten days after the speaker announces that

the vacancy exists.

Subd. 5. **Protecting ability of absent military and overseas voters to participate in special elections.** (a) **Deadline for transmittal of absentee ballots.** In conducting a special election held under this section to fill a vacancy in its representation, the state shall ensure to the greatest extent practicable that absentee ballots for the election are transmitted to voters who vote under the procedure outlined in sections 203B.16 to 203B.27 not later than 15 days after the speaker announces that the vacancy exists.

(b) **Period for ballot transit time.** Notwithstanding the other deadlines in this section, in the case of voters who vote under the procedure outlined in sections 203B.16 to 203B.27, any otherwise valid ballot or other election material must be processed and accepted so long as the ballot or other material is received by the county auditor not later than 45 days after the ballot or other material was transmitted to the voter.

Sec. 91. Minnesota Statutes 2008, section 205.065, subdivision 1, is amended to read:

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the first Tuesday after the second Monday in September of ~~any~~ an odd-numbered year or on the date of the state primary in an even-numbered year. The municipal primary must be held in the same year in which a municipal general election is to be held for the purpose of electing officers.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 92. Minnesota Statutes 2008, section 205.065, subdivision 2, is amended to read:

Subd. 2. **Resolution or ordinance.** The governing body of a city may, by ordinance or resolution adopted ~~at least three months before the next~~ by April 15 in the year when a municipal general election, is held, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

Sec. 93. Minnesota Statutes 2008, section 205.075, subdivision 1, is amended to read:

Subdivision 1. **Date of election.** The general election in a town must be held on the second Tuesday in March, except as provided in subdivision 2 or when moved for bad weather as provided in section 365.51, subdivision 1.

Sec. 94. Minnesota Statutes 2008, section 205.075, is amended by adding a subdivision to read:

Subd. 2a. **Return to March election.** The town board of a town that has adopted the alternative November election date under subdivision 2 may, after having conducted at least two elections on the alternative date, adopt a resolution designating the second Tuesday in March as the date of the town general election. The resolution must be adopted by a unanimous vote of the town supervisors and must include a plan to shorten or lengthen the terms of office to provide an orderly transition to the March election schedule. The resolution becomes effective upon an affirmative vote of the electors at the next town general election.

Sec. 95. Minnesota Statutes 2008, section 205.13, subdivision 1, is amended to read:

Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

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

Sec. 96. Minnesota Statutes 2008, section 205.13, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In ~~municipalities~~ a city nominating candidates at a ~~municipal~~ primary, an affidavit of candidacy for a city office ~~or town office~~ voted on in November of an even-numbered year must be filed not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the ~~first Tuesday after the second Monday in September preceding the municipal general election~~ city primary and an affidavit of candidacy for an office voted on in November of an odd-numbered year must be filed not more than 70 days nor less than 56 days before the city primary. In ~~all other~~ municipalities that do not hold a primary, an affidavit of candidacy must be filed not more than 70 days and not less than 56 days before the municipal general election held in March in any year or in November in an odd-numbered year, or a special election not held in conjunction with another election, and no more than 84 days and no less than 70 days before the municipal general election held in November in an even-numbered year.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 97. Minnesota Statutes 2008, section 205.13, subdivision 2, is amended to read:

Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must separately list any office for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

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

Sec. 98. **[205.135] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled municipal elections held in an even-numbered year, the municipal clerk must provide the offices and questions to be voted on in the municipality and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days prior to the

election. With the consent of the municipal clerk, the county auditor may delegate the duty to enter the information into the system to the municipal clerk.

Subd. 2. **Odd-numbered year.** For regularly scheduled municipal elections held in an odd-numbered year, the county auditor and municipal clerk may mutually decide to use the election reporting system for the election. The mutual agreement must specify whether the county auditor or the municipal clerk will enter into the election results reporting system the offices and questions to be voted on in the municipality and the list of candidates for each office, and, after the election, the votes in each precinct for the offices and questions voted on in the municipality. The county auditor must notify the secretary of state of the intent to use the election reporting system at least 90 days before the election, of who will be entering the data, and, if the municipal clerk will be entering the data, that the office of the municipal clerk has the technological capacity to enter the data. Under the agreement, either the county auditor or the municipal clerk must enter the offices and questions to be voted on in the municipality and the list of candidates for each office into the election results reporting system no later than 46 days before the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 99. Minnesota Statutes 2008, section 205.16, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, publication.** For every municipal election, the municipal clerk shall, at least ~~one week~~ two weeks before the election, publish a sample ballot in the official newspaper of the municipality, except that the governing body of a fourth class city or a town not located within a metropolitan county as defined in section 473.121 may dispense with publication.

Sec. 100. Minnesota Statutes 2008, section 205.16, subdivision 3, is amended to read:

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least ~~four days~~ two weeks before the election ~~post~~ prepare a sample ballot for the municipality, make them available for public inspection in the clerk's office ~~for public inspection~~, and post a sample ballot in each polling place on election day.

Sec. 101. Minnesota Statutes 2008, section 205.185, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) ~~Within seven~~ Between 11 and 17 days after ~~an election,~~ a state general election, and within 17 days after any other election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the

election.

Sec. 102. Minnesota Statutes 2008, section 205.185, is amended by adding a subdivision to read:

Subd. 5. **Review of rejected absentee ballots.** Before an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from a county or another city review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 103. **[205.187] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled municipal elections held in November of an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the municipal election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state under section 205.135, subdivision 2, of intent to use the election results reporting system for a municipal election, the county auditor or the municipal clerk must enter the votes in each precinct for the offices and questions voted on in the municipality into the election results reporting system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 104. Minnesota Statutes 2008, section 205.84, subdivision 2, is amended to read:

Subd. 2. **Effective date.** After the official certification of the federal decennial or special census, the governing body of the city shall either confirm the existing ward boundaries as conforming to the standards of subdivision 1 or redefine ward boundaries to conform to those standards as provided in section 204B.135, subdivision 1. If the governing body of the city fails to take either action within the time required, no further compensation shall be paid to the mayor or council member until the wards of the city are either reconfirmed or redefined as required by this section. An ordinance establishing new ward boundaries pursuant to section 204B.135, subdivision 1, becomes effective on the date of the state primary election in the year ending in two, except that new ward boundaries established by a municipality in a year ending in one are effective on the date of the municipal primary election in the year ending in one.

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

Sec. 105. Minnesota Statutes 2008, section 205A.03, subdivision 2, is amended to read:

Subd. 2. **Date.** The school district primary must be held on the first Tuesday after the second Monday in September of an odd-numbered year or on the date of the state primary in an even-numbered year. The primary must be held in the year when the school district general election

is held. The clerk shall give notice of the primary in the manner provided in section 205A.07.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 106. **[205A.075] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled school district elections held in an even-numbered year, the school district clerk must provide the offices and questions to be voted on in the school district and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days prior to the election.

Subd. 2. **Odd-numbered year.** For regularly scheduled school district elections held in an odd-numbered year, the county auditor and school district clerk may mutually decide to use the election reporting system for the election. If so, the county auditor must notify the secretary of state of intent to use the election reporting system at least 90 days before the election. The county auditor must enter the offices and questions to be voted on in the school district and the list of candidates for each office into the election results reporting system no later than 46 days prior to the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 107. **[205A.076] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled school district elections held in an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the school district election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state under section 205A.075, subdivision 2, of intent to use the election results reporting system for a school district election, the county auditor must enter the votes in each precinct for the offices and questions voted on in the school district into the election results reporting system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 108. Minnesota Statutes 2008, section 205A.10, subdivision 2, is amended to read:

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from ~~an absentee~~ a ballot board established pursuant to section ~~203B.13~~ 203B.121 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction

with a statewide election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 109. Minnesota Statutes 2008, section 205A.10, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** ~~Within seven~~ Between 11 and 17 days after a school district election held concurrently with a state general election, and within seven days after a school district election held on any other date, other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Sec. 110. Minnesota Statutes 2008, section 205A.10, is amended by adding a subdivision to read:

Subd. 6. **Review of rejected absentee ballots.** Prior to an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from a county or another city review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 111. Minnesota Statutes 2008, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority ~~approved~~ accredited by the ~~secretary of state and conform to current standards for voting equipment~~ Election Assistance Commission at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the ~~Federal Election Commission or its successor,~~

the Election Assistance Commission. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

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

Sec. 112. Minnesota Statutes 2008, section 206.82, subdivision 2, is amended to read:

Subd. 2. **Plan.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each odd-numbered year, and at least ten weeks before the date of the state primary in each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 113. Minnesota Statutes 2008, section 206.89, subdivision 2, is amended to read:

Subd. 2. **Selection for review; notice.** At the canvass of the state primary, the county canvassing board in each county must set the date, time, and place for the postelection review of the state general election to be held under this section.

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed by lot. Ballots counted centrally by a ballot board shall be considered one precinct eligible to be selected for purposes of this subdivision. The county canvassing board of a county with fewer than 50,000 registered voters must conduct a postelection review of a total of at least two precincts. The county canvassing board of a county with between 50,000 and 100,000 registered voters must conduct a review of a total of at least three precincts. The county canvassing board of a county with over 100,000 registered voters must conduct a review of a total of at least four precincts, or three percent of the total number of precincts in the county, whichever is greater. At least one precinct selected in each county must have had more than 150 votes cast at the general

election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. If the selection of precincts has not resulted in the selection of at least four precincts in each congressional district, the secretary of state may require counties to select by lot additional precincts to meet the congressional district requirement. The secretary of state must post this information on the office Web site.

Sec. 114. Minnesota Statutes 2008, section 208.03, is amended to read:

208.03 NOMINATION OF PRESIDENTIAL ELECTORS.

Presidential electors for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. ~~On or before primary~~ At least 70 days before the general election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of eight alternate presidential electors, and the names of the party candidates for president and vice president. The chair shall also certify that the party candidates for president and vice president have no affidavit on file as a candidate for any office in this state at the ensuing general election.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 115. Minnesota Statutes 2008, section 208.05, is amended to read:

208.05 STATE CANVASSING BOARD.

The State Canvassing Board at its meeting on the ~~second Tuesday after each state general election~~ date provided in section 204C.33 shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

Sec. 116. Minnesota Statutes 2008, section 211B.045, is amended to read:

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

In any municipality, whether or not the municipality has an ordinance that regulates the size or number of noncommercial signs, all noncommercial signs of any size may be posted in any number from ~~August 1~~ 45 days before the state primary in a state general election year until ten days following the state general election.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 117. Minnesota Statutes 2008, section 211B.11, is amended by adding a subdivision to read:

Subd. 3a. **Labels prohibited.** Write-in candidates must not distribute labels to voters to be

affixed to optical scan ballots in precincts in which ballots are tabulated by precinct or central count optical scan tabulators. A violation of this subdivision by a candidate is subject to a civil penalty of up to $5,000 per precinct in the district. The civil penalty is payable to the jurisdiction that owns the ballot tabulators for use in election equipment repair and maintenance. Notwithstanding section 211B.37, the costs of a complaint alleging violation of this subdivision shall be assessed against the candidate.

Sec. 118. Minnesota Statutes 2008, section 367.03, subdivision 4, is amended to read:

Subd. 4. **Officers; November election.** Except as provided in subdivision 4a, supervisors and other town officers in towns that hold the town general election in November shall be elected for terms of four years commencing on the first Monday in January and until their successors are elected and qualified. The clerk and treasurer shall be elected in alternate years.

Sec. 119. Minnesota Statutes 2008, section 367.03, is amended by adding a subdivision to read:

Subd. 4a. **Optional six-year terms.** The resolution required under section 205.075, subdivision 2, to adopt the alternative November date for town general election may include the proposal and corresponding transition plan to provide for a six-year term for town supervisors. A town that has adopted the alternative November date for general town elections using the four-year terms provided under subdivision 4 may adopt a resolution establishing six-year terms for supervisors as provided under this subdivision. The resolution must include a plan to provide an orderly transition to six-year terms. The resolution adopting the six-year term for town supervisors may be proposed by the town board or by a resolution of the electors adopted at the annual town meeting and is effective upon an affirmative vote of the electors at the next town general election.

Sec. 120. Minnesota Statutes 2008, section 447.32, subdivision 4, is amended to read:

Subd. 4. **Candidates; ballots; certifying election.** A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than ~~70~~ 84 days nor less than ~~56~~ 70 days before the first Tuesday after the first Monday in November of the year in which the general election is held and no more than 70 days and no less than 56 days before the election in an odd-numbered year. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be printed on ~~tan~~ paper and prepared as provided in the rules of the secretary of state. In hospital district elections not held in conjunction with other elections, ballots shall be prepared in the same manner as state primary and state general election ballots, to the extent practicable. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 121. **REPEALER.**

(a) Minnesota Statutes 2008, sections 203B.04, subdivision 5; 203B.10; 203B.12; 203B.13; and 203B.25, are repealed.

(b) Minnesota Statutes 2008, sections 201.096; and 206.805, subdivision 2, are repealed.

ARTICLE 2

CAMPAIGN FINANCE

Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 9, is amended to read:

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; ~~or~~

(3) the publishing or broadcasting of news items or editorial comments by the news media; or

(4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time.

Sec. 2. Minnesota Statutes 2008, section 10A.01, subdivision 11, is amended to read:

Subd. 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2)

repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit~~, or;~~ the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time.

Sec. 3. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to read:

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~

Sec. 4. Minnesota Statutes 2008, section 10A.01, subdivision 26, is amended to read:

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

(1) payment for accounting and legal services;

(2) return of a contribution to the source;

(3) repayment of a loan made to the principal campaign committee by that committee;

(4) return of a public subsidy;

(5) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility rental for a fund-raising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in

carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election thank-you notes or advertisements in the news media;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state; and

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

Sec. 5. Minnesota Statutes 2008, section 10A.04, subdivision 5, is amended to read:

Subd. 5. **Late filing.** ~~The board must send a notice by certified mail to any lobbyist or principal who fails after seven days after a filing date imposed by this section to file a report or statement or to pay a fee required by this section.~~ If a lobbyist or principal fails to file a report ~~or pay a fee~~ required by this section within ten business days after the ~~notice was sent~~ report was due, the board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the 11th day after the ~~notice was sent~~ report was due. The board must send ~~an additional~~ notice by certified mail to any lobbyist or principal who fails to file a report ~~or pay a fee~~ within ~~14 days after the first notice was sent by the board~~ ten business days after the report was due that the lobbyist or principal may be subject to a civil penalty for failure to file the report or pay the fee. A lobbyist or principal who fails to file a report or statement or pay a fee within seven days after the ~~second~~ certified mail notice

was sent by the board is subject to a civil penalty imposed by the board of up to $1,000.

Sec. 6. Minnesota Statutes 2008, section 10A.071, subdivision 3, is amended to read:

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque with a resale value of $5 or less;

(5) a trinket or memento costing $5 or less;

(6) informational material ~~of unexceptional value~~ with a resale value of $5 or less; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

Sec. 7. Minnesota Statutes 2008, section 10A.08, is amended to read:

10A.08 REPRESENTATION DISCLOSURE.

A public official who represents a client for a fee before an individual, board, commission, or agency that has rulemaking authority in a hearing conducted under chapter 14, must disclose the official's participation in the action to the board within 14 days after the appearance. ~~The board must send a notice by certified mail to any public official who fails to disclose the participation within 14 days after the appearance.~~ If the public official fails to disclose the participation within ten business days after the ~~notice was sent~~ disclosure required by this section was due, the board may impose a late filing fee of $5 per day, not to exceed $100, starting on the 11th day after the ~~notice was sent~~ disclosure was due. The board must send ~~an additional~~ notice by certified mail to a public official who fails to disclose the participation within ~~14~~ ten days after the ~~first notice was sent by the board~~ disclosure was due that the public official may be subject to a civil penalty for failure to disclose the participation. A public official who fails to disclose the participation within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to $1,000.

Sec. 8. Minnesota Statutes 2008, section 10A.09, subdivision 7, is amended to read:

Subd. 7. **Late filing.** ~~The board must send a notice by certified mail to any individual who fails~~

~~within the prescribed time to file a statement of economic interest required by this section.~~ If an individual fails to file a statement of economic interest required by this section within ten business days after the notice was sent, the board may impose a late filing fee of $5 per day, not to exceed $100, commencing on the 11th day after the ~~notice was sent~~ statement was due. The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten days after the ~~first notice was sent by the board~~ statement was due that the individual may be subject to a civil penalty for failure to file a statement. An individual who fails to file a statement within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board up to $1,000.

Sec. 9. Minnesota Statutes 2008, section 10A.14, subdivision 2, is amended to read:

Subd. 2. **Form.** The statement of organization must include:

(1) the name and address of the committee, fund, or party unit;

(2) the name ~~and~~, address, and e-mail address of the chair of a political committee, principal campaign committee, or party unit;

(3) the name and address of any supporting association of a political fund;

(4) the name ~~and~~, address, and e-mail address of the treasurer and any deputy treasurers;

(5) the name, address, and e-mail address of the candidate of a principal campaign committee;

(6) a listing of all depositories or safety deposit boxes used; and

~~(6)~~ (7) for the state committee of a political party only, a list of its party units.

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

Subd. 4. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section.~~ If the individual fails to file a statement required by this section within ten business days after the ~~notice was sent~~ statement was due, the board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the 11th day after the ~~notice was sent~~ statement was due.

The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten days after the ~~first notice was sent by the board~~ statement was due that the individual may be subject to a civil penalty for failure to file the ~~report~~ statement. An individual who fails to file the statement within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to $1,000.

Sec. 11. Minnesota Statutes 2008, section 10A.14, is amended by adding a subdivision to read:

Subd. 5. **Exemptions.** For good cause shown, the board must grant exemptions to the requirement that e-mail addresses be provided.

Sec. 12. Minnesota Statutes 2008, section 10A.20, subdivision 1, is amended to read:

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of $100 and must continue to

file until the committee, fund, or party unit is terminated. The reports must be filed electronically in a standards-based open format specified by the board. For good cause shown, the board must grant exemptions to the requirement that reports be filed electronically.

EFFECTIVE DATE. This section is effective January 1, 2012, and applies to reports for election years on or after that date.

Sec. 13. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1b. **Release of reports.** Except as provided in subdivision 1c, a report filed under this section is nonpublic data until 8:00 a.m. on the day following the day the report was due.

Sec. 14. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1c. **Reports of certain political party units.** (a) This subdivision applies to the following party units:

(1) the two state party units of major political parties that received the highest level of contributions in the last election year;

(2) the two party units established by members of a major party in the house of representatives that received the highest level of contributions in the last election year; and

(3) the two party units established by members of a major party in the senate that received the highest level of contributions in the last election year.

(b) A report filed under this section by a member of one of the party units listed in paragraph (a) is nonpublic data until the reports of each of the party units in that group have been filed.

(c) A report filed electronically under this section by a member of one of the party units listed in paragraph (a) is nonpublic data unless the reports of each of the party units in that group are filed electronically or until the board has created electronic data from the nonelectronic report so that data from each report are available in the same electronic form. The board may produce a viewable image of an electronic report after the requirements of paragraph (b) have been met.

(d) A party unit may waive the restrictions on publication of data established in this section through a written statement signed by the treasurer.

(e) Nothing in this subdivision prevents the board from publicly disclosing that an entity subject to this section has filed a report and the date the report was filed.

(f) Each group listed in paragraph (a) is exempt from the electronic filing requirement unless both members of the group have approved the filing format specified by the board.

Sec. 15. Minnesota Statutes 2008, section 10A.20, subdivision 12, is amended to read:

Subd. 12. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section.~~ If an individual fails to file a ~~statement~~ report required by this section that is due January 31 within ten business days after the ~~notice was sent~~ report was due, the board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the 11th day after the ~~notice was sent~~ report was due.

If an individual fails to file a ~~statement~~ report required by this section that is due before a primary

or election within three days after the date due, regardless of whether the individual has received any notice, the board may impose a late filing fee of $50 per day, not to exceed $500, commencing on the fourth day after the date the statement was due.

The board must send ~~an additional~~ notice by certified mail to an individual who fails to file a ~~statement~~ report within 14 days after the ~~first notice was sent by the board~~ report was due that the individual may be subject to a civil penalty for failure to file ~~a statement~~ the report. An individual who fails to file the ~~statement~~ report within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to $1,000.

Sec. 16. Minnesota Statutes 2008, section 10A.20, subdivision 13, is amended to read:

Subd. 13. **Third-party reimbursement.** An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 3, paragraph (g) or (l), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. In the alternative, the reporting individual or association may report individually each of the underlying expenditures being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

Sec. 17. Minnesota Statutes 2008, section 10A.31, subdivision 6, is amended to read:

Subd. 6. **Distribution of party accounts.** As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after certification by the State Canvassing Board of the results of the primary, the board must distribute the available money in each party account, as certified by the commissioner of revenue on September 1, to the candidates of that party who have signed a spending limit agreement under section 10A.322 and filed the affidavit of contributions required by section 10A.323, who were opposed in either the primary election or the general election, and whose names are to appear on the ballot in the general election, according to the allocations set forth in subdivisions 5 and 5a. The public subsidy from the party account may not be paid in an amount greater than the expenditure limit of the candidate or the expenditure limit that would have applied to the candidate if the candidate had not been freed from expenditure limits under section 10A.25, subdivision 10. ~~If a candidate files the affidavit required by section 10A.323 after September 1 of the general election year, the board must pay the candidate's allocation to the candidate at the next regular payment date for public subsidies for that election cycle that occurs at least 15 days after the candidate files the affidavit.~~

Sec. 18. Minnesota Statutes 2008, section 10A.31, is amended by adding a subdivision to read:

Subd. 7a. **Withholding of public subsidy.** If a candidate who is eligible for payment of public subsidy under this section has not filed the report of receipts and expenditures required under section 10A.20 before a primary election, any public subsidy for which that candidate is eligible must be withheld by the board until the candidate complies with the filing requirements of section 10A.20 and the board has sufficient time to review or audit the report. If a candidate who is eligible for public subsidy does not file the report due before the primary election under section 10A.20 by the date that the report of receipts and expenditures filed before the general election is due, that candidate shall not be paid public subsidy for that election.

Sec. 19. Minnesota Statutes 2008, section 10A.322, subdivision 1, is amended to read:

Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board by September 1 preceding the candidate's general election or a special election held at the general election. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the ~~candidate files the affidavit of candidacy or nominating petition for the office~~ close of the filing period for the special election for which the candidate filed.

Sec. 20. Minnesota Statutes 2008, section 10A.323, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that during that calendar year the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first $50 received from each contributor:

(1) candidates for governor and lieutenant governor running together, $35,000;

(2) candidates for attorney general, $15,000;

(3) candidates for secretary of state and state auditor, separately, $6,000;

(4) candidates for the senate, $3,000; and

(5) candidates for the house of representatives, $1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of $50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the cutoff date for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after ~~filing the affidavit of candidacy~~ the close of the filing

period for the special election for which the candidate filed.

Sec. 21. Minnesota Statutes 2008, section 10A.35, is amended to read:

10A.35 COMMERCIAL USE OF INFORMATION PROHIBITED.

Information copied from reports and statements filed with the board, other than reports and statements filed by lobbyists and lobbyist principals, may not be sold or used by an individual or association for a commercial purpose. Purposes related to elections, political activities, or law enforcement are not commercial purposes. An individual or association who violates this section is subject to a civil penalty of up to $1,000. An individual who knowingly violates this section is guilty of a misdemeanor.

Sec. 22. Minnesota Statutes 2008, section 13.607, is amended by adding a subdivision to read:

Subd. 5a. **Campaign reports.** Certain reports filed with the Campaign Finance and Public Disclosure Board are classified under section 10A.20.

Sec. 23. Minnesota Statutes 2008, section 211A.02, subdivision 2, is amended to read:

Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

(1) the name of the candidate or ballot question;

(2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;

(3) the total cash on hand;

(4) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;

~~(4)~~ (5) the amount, date, and purpose for each expenditure; and

~~(5)~~ (6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed $100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds $100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

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

Sec. 24. Minnesota Statutes 2008, section 211A.05, subdivision 2, is amended to read:

Subd. 2. **Notice of failure to file.** If a candidate or committee has filed an initial report, but fails to file a subsequent report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.

Sec. 25. Minnesota Statutes 2008, section 211B.12, is amended to read:

211B.12 LEGAL EXPENDITURES.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

(1) salaries, wages, and fees;

(2) communications, mailing, transportation, and travel;

(3) campaign advertising;

(4) printing;

(5) office and other space and necessary equipment, furnishings, and incidental supplies;

(6) charitable contributions of not more than $100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed by a principal campaign committee or from the campaign fund of a candidate for political subdivision office that dissolves within one year after the contribution is made is not limited by this clause; and

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

Sec. 26. **CAMPAIGN FINANCE BOARD; FUNDING OPTION.**

The Campaign Finance Board shall analyze the potential use of funds collected under Minnesota Statutes, section 10A.31, as the exclusive source of funding for the operations of the board.

The board must submit a report describing the board's findings and recommendations under this section to the chairs of the legislative committees with jurisdiction over elections finance no later than January 15, 2010.

Sec. 27. **REPEALER.**

Minnesota Statutes 2008, section 10A.20, subdivision 6b, is repealed."

Delete the title and insert:

"A bill for an act relating to elections; moving the state primary from September to August and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; changing certain election requirements and provisions; removing certain unconstitutional provisions governing independent expenditures in political campaigns; changing certain reporting requirements; authorizing electronic filing of certain items with the Campaign Finance and Public Disclosure Board; making certain reports filed with the Campaign Finance and Public Disclosure Board nonpublic data until certain conditions have been met; requiring the public subsidy for an eligible candidate be withheld until a required report has been filed; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 9, 11, 18, 26; 10A.04, subdivision 5; 10A.071, subdivision 3; 10A.08; 10A.09, subdivision 7; 10A.14, subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12, 13, by adding subdivisions; 10A.31, subdivision 6, by adding a subdivision; 10A.321; 10A.322, subdivision 1; 10A.323; 10A.35;

13.607, subdivision 7, by adding a subdivision; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.056; 201.061, subdivisions 1, 3; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivision 3; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.125; 203B.23, subdivisions 1, 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18, subdivision 1; 204B.19, subdivision 2; 204B.21, subdivisions 1, 2; 204B.24; 204B.27, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.38; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.08; 204C.10; 204C.13, subdivisions 2, 6; 204C.17; 204C.27; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.37; 204D.03, subdivision 1; 204D.04, subdivision 2; 204D.09, subdivision 2; 204D.28, subdivisions 5, 6, 8, 9; 205.065, subdivisions 1, 2; 205.075, subdivision 1, by adding a subdivision; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivision 2; 205A.03, subdivision 2; 205A.10, subdivisions 2, 3, by adding a subdivision; 206.57, subdivision 6; 206.82, subdivision 2; 206.89, subdivision 2; 208.03; 208.05; 211A.02, subdivision 2; 211A.05, subdivision 2; 211B.045; 211B.11, by adding a subdivision; 211B.12; 367.03, subdivision 4, by adding a subdivision; 447.32, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 201; 203B; 204B; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 10A.20, subdivision 6b; 201.096; 203B.04, subdivision 5; 203B.10; 203B.12; 203B.13; 203B.25; 206.805, subdivision 2."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Katie Sieben, Ann H. Rest, Sandra Pappas, Linda Higgins, Terri Bonoff

House Conferees: (Signed) Ryan Winkler, Phyllis Kahn, Steve Simon, Jeff Hayden

Senator Sieben moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1331 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1331 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 44 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Pogemiller	Skoe
Berglin	Doll	Lynch	Prettner Solon	Skogen
Betzold	Erickson Ropes	Marty	Rest	Sparks
Bonoff	Fobbe	Metzen	Rummel	Stumpf
Carlson	Foley	Moua	Saltzman	Tomassoni
Chaudhary	Higgins	Murphy	Saxhaug	Torres Ray
Clark	Kelash	Olseen	Scheid	Vickerman
Cohen	Kubly	Olson, M.	Sheran	Wiger
Dahle	Langseth	Pappas	Sieben	

Those who voted in the negative were:

Day	Gerlach	Johnson	Michel	Robling
Dille	Gimse	Jungbauer	Olson, G.	Rosen
Fischbach	Hann	Koch	Ortman	Senjem
Frederickson	Ingebrigtsen	Limmer	Pariseau	Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1009 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1009

A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, subdivision 12; 609.324, subdivisions 2, 3, 5.

May 18, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1009 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1009 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 13. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

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

Sec. 2. Minnesota Statutes 2008, section 609.324, subdivision 2, is amended to read:

Subd. 2. **Solicitation or acceptance of solicitation to engage in prostitution in public place; penalty.** Whoever ~~solicits or accepts a solicitation to engage for hire in sexual penetration or sexual contact~~ intentionally does any of the following while in a public place ~~may be sentenced to~~

~~imprisonment for not more than one year or to payment of a fine of not more than $3,000 or both.~~ is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires or offers or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $1,500.

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

Sec. 3. Minnesota Statutes 2008, section 609.324, subdivision 3, is amended to read:

Subd. 3. **Engaging in, hiring, or agreeing to hire adult to engage in prostitution; penalties.** (a) Whoever intentionally does any of the following ~~may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both~~ is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or above; or

(2) hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this ~~clause or clause (1)~~ paragraph while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both~~ for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of ~~a gross misdemeanor violation of this subdivision~~ violating this paragraph while acting as a patron, must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least $1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

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

Sec. 4. Minnesota Statutes 2008, section 609.324, subdivision 5, is amended to read:

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.** (a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If

the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving record. Except as provided in paragraph (b), the finding is classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

EFFECTIVE DATE. This section is effective August 1, 2009."

Delete the title and insert:

"A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, by adding a subdivision; 609.324, subdivisions 2, 3, 5."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Patricia Torres Ray, Linda Higgins, Bill Ingebrigtsen

House Conferees: (Signed) Melissa Hortman, John Lesch, Steve Smith

Senator Torres Ray moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1009 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Senator Torres Ray moved that S.F. No. 1009 and the Conference Committee Report thereon be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and Introduction and First Reading of Senate Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1760, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1760 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1760

A bill for an act relating to human services; changing provisions for long-term care, adverse health care events, suicide prevention, doula services, developmental disabilities, mental health commitment, alternative care services, self-directed options, nursing facilities, ICF/MR facilities, and data management; requiring a safe patient handling plan; establishing a health department work group and an Alzheimer's disease work group; amending Minnesota Statutes 2008, sections 43A.318, subdivision 2; 62Q.525, subdivision 2; 144.7065, subdivisions 8, 10; 145.56, subdivisions 1, 2; 148.995, subdivisions 2, 4; 182.6551; 182.6552, by adding a subdivision; 252.27, subdivision 1a; 252.282, subdivisions 3, 5; 253B.095, subdivision 1; 256B.0657, subdivision 5; 256B.0913, subdivisions 4, 5a, 12; 256B.0915, subdivision 2; 256B.431, subdivision 10; 256B.433, subdivision 1; 256B.441, subdivisions 5, 11; 256B.5011, subdivision 2; 256B.5012, subdivisions 6, 7; 256B.5013, subdivisions 1, 6; 256B.69, subdivision 9b; 403.03; 626.557, subdivision 12b; proposing coding for new law in Minnesota Statutes, chapter 182; repealing Minnesota Statutes 2008, section 256B.5013, subdivisions 2, 3, 5.

May 17, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1760 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. 1760 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 62A.65, subdivision 4, is amended to read:

Subd. 4. **Gender rating prohibited.** (a) No individual health plan offered, sold, issued, or renewed to a Minnesota resident may determine the premium rate or any other underwriting decision, including initial issuance, through a method that is in any way based upon the gender of any person covered or to be covered under the health plan. This subdivision prohibits the use of marital status or generalized differences in expected costs between principal insureds and their spouses.

(b) No health carrier may refuse to initially offer, sell, or issue an individual health plan to a Minnesota resident solely on the basis that the individual had a previous cesarean delivery.

Sec. 2. Minnesota Statutes 2008, section 62M.09, subdivision 3a, is amended to read:

Subd. 3a. **Mental health and substance abuse reviews.** (a) A peer of the treating mental health

or substance abuse provider or a physician must review requests for outpatient services in which the utilization review organization has concluded that a determination not to certify a mental health or substance abuse service for clinical reasons is appropriate, provided that any final determination not to certify treatment is made by a psychiatrist certified by the American Board of Psychiatry and Neurology and appropriately licensed in this state or by a doctoral-level psychologist licensed in this state if the treating provider is a psychologist.

(b) Notwithstanding the notification requirements of section 62M.05, a utilization review organization that has made an initial decision to certify in accordance with the requirements of section 62M.05 may elect to provide notification of a determination to continue coverage through facsimile or mail.

(c) This subdivision does not apply to determinations made in connection with policies issued by a health plan company that is assessed less than three percent of the total amount assessed by the Minnesota Comprehensive Health Association.

Sec. 3. Minnesota Statutes 2008, section 62Q.525, subdivision 2, is amended to read:

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

(b) "Medical literature" means articles from major peer reviewed medical journals that have recognized the drug or combination of drugs' safety and effectiveness for treatment of the indication for which it has been prescribed. Each article shall meet the uniform requirements for manuscripts submitted to biomedical journals established by the International Committee of Medical Journal Editors or be published in a journal specified by the United States Secretary of Health and Human Services pursuant to United States Code, title 42, section 1395x, paragraph (t), clause (2), item (B), as amended, as acceptable peer review medical literature. Each article must use generally acceptable scientific standards and must not use case reports to satisfy this criterion.

(c) "Off-label use of drugs" means when drugs are prescribed for treatments other than those stated in the labeling approved by the federal Food and Drug Administration.

(d) "Standard reference compendia" means~~:~~

~~(1) the United States Pharmacopeia Drug Information; or~~

~~(2) the American Hospital Formulary Service Drug Information~~ any authoritative compendia as identified by the Medicare program for use in the determination of a medically accepted indication of drugs and biologicals used off-label.

Sec. 4. Minnesota Statutes 2008, section 62U.01, subdivision 8, is amended to read:

Subd. 8. **Health plan company.** "Health plan company" has the meaning provided in section 62Q.01, subdivision 4. For the purposes of this chapter, health plan company shall include county-based purchasing arrangements authorized under section 256B.692.

Sec. 5. Minnesota Statutes 2008, section 62U.09, subdivision 2, is amended to read:

Subd. 2. **Members.** (a) The Health Care Reform Review Council shall consist of ~~14~~ 16 members who are appointed as follows:

(1) two members appointed by the Minnesota Medical Association, at least one of whom must represent rural physicians;

(2) one member appointed by the Minnesota Nurses Association;

(3) two members appointed by the Minnesota Hospital Association, at least one of whom must be a rural hospital administrator;

(4) one member appointed by the Minnesota Academy of Physician Assistants;

(5) one member appointed by the Minnesota Business Partnership;

(6) one member appointed by the Minnesota Chamber of Commerce;

(7) one member appointed by the SEIU Minnesota State Council;

(8) one member appointed by the AFL-CIO;

(9) one member appointed by the Minnesota Council of Health Plans;

(10) one member appointed by the Smart Buy Alliance;

(11) one member appointed by the Minnesota Medical Group Management Association; ~~and~~

(12) one consumer member appointed by AARP Minnesota;

(13) one member appointed by the Minnesota Psychological Association; and

(14) one member appointed by the Minnesota Chiropractic Association.

(b) If a member is no longer able or eligible to participate, a new member shall be appointed by the entity that appointed the outgoing member.

Sec. 6. Minnesota Statutes 2008, section 144.1501, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Dentist" means an individual who is licensed to practice dentistry.

(c) "Designated rural area" means:

(1) an area in Minnesota outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud; or

(2) a municipal corporation, as defined under section 471.634, that is physically located, in whole or in part, in an area defined as a designated rural area under clause (1).

(d) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

(e) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(f) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

(g) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

(h) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

(i) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

(j) "Pharmacist" means an individual with a valid license issued under chapter 151.

(k) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

(l) "Physician assistant" means a person ~~registered~~ licensed under chapter 147A.

(m) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

(n) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services.

Sec. 7. Minnesota Statutes 2008, section 144.7065, subdivision 8, is amended to read:

Subd. 8. **Root cause analysis; corrective action plan.** Following the occurrence of an adverse health care event, the facility must conduct a root cause analysis of the event. In conducting the root cause analysis, the facility must consider as one of the factors staffing levels and the impact of staffing levels on the event. Following the analysis, the facility must: (1) implement a corrective action plan to implement the findings of the analysis or (2) report to the commissioner any reasons for not taking corrective action. If the root cause analysis and the implementation of a corrective action plan are complete at the time an event must be reported, the findings of the analysis and the corrective action plan must be included in the report of the event. The findings of the root cause analysis and a copy of the corrective action plan must otherwise be filed with the commissioner within 60 days of the event.

Sec. 8. Minnesota Statutes 2008, section 144.7065, subdivision 10, is amended to read:

Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that is not reasonably explained" under section 626.556 or 626.557 and are excluded from the reporting requirements of sections 626.556 and 626.557, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section 626.556, subdivision 3, or

626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section 626.556, subdivision 3, or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under sections 626.556 and 626.557 are not affected by this section.

(d) Notwithstanding section 626.556, 626.557, or any other provision of Minnesota statute or rule to the contrary, neither a lead agency under section 626.556, subdivision 3c, or 626.5572, subdivision 13, the commissioner of health, nor the director of the Office of Health Facility Complaints is required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports an event to the facility required to be reported under subdivisions 2 to 6, in a timely manner, the provider's licensing board is not required to conduct an investigation of or obtain or create investigative data or reports regarding the individual reporting of the events described in subdivisions 2 to 6.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 9. Minnesota Statutes 2008, section 144E.001, subdivision 3a, is amended to read:

Subd. 3a. **Ambulance service personnel.** "Ambulance service personnel" means individuals who are authorized by a licensed ambulance service to provide emergency care for the ambulance service and are:

(1) EMTs, EMT-Is, or EMT-Ps;

(2) Minnesota registered nurses who are: (i) EMTs, are currently practicing nursing, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis; or

(3) Minnesota ~~registered~~ licensed physician assistants who are: (i) EMTs, are currently practicing as physician assistants, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis.

Sec. 10. Minnesota Statutes 2008, section 144E.001, subdivision 9c, is amended to read:

Subd. 9c. **Physician assistant.** "Physician assistant" means a person ~~registered~~ licensed to practice as a physician assistant under chapter 147A.

Sec. 11. Minnesota Statutes 2008, section 145.56, subdivision 1, is amended to read:

Subdivision 1. **Suicide prevention plan.** The commissioner of health shall refine, coordinate, and implement the state's suicide prevention plan using an evidence-based, public health approach for a life span plan focused on awareness and prevention, in collaboration with the commissioner of human services; the commissioner of public safety; the commissioner of education; the chancellor of Minnesota State Colleges and Universities; the president of the University of Minnesota; and appropriate agencies, organizations, and institutions in the community.

Sec. 12. Minnesota Statutes 2008, section 145.56, subdivision 2, is amended to read:

Subd. 2. **Community-based programs.** To the extent funds are appropriated for the purposes of this subdivision, the commissioner shall establish a grant program to fund:

(1) community-based programs to provide education, outreach, and advocacy services to populations who may be at risk for suicide;

(2) community-based programs that educate community helpers and gatekeepers, such as family members, spiritual leaders, coaches, and business owners, employers, and coworkers on how to prevent suicide by encouraging help-seeking behaviors;

(3) community-based programs that educate populations at risk for suicide and community helpers and gatekeepers that must include information on the symptoms of depression and other psychiatric illnesses, the warning signs of suicide, skills for preventing suicides, and making or seeking effective referrals to intervention and community resources; and

(4) community-based programs to provide evidence-based suicide prevention and intervention education to school staff, parents, and students in grades kindergarten through 12, and for students attending Minnesota colleges and universities.

Sec. 13. Minnesota Statutes 2008, section 147.09, is amended to read:

147.09 EXEMPTIONS.

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board, provided the student has a residency permit issued by the board under section 147.0391.

(6) A person employed in a scientific, sanitary, or teaching capacity by the state university, the Department of Education, a public or private school, college, or other bona fide educational institution, a nonprofit organization, which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research directed towards discovering the causes of and cures for human diseases, or the state Department of Health, whose duties are entirely of a research, public health, or educational character, while engaged in such duties; provided that if the research includes the study of humans, such research shall be conducted under the supervision of one or more physicians licensed under this chapter.

(7) ~~Physician's~~ Physician assistants ~~registered~~ licensed in this state.

(8) A doctor of osteopathy duly licensed by the state Board of Osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health-related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including psychological practitioners with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A person who practices ritual circumcision pursuant to the requirements or tenets of any established religion.

(11) A Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

(12) A physician licensed to practice medicine in another state who is in this state for the sole purpose of providing medical services at a competitive athletic event. The physician may practice medicine only on participants in the athletic event. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to adopt the contents of the form by rule. The physician shall provide evidence satisfactory to the board of a current unrestricted license in another state. The board shall charge a fee of $50 for the registration.

(13) A psychologist licensed under section 148.907 or a social worker licensed under chapter 148D who uses or supervises the use of a penile or vaginal plethysmograph in assessing and treating individuals suspected of engaging in aberrant sexual behavior and sex offenders.

(14) Any person issued a training course certificate or credentialed by the Emergency Medical Services Regulatory Board established in chapter 144E, provided the person confines activities within the scope of training at the certified or credentialed level.

(15) An unlicensed complementary and alternative health care practitioner practicing according to chapter 146A.

Sec. 14. Minnesota Statutes 2008, section 147A.01, is amended to read:

147A.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of this chapter the terms defined in this section have the meanings given them.

~~Subd. 2. **Active status.** "Active status" means the status of a person who has met all the qualifications of a physician assistant, has a physician-physician assistant agreement in force, and is registered.~~

Subd. 3. **Administer.** "Administer" means the delivery by a physician assistant authorized to prescribe legend drugs, a single dose of a legend drug, including controlled substances, to a patient by injection, inhalation, ingestion, or by any other immediate means, and the delivery by a physician assistant ordered by a physician a single dose of a legend drug by injection, inhalation, ingestion, or by any other immediate means.

Subd. 4. **Agreement.** "Agreement" means the document described in section 147A.20.

Subd. 5. **Alternate supervising physician.** "Alternate supervising physician" means a Minnesota licensed physician listed in the physician-physician assistant delegation agreement, or supplemental listing, who is responsible for supervising the physician assistant when the ~~main~~ primary supervising physician is unavailable. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician.

Subd. 6. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 7. **Controlled substances.** "Controlled substances" has the meaning given it in section 152.01, subdivision 4.

~~Subd. 8. **Delegation form.** "Delegation form" means the form used to indicate the categories of drugs for which the authority to prescribe, administer, and dispense has been delegated to the physician assistant and signed by the supervising physician, any alternate supervising physicians, and the physician assistant. This form is part of the agreement described in section 147A.20, and shall be maintained by the supervising physician and physician assistant at the address of record. Copies shall be provided to the board upon request. "Addendum to the delegation form" means a separate listing of the schedules and categories of controlled substances, if any, for which the physician assistant has been delegated the authority to prescribe, administer, and dispense. The addendum shall be maintained as a separate document as described above.~~

Subd. 9. **Diagnostic order.** "Diagnostic order" means a directive to perform a procedure or test, the purpose of which is to determine the cause and nature of a pathological condition or disease.

Subd. 10. **Drug.** "Drug" has the meaning given it in section 151.01, subdivision 5, including controlled substances as defined in section 152.01, subdivision 4.

Subd. 11. **Drug category.** "Drug category" means one of the categories listed on the physician-physician assistant delegation ~~form~~ agreement.

Subd. 12. **Inactive ~~status.~~** "Inactive ~~status~~" means ~~the status of a person who has met all the qualifications of a physician assistant, and is registered, but does not have a physician-physician assistant agreement in force~~ a licensed physician assistant whose license has been placed on inactive status under section 147A.05.

~~Subd. 13. **Internal protocol.** "Internal protocol" means a document written by the supervising physician and the physician assistant which specifies the policies and procedures which will apply to the physician assistant's prescribing, administering, and dispensing of legend drugs and medical devices, including controlled substances as defined in section 152.01, subdivision 4, and lists the specific categories of drugs and medical devices, with any exceptions or conditions, that the physician assistant is authorized to prescribe, administer, and dispense. The supervising physician and physician assistant shall maintain the protocol at the address of record. Copies shall be provided to the board upon request.~~

Subd. 14. **Legend drug.** "Legend drug" has the meaning given it in section 151.01, subdivision 17.

Subd. 14a. **Licensed.** "Licensed" means meeting the qualifications in section 147A.02 and being issued a license by the board.

Subd. 14b. **Licensure.** "Licensure" means the process by which the board determines that an applicant has met the standards and qualifications in this chapter.

~~Subd. 15. **Locum tenens permit.** "Locum tenens permit" means time-specific temporary permission for a physician assistant to practice as a physician assistant in a setting other than the practice setting established in the physician-physician assistant agreement.~~

Subd. 16. **Medical device.** "Medical device" means durable medical equipment and assistive or rehabilitative appliances, objects, or products that are required to implement the overall plan of care for the patient and that are restricted by federal law to use upon prescription by a licensed practitioner.

Subd. 16a. **Notice of intent to practice.** "Notice of intent to practice" means a document sent to the board by a licensed physician assistant that documents the adoption of a physician-physician assistant delegation agreement and provides the names, addresses, and information required by section 147A.20.

Subd. 17. **Physician.** "Physician" means a person currently licensed in good standing as a physician or osteopath under chapter 147.

Subd. 17a. **Physician-physician assistant delegation agreement.** "Physician-physician assistant delegation agreement" means the document prepared and signed by the physician and

physician assistant affirming the supervisory relationship and defining the physician assistant scope of practice. Alternate supervising physicians must be identified on the delegation agreement or a supplemental listing with signed attestation that each shall accept full medical responsibility for the performance, practice, and activities of the physician assistant while under the supervision of the alternate supervising physician. The physician-physician assistant delegation agreement outlines the role of the physician assistant in the practice, describes the means of supervision, and specifies the categories of drugs, controlled substances, and medical devices that the supervising physician delegates to the physician assistant to prescribe. The physician-physician assistant delegation agreement must comply with the requirements of section 147A.20, be kept on file at the address of record, and be made available to the board or its representative upon request.

Subd. 18. **Physician assistant or ~~registered~~ licensed physician assistant.** "Physician assistant" or "~~registered~~ licensed physician assistant" means a person ~~registered~~ licensed pursuant to this chapter who ~~is qualified by academic or practical training or both to provide patient services as specified in this chapter, under the supervision of a supervising physician~~ meets the qualifications in section 147A.02.

~~Subd. 19. **Practice setting description.** "Practice setting description" means a signed record submitted to the board on forms provided by the board, on which:~~

~~(1) the supervising physician assumes full medical responsibility for the medical care rendered by a physician assistant;~~

~~(2) is recorded the address and phone number of record of each supervising physician and alternate, and the physicians' medical license numbers and DEA number;~~

~~(3) is recorded the address and phone number of record of the physician assistant and the physician assistant's registration number and DEA number;~~

~~(4) is recorded whether the physician assistant has been delegated prescribing, administering, and dispensing authority;~~

~~(5) is recorded the practice setting, address or addresses and phone number or numbers of the physician assistant; and~~

~~(6) is recorded a statement of the type, amount, and frequency of supervision.~~

Subd. 20. **Prescribe.** "Prescribe" means to direct, order, or designate by means of a prescription the preparation, use of, or manner of using a drug or medical device.

Subd. 21. **Prescription.** "Prescription" means a signed written order, ~~or~~ an oral order reduced to writing, or an electronic order meeting current and prevailing standards given by a physician assistant authorized to prescribe drugs for patients in the course of the physician assistant's practice, issued for an individual patient and containing the information required in the physician-physician assistant delegation ~~form~~ agreement.

~~Subd. 22. **Registration.** "Registration" is the process by which the board determines that an applicant has been found to meet the standards and qualifications found in this chapter.~~

Subd. 23. **Supervising physician.** "Supervising physician" means a Minnesota licensed physician who accepts full medical responsibility for the performance, practice, and activities of a

physician assistant under an agreement as described in section 147A.20. The supervising physician who completes and signs the delegation agreement may be referred to as the primary supervising physician. A supervising physician shall not supervise more than ~~two~~ five full-time equivalent physician assistants simultaneously. With the approval of the board, or in a disaster or emergency situation pursuant to section 147A.23, a supervising physician may supervise more than five full-time equivalent physician assistants simultaneously.

Subd. 24. **Supervision.** "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be defined by the individual physician-physician assistant delegation agreement.

Subd. 25. **Temporary ~~registration~~ license.** ~~"Temporary registration" means the status of a person who has satisfied the education requirement specified in this chapter; is enrolled in the next examination required in this chapter; or is awaiting examination results; has a physician-physician assistant agreement in force as required by this chapter, and has submitted a practice setting description to the board. Such provisional registration shall expire 90 days after completion of the next examination sequence, or after one year, whichever is sooner, for those enrolled in the next examination; and upon receipt of the examination results for those awaiting examination results. The registration shall be granted by the board or its designee.~~ "Temporary license" means a license granted to a physician assistant who meets all of the qualifications for licensure but has not yet been approved for licensure at a meeting of the board.

Subd. 26. **Therapeutic order.** "Therapeutic order" means an order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Therapeutic orders may be written or verbal, but do not include the prescribing of legend drugs or medical devices unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Subd. 27. **Verbal order.** "Verbal order" means an oral order given to another for the purpose of treating or curing a patient in the course of a physician assistant's practice. Verbal orders do not include the prescribing of legend drugs unless prescribing authority has been delegated within the physician-physician assistant delegation agreement.

Sec. 15. Minnesota Statutes 2008, section 147A.02, is amended to read:

147A.02 QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.

Except as otherwise provided in this chapter, an individual shall be ~~registered~~ licensed by the board before the individual may practice as a physician assistant.

The board may grant ~~registration~~ a license as a physician assistant to an applicant who:

(1) submits an application on forms approved by the board;

(2) pays the appropriate fee as determined by the board;

(3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;

(4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;

(5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;

(6) submits any other information the board deems necessary to evaluate the applicant's qualifications; and

(7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing ~~registration~~ license renewal. All persons applying for ~~registration~~ licensure after that date shall be ~~registered~~ licensed according to this chapter.

Sec. 16. Minnesota Statutes 2008, section 147A.03, is amended to read:

147A.03 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **Protected titles.** No individual may use the titles "Minnesota ~~Registered~~ Licensed Physician Assistant," "~~Registered~~ Licensed Physician Assistant," "Physician Assistant," or "PA" in connection with the individual's name, or any other words, letters, abbreviations, or insignia indicating or implying that the individual is ~~registered with~~ licensed by the state unless they have been ~~registered~~ licensed according to this chapter.

Subd. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in this chapter as long as they do not hold themselves out as physician assistants by or through the titles provided in subdivision 1 in association with provision of these services.

~~Subd. 3. **Identification of registered practitioners.** Physician assistants in Minnesota shall wear name tags which identify them as physician assistants.~~

Subd. 4. **Sanctions.** Individuals who hold themselves out as physician assistants by or through any of the titles provided in subdivision 1 without prior ~~registration~~ licensure shall be subject to sanctions or actions against continuing the activity according to section 214.11, or other authority.

Sec. 17. Minnesota Statutes 2008, section 147A.04, is amended to read:

147A.04 TEMPORARY ~~PERMIT~~ LICENSE.

The board may issue a temporary ~~permit~~ license to practice to a physician assistant eligible for ~~registration~~ licensure under this chapter only if the application for ~~registration~~ licensure is complete, all requirements have been met, and a nonrefundable fee set by the board has been paid. The ~~permit~~ temporary license remains valid only until the next meeting of the board at which a decision is made on the application for ~~registration~~ licensure.

Sec. 18. Minnesota Statutes 2008, section 147A.05, is amended to read:

147A.05 INACTIVE ~~REGISTRATION~~ LICENSE.

Physician assistants who notify the board in writing ~~on forms prescribed by the board~~ may

elect to place their ~~registrations~~ license on an inactive status. Physician assistants with an inactive ~~registration~~ license shall be excused from payment of renewal fees and shall not practice as physician assistants. Persons who engage in practice while their ~~registrations are~~ license is lapsed or on inactive status shall be considered to be practicing without ~~registration~~ a license, which shall be grounds for discipline under section 147A.13. Physician assistants who provide care under the provisions of section 147A.23 shall not be considered practicing without a license or subject to disciplinary action. Physician assistants ~~requesting restoration from inactive status~~ who notify the board of their intent to resume active practice shall be required to pay the current renewal fees and all unpaid back fees and shall be required to meet the criteria for renewal specified in section 147A.07.

Sec. 19. Minnesota Statutes 2008, section 147A.06, is amended to read:

147A.06 CANCELLATION OF ~~REGISTRATION~~ LICENSE FOR NONRENEWAL.

The board shall not renew, reissue, reinstate, or restore a ~~registration~~ license that has lapsed on or after July 1, 1996, and has not been renewed within two annual renewal cycles starting July 1, 1997. A ~~registrant~~ licensee whose ~~registration~~ license is canceled for nonrenewal must obtain a new ~~registration~~ license by applying for ~~registration~~ licensure and fulfilling all requirements then in existence for an initial ~~registration~~ license to practice as a physician assistant.

Sec. 20. Minnesota Statutes 2008, section 147A.07, is amended to read:

147A.07 RENEWAL.

A person who holds a ~~registration~~ license as a physician assistant shall annually, upon notification from the board, renew the ~~registration~~ license by:

(1) submitting the appropriate fee as determined by the board;

(2) completing the appropriate forms; and

(3) meeting any other requirements of the board~~;~~

~~(4) submitting a revised and updated practice setting description showing evidence of annual review of the physician-physician assistant supervisory agreement.~~

Sec. 21. Minnesota Statutes 2008, section 147A.08, is amended to read:

147A.08 EXEMPTIONS.

(a) This chapter does not apply to, control, prevent, or restrict the practice, service, or activities of persons listed in section 147.09, clauses (1) to (6) and (8) to (13), persons regulated under section 214.01, subdivision 2, or persons defined in section 144.1501, subdivision 1, paragraphs (f), (h), and (i).

(b) Nothing in this chapter shall be construed to require ~~registration~~ licensure of:

(1) a physician assistant student enrolled in a physician assistant ~~or surgeon assistant~~ educational program accredited by the ~~Committee on Allied Health Education and~~ Accreditation Review Commission on Education for the Physician Assistant or by its successor agency approved by the board;

(2) a physician assistant employed in the service of the federal government while performing

duties incident to that employment; or

(3) technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who do not identify themselves as a physician assistant.

Sec. 22. Minnesota Statutes 2008, section 147A.09, is amended to read:

147A.09 SCOPE OF PRACTICE, DELEGATION.

Subdivision 1. **Scope of practice.** Physician assistants shall practice medicine only with physician supervision. Physician assistants may perform those duties and responsibilities as delegated in the physician-physician assistant delegation agreement and delegation forms maintained at the address of record by the supervising physician and physician assistant, including the prescribing, administering, and dispensing of drugs, controlled substances, and medical devices ~~and drugs~~, excluding anesthetics, other than local anesthetics, injected in connection with an operating room procedure, inhaled anesthesia and spinal anesthesia.

Patient service must be limited to:

(1) services within the training and experience of the physician assistant;

(2) services customary to the practice of the supervising physician or alternate supervising physician;

(3) services delegated by the supervising physician or alternate supervising physician under the physician-physician assistant delegation agreement; and

(4) services within the parameters of the laws, rules, and standards of the facilities in which the physician assistant practices.

Nothing in this chapter authorizes physician assistants to perform duties regulated by the boards listed in section 214.01, subdivision 2, other than the Board of Medical Practice, and except as provided in this section.

Subd. 2. **Delegation.** Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the delegation agreement:

(1) taking patient histories and developing medical status reports;

(2) performing physical examinations;

(3) interpreting and evaluating patient data;

(4) ordering or performing diagnostic procedures, including ~~radiography~~ the use of radiographic imaging systems in compliance with Minnesota Rules 2007, chapter 4732;

(5) ordering or performing therapeutic procedures including the use of ionizing radiation in compliance with Minnesota Rules 2007, chapter 4732;

(6) providing instructions regarding patient care, disease prevention, and health promotion;

(7) assisting the supervising physician in patient care in the home and in health care facilities;

(8) creating and maintaining appropriate patient records;

(9) transmitting or executing specific orders at the direction of the supervising physician;

(10) prescribing, administering, and dispensing ~~legend~~ drugs, controlled substances, and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section 147A.18 and chapter 151. For physician assistants who have been delegated the authority to prescribe controlled substances ~~shall maintain a separate addendum to the delegation form which lists all schedules and categories~~ such delegation shall be included in the physician-physician assistant delegation agreement, and all schedules of controlled substances ~~which~~ the physician assistant has the authority to prescribe~~. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record~~ shall be specified;

(11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;

(12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;

(13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; ~~and~~

(14) certifying a ~~physical disability~~ patient's eligibility for a disability parking certificate under section 169.345, subdivision ~~2a~~ 2;

(15) assisting at surgery; and

(16) providing medical authorization for admission for emergency care and treatment of a patient under section 253B.05, subdivision 2.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 23. Minnesota Statutes 2008, section 147A.11, is amended to read:

147A.11 EXCLUSIONS OF LIMITATIONS ON EMPLOYMENT.

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant ~~registered~~ licensed under this chapter.

Sec. 24. Minnesota Statutes 2008, section 147A.13, is amended to read:

147A.13 GROUNDS FOR DISCIPLINARY ACTION.

Subdivision 1. **Grounds listed.** The board may refuse to grant ~~registration~~ licensure or may impose disciplinary action as described in this subdivision against any physician assistant. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for ~~registration~~ licensure contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to

demonstrate such qualifications or satisfaction of such requirements;

(2) obtaining ~~registration~~ a license by fraud or cheating, or attempting to subvert the examination process. Conduct which subverts or attempts to subvert the examination process includes, but is not limited to:

(i) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; and

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of physician assistant. Conviction as used in this subdivision includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's physician assistant credentials in another state or jurisdiction, failure to report to the board that charges regarding the person's credentials have been brought in another state or jurisdiction, or having been refused ~~registration~~ licensure by any other state or jurisdiction;

(5) advertising which is false or misleading, violates any rule of the board, or claims without substantiation the positive cure of any disease or professional superiority to or greater skill than that possessed by another physician assistant;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law which relates to the practice of a physician assistant, or in part regulates the practice of a physician assistant, including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to adhere to the provisions of the physician-physician assistant delegation agreement;

(9) engaging in the practice of medicine beyond that allowed by the physician-physician assistant delegation agreement, ~~including the delegation form or the addendum to the delegation form,~~ or aiding or abetting an unlicensed person in the practice of medicine;

(10) adjudication as mentally incompetent, mentally ill or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within

or without this state. Such adjudication shall automatically suspend a ~~registration~~ license for its duration unless the board orders otherwise;

(11) engaging in unprofessional conduct. Unprofessional conduct includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which proceeding actual injury to a patient need not be established;

(12) inability to practice with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) any ~~use of~~ identification of a physician assistant by the title "Physician," "Doctor," or "Dr." in a patient care setting or in a communication directed to the general public;

(15) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298, or to furnish a medical record or report required by law;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug or device for other than medically accepted therapeutic, experimental, or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in sections 144.291 to 144.298 for services or tests not medically indicated at the time of referral;

(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 147A.14 or to cooperate with an investigation of the board as required by section 147A.15, subdivision 3;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo;

(22) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2; or

(23) failure to maintain annually reviewed and updated physician-physician assistant delegation agreements~~, internal protocols, or prescribing delegation forms~~ for each physician-physician assistant practice relationship, or failure to provide copies of such documents upon request by the board.

Subd. 2. **Effective dates, automatic suspension.** A suspension, revocation, condition, limitation, qualification, or restriction of a ~~registration~~ license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, orders otherwise.

A physician assistant ~~registration~~ license is automatically suspended if:

(1) a guardian of a ~~registrant~~ licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the ~~registrant~~ licensee; or

(2) the ~~registrant~~ licensee is committed by order of a court pursuant to chapter 253B. The ~~registration~~ license remains suspended until the ~~registrant~~ licensee is restored to capacity by a court and, upon petition by the ~~registrant~~ licensee, the suspension is terminated by the board after a hearing.

Subd. 3. **Conditions on reissued ~~registration~~ license.** In its discretion, the board may restore and reissue a physician assistant ~~registration~~ license, but may impose as a condition any disciplinary or corrective measure which it might originally have imposed.

Subd. 4. **Temporary suspension of ~~registration~~ license.** In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the ~~registration~~ license of a physician assistant if the board finds that the physician assistant has violated a statute or rule which the board is empowered to enforce and continued practice by the physician assistant would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the physician assistant, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act.

The physician assistant shall be provided with at least 20 days' notice of any hearing held pursuant to this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 5. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency which entered it shall be admissible into evidence without further authentication and shall constitute prima facie evidence of the contents thereof.

Subd. 6. **Mental examination; access to medical data.** (a) If the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1), it may direct the physician assistant to submit to a mental or physical examination. For the purpose of this subdivision, every physician assistant ~~registered~~ licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived

all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a physician assistant to submit to an examination when directed constitutes an admission of the allegations against the physician assistant, unless the failure was due to circumstance beyond the physician assistant's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A physician assistant affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the physician assistant can resume competent practice with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a physician assistant in any other proceeding.

(b) In addition to ordering a physical or mental examination, the board may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a ~~registrant~~ licensee or applicant without the ~~registrant's~~ licensee's or applicant's consent if the board has probable cause to believe that a physician assistant comes under subdivision 1, clause (1).

The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under chapter 13.

Subd. 7. **Tax clearance certificate.** (a) In addition to the provisions of subdivision 1, the board may not issue or renew a ~~registration~~ license if the commissioner of revenue notifies the board and the ~~registrant~~ licensee or applicant for ~~registration~~ licensure that the ~~registrant~~ licensee or applicant owes the state delinquent taxes in the amount of $500 or more. The board may issue or renew the ~~registration~~ license only if:

(1) the commissioner of revenue issues a tax clearance certificate; and

(2) the commissioner of revenue, the ~~registrant~~ licensee, or the applicant forwards a copy of the clearance to the board.

The commissioner of revenue may issue a clearance certificate only if the ~~registrant~~ licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes, and

(2) "Delinquent taxes" do not include a tax liability if:

(i) an administrative or court action that contests the amount or validity of the liability has been filed or served;

(ii) the appeal period to contest the tax liability has not expired; or

(iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a ~~registrant~~ licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the ~~registrant~~ licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the registrant or applicant. The notice may be served personally or by mail.

(d) The board shall require all ~~registrants~~ licensees or applicants to provide their Social Security number and Minnesota business identification number on all ~~registration~~ license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all ~~registrants~~ licensees and applicants, including their names and addresses, Social Security numbers, and business identification numbers. The commissioner of revenue may request a list of the ~~registrants~~ licensees and applicants no more than once each calendar year.

Subd. 8. **Limitation.** No board proceeding against a licensee shall be instituted unless commenced within seven years from the date of commission of some portion of the offense except for alleged violations of subdivision 1, paragraph (19), or subdivision 7.

Sec. 25. Minnesota Statutes 2008, section 147A.16, is amended to read:

147A.16 FORMS OF DISCIPLINARY ACTION.

When the board finds that a ~~registered~~ licensed physician assistant has violated a provision of this chapter, it may do one or more of the following:

(1) revoke the ~~registration~~ license;

(2) suspend the ~~registration~~ license;

(3) impose limitations or conditions on the physician assistant's practice, including limiting the scope of practice to designated field specialties; impose retraining or rehabilitation requirements; require practice under additional supervision; or condition continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(4) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the physician assistant of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;

(5) order the physician assistant to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or

(6) censure or reprimand the ~~registered~~ licensed physician assistant.

Upon judicial review of any board disciplinary action taken under this chapter, the reviewing court shall seal the administrative record, except for the board's final decision, and shall not make the administrative record available to the public.

Sec. 26. Minnesota Statutes 2008, section 147A.18, is amended to read:

147A.18 DELEGATED AUTHORITY TO PRESCRIBE, DISPENSE, AND ADMINISTER DRUGS AND MEDICAL DEVICES.

Subdivision 1. **Delegation.** (a) A supervising physician may delegate to a physician assistant who is ~~registered with~~ licensed by the board, certified by the National Commission on Certification of Physician Assistants or successor agency approved by the board, and who is under the supervising physician's supervision, the authority to prescribe, dispense, and administer legend drugs, ~~medical devices, and~~ controlled substances, and medical devices subject to the requirements in this section. The authority to dispense includes, but is not limited to, the authority to request, receive, and dispense sample drugs. This authority to dispense extends only to those drugs described in the written agreement developed under paragraph (b).

(b) The delegation agreement between the physician assistant and supervising physician ~~and any alternate supervising physicians~~ must include a statement by the supervising physician regarding delegation or nondelegation of the functions of prescribing, dispensing, and administering ~~of~~ legend drugs, controlled substances, and medical devices to the physician assistant. The statement must include ~~a protocol indicating~~ categories of drugs for which the supervising physician delegates prescriptive and dispensing authority including controlled substances when applicable. The delegation must be appropriate to the physician assistant's practice and within the scope of the physician assistant's training. Physician assistants who have been delegated the authority to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall provide evidence of current certification by the National Commission on Certification of Physician Assistants or its successor agency when ~~registering or reregistering~~ applying for licensure or license renewal as physician assistants. Physician assistants who have been delegated the authority to prescribe controlled substances must ~~present evidence of the certification and~~ also hold a valid DEA ~~certificate~~ registration. Supervising physicians shall retrospectively review the prescribing, dispensing, and administering of legend ~~and controlled~~ drugs, controlled substances, and medical devices by physician assistants, when this authority has been delegated to the physician assistant as part of the physician-physician assistant delegation agreement ~~between the physician and the physician assistant. This review must take place as outlined in the internal protocol.~~ The process and schedule for the review must be outlined in the physician-physician assistant delegation agreement.

(c) The board may establish by rule:

(1) a system of identifying physician assistants eligible to prescribe, administer, and dispense legend drugs and medical devices;

(2) a system of identifying physician assistants eligible to prescribe, administer, and dispense controlled substances;

(3) a method of determining the categories of legend ~~and controlled~~ drugs, controlled substances, and medical devices that each physician assistant is allowed to prescribe, administer, and dispense; and

(4) a system of transmitting to pharmacies a listing of physician assistants eligible to prescribe legend ~~and controlled~~ drugs, controlled substances, and medical devices.

Subd. 2. **Termination and reinstatement of prescribing authority.** ~~(a)~~ The authority of a physician assistant to prescribe, dispense, and administer legend drugs, controlled substances, and medical devices shall end immediately when:

(1) the physician-physician assistant delegation agreement is terminated;

(2) the authority to prescribe, dispense, and administer is terminated or withdrawn by the supervising physician; ~~or~~

(3) the physician ~~assistant reverts to~~ assistant's license is placed on inactive status~~, loses National Commission on Certification of Physician Assistants or successor agency certification, or loses or terminates registration status~~;

(4) the physician assistant loses National Commission on Certification of Physician Assistants or successor agency certification; or

(5) the physician assistant loses or terminates licensure status.

~~(b) The physician assistant must notify the board in writing within ten days of the occurrence of any of the circumstances listed in paragraph (a).~~

~~(c) Physician assistants whose authority to prescribe, dispense, and administer has been terminated shall reapply for reinstatement of prescribing authority under this section and meet any requirements established by the board prior to reinstatement of the prescribing, dispensing, and administering authority.~~

Subd. 3. **Other requirements and restrictions.** ~~(a) The supervising physician and the physician assistant must complete, sign, and date an internal protocol which lists each category of drug or medical device, or controlled substance the physician assistant may prescribe, dispense, and administer. The supervising physician and physician assistant shall submit the internal protocol to the board upon request. The supervising physician may amend the internal protocol as necessary, within the limits of the completed delegation form in subdivision 5. The supervising physician and physician assistant must sign and date any amendments to the internal protocol. Any amendments resulting in a change to an addition or deletion to categories delegated in the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(b) The supervising physician and physician assistant shall review delegation of prescribing, dispensing, and administering authority on an annual basis at the time of reregistration. The internal protocol must be signed and dated by the supervising physician and physician assistant after review. Any amendments to the internal protocol resulting in changes to the delegation form in subdivision 5 must be submitted to the board according to this chapter, along with the fee required.~~

~~(c)~~ (a) Each prescription initiated by a physician assistant shall indicate the following:

(1) the date of issue;

(2) the name and address of the patient;

(3) the name and quantity of the drug prescribed;

(4) directions for use; and

(5) the name and address of the prescribing physician assistant.

~~(d)~~ (b) In prescribing, dispensing, and administering legend drugs, controlled substances, and medical devices~~, including controlled substances as defined in section 152.01, subdivision 4,~~ a physician assistant must conform with the agreement, chapter 151, and this chapter.

~~Subd. 4. **Notification of pharmacies.** (a) The board shall annually provide to the Board of Pharmacy and to registered pharmacies within the state a list of those physician assistants who are authorized to prescribe, administer, and dispense legend drugs and medical devices, or controlled substances.~~

~~(b) The board shall provide to the Board of Pharmacy a list of physician assistants authorized to prescribe legend drugs and medical devices every two months if additional physician assistants are authorized to prescribe or if physician assistants have authorization to prescribe withdrawn.~~

~~(c) The list must include the name, address, telephone number, and Minnesota registration number of the physician assistant, and the name, address, telephone number, and Minnesota license number of the supervising physician.~~

~~(d) The board shall provide the form in subdivision 5 to pharmacies upon request.~~

~~(e) The board shall make available prototype forms of the physician-physician assistant agreement, the internal protocol, the delegation form, and the addendum form.~~

~~Subd. 5. **Delegation form for physician assistant prescribing.** The delegation form for physician assistant prescribing must contain a listing by drug category of the legend drugs and controlled substances for which prescribing authority has been delegated to the physician assistant.~~

Sec. 27. Minnesota Statutes 2008, section 147A.19, is amended to read:

147A.19 IDENTIFICATION REQUIREMENTS.

Physician assistants ~~registered~~ licensed under this chapter shall keep their ~~registration~~ license available for inspection at their primary place of business and shall, when engaged in their professional activities, wear a name tag identifying themselves as a "physician assistant."

Sec. 28. Minnesota Statutes 2008, section 147A.20, is amended to read:

147A.20 ~~PHYSICIAN AND PHYSICIAN~~ PHYSICIAN-PHYSICIAN ASSISTANT AGREEMENT DOCUMENTS.

Subdivision 1. **Physician-physician assistant delegation agreement.** (a) A physician assistant and supervising physician must sign ~~an~~ a physician-physician assistant delegation agreement which specifies scope of practice ~~and amount~~ and manner of supervision as required by the board. The agreement must contain:

(1) a description of the practice setting;

(2) ~~a statement of practice type/specialty;~~

~~(3)~~ a listing of categories of delegated duties;

~~(4)~~ (3) a description of supervision type~~, amount, and frequency~~; and

~~(5)~~ (4) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include ~~an internal protocol and delegation form~~ a description of the prescriptive authority delegated to the physician assistant. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the physician-physician assistant delegation agreement~~, delegation form, and internal protocol~~ at the address of record. ~~Copies shall be provided to the board upon request.~~

(c) Physician assistants must provide written notification to the board within 30 days of the following:

(1) name change;

(2) address of record change; and

(3) telephone number of record change~~; and~~

~~(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician~~.

~~(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:~~

~~(1) supervising physician change, excluding alternate supervising physicians; or~~

~~(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.~~

~~(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.~~

(d) Any alternate supervising physicians must be identified in the physician-physician assistant delegation agreement, or a supplemental listing, and must sign the agreement attesting that they shall provide the physician assistant with supervision in compliance with this chapter, the delegation agreement, and board rules.

Subd. 2. **Notification of intent to practice.** A licensed physician assistant shall submit a notification of intent to practice to the board prior to beginning practice. The notification shall include the name, business address, and telephone number of the supervising physician and the physician assistant. Individuals who practice without submitting a notification of intent to practice shall be subject to disciplinary action under section 147A.13 for practicing without a license, unless the care is provided in response to a disaster or emergency situation pursuant to section 147A.23.

Sec. 29. Minnesota Statutes 2008, section 147A.21, is amended to read:

147A.21 RULEMAKING AUTHORITY.

The board shall adopt rules:

(1) setting ~~registration~~ license fees;

(2) setting renewal fees;

(3) ~~setting fees for locum tenens permits;~~

~~(4)~~ setting fees for temporary ~~registration~~ licenses; and

~~(5)~~ (4) establishing renewal dates.

Sec. 30. Minnesota Statutes 2008, section 147A.23, is amended to read:

147A.23 RESPONDING TO DISASTER SITUATIONS.

(a) A ~~registered physician assistant or a~~ physician assistant duly licensed or credentialed in a United States jurisdiction or by a federal employer who is responding to a need for medical care created by an emergency according to section 604A.01, or a state or local disaster may render such care as the physician assistant is ~~able~~ trained to provide, under the physician assistant's license~~, registration,~~ or credential, without the need of a ~~physician and physician~~ physician-physician assistant delegation agreement or a notice of intent to practice as required under section 147A.20. ~~Physician supervision, as required under section 147A.09, must be provided under the direction of a physician licensed under chapter 147 who is involved with the disaster response. The physician assistant must establish a temporary supervisory agreement with the physician providing supervision before rendering care.~~ A physician assistant may provide emergency care without physician supervision or under the supervision that is available.

(b) The physician who provides supervision to a physician assistant while the physician assistant is rendering care ~~in a disaster~~ in accordance with this section may do so without meeting the requirements of section 147A.20.

(c) The supervising physician who otherwise provides supervision to a physician assistant under a ~~physician and physician~~ physician-physician assistant delegation agreement described in section 147A.20 shall not be held medically responsible for the care rendered by a physician assistant pursuant to paragraph (a). Services provided by a physician assistant under paragraph (a) shall be considered outside the scope of the relationship between the supervising physician and the physician assistant.

Sec. 31. Minnesota Statutes 2008, section 147A.24, is amended to read:

147A.24 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Amount of education required.** Applicants for ~~registration~~ license renewal ~~or reregistration~~ must either meet standards for continuing education through current certification by the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board, or ~~attest to and document~~ provide evidence of successful completion of at least 50 contact hours of continuing education within the two years immediately preceding ~~registration~~ license renewal~~, reregistration, or attest to and document taking the national certifying examination required by this chapter within the past two years~~.

Subd. 2. **Type of education required.** ~~Approved~~ Continuing education is approved if it is equivalent to category 1 credit hours as defined by the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, the American Academy of Physician Assistants, or by organizations that have reciprocal arrangements with the physician recognition award program of the American Medical Association.

Sec. 32. Minnesota Statutes 2008, section 147A.26, is amended to read:

147A.26 PROCEDURES.

The board shall establish, in writing, internal operating procedures for receiving and investigating complaints, accepting and processing applications, granting ~~registrations~~ licenses, and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.

Sec. 33. Minnesota Statutes 2008, section 147A.27, is amended to read:

147A.27 PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subdivision 1. **Membership.** (a) The Physician Assistant Advisory Council is created and is composed of seven persons appointed by the board. The seven persons must include:

(1) two public members, as defined in section 214.02;

(2) three physician assistants ~~registered~~ licensed under this chapter who meet the criteria for a new applicant under section 147A.02; and

(3) two licensed physicians with experience supervising physician assistants.

(b) No member shall serve more than ~~a total of~~ two consecutive terms. If a member is appointed for a partial term and serves more than half of that term it shall be considered a full term. ~~Members serving on the council as of July 1, 2000, shall be allowed to complete their current terms.~~

Subd. 2. **Organization.** The council shall be organized and administered under section 15.059.

Subd. 3. **Duties.** The council shall advise the board regarding:

(1) physician assistant ~~registration~~ licensure standards;

(2) enforcement of grounds for discipline;

(3) distribution of information regarding physician assistant ~~registration~~ licensure standards;

(4) applications and recommendations of applicants for ~~registration~~ licensure or ~~registration~~ license renewal; ~~and~~

(5) complaints and recommendations to the board regarding disciplinary matters and proceedings concerning applicants and ~~registrants~~ licensees according to sections 214.10; 214.103; and 214.13, subdivisions 6 and 7; and

(6) issues related to physician assistant practice and regulation.

The council shall perform other duties authorized for the council by chapter 214 as directed by the board.

Sec. 34. Minnesota Statutes 2008, section 148.06, subdivision 1, is amended to read:

Subdivision 1. **License required; qualifications.** No person shall practice chiropractic in this state without first being licensed by the state Board of Chiropractic Examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic or in a chiropractic program that is accredited by the Council on Chiropractic Education, ~~holds a recognition agreement with the Council on Chiropractic Education, or~~ is accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988, or is approved by a Council on Chiropractic Education member organization of the Council on Chiropractic International. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the Board of Chiropractic Examiners, and the applicant is a graduate of a college of chiropractic ~~with a recognition agreement with the Council on Chiropractic Education~~ approved by a Council on Chiropractic Education member organization of the Council on Chiropractic International. The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition; and

(c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

Sec. 35. **[148.107] RECORD KEEPING.**

All items in this section should be contained in the patient record, including, but not limited to, paragraphs (a), (b), (c), (e), (g), and (i).

(a) A description of past conditions and trauma, past treatment received, current treatment being received from other health care providers, and a description of the patient's current condition including onset and description of trauma if trauma occurred.

(b) Examinations performed to determine a preliminary or final diagnosis based on indicated diagnostic tests, with a record of findings of each test performed.

(c) A diagnosis supported by documented subjective and objective findings, or clearly qualified as an opinion.

(d) A treatment plan that describes the procedures and treatment used for the conditions identified, including approximate frequency of care.

(e) Daily notes documenting current subjective complaints as described by the patient, any change in objective findings if noted during that visit, a listing of all procedures provided during that visit, and all information that is exchanged and will affect that patient's treatment.

(f) A description by the chiropractor or written by the patient each time an incident occurs that results in an aggravation of the patient's condition or a new developing condition.

(g) Results of reexaminations that are performed to evaluate significant changes in a patient's condition, including tests that were positive or deviated from results used to indicate normal findings.

(h) When symbols or abbreviations are used, a key that explains their meanings must accompany each file when requested in writing by the patient or a third party.

(i) Documentation that family history has been evaluated.

Sec. 36. Minnesota Statutes 2008, section 148.624, subdivision 2, is amended to read:

Subd. 2. **Nutrition.** The board shall issue a license as a nutritionist to a person who files a completed application, pays all required fees, and certifies and furnishes evidence satisfactory to the board that the applicant:

(1) meets the following qualifications:

(i) has received a master's or doctoral degree from an accredited or approved college or university with a major in human nutrition, public health nutrition, clinical nutrition, nutrition education, community nutrition, or food and nutrition; and

(ii) has completed a documented supervised preprofessional practice experience component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian, a state licensed nutrition professional, or an individual with a doctoral degree conferred by a United States regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics, or food systems management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtain their doctoral degree outside the United States and its territories must have their degrees validated as

equivalent to the doctoral degree conferred by a United States regionally accredited college or university; or

(2) has ~~qualified as a diplomate of the American Board of Nutrition, Springfield, Virginia~~ received certification as a Certified Nutrition Specialist by the Certification Board for Nutrition Specialists.

Sec. 37. Minnesota Statutes 2008, section 148.89, subdivision 5, is amended to read:

Subd. 5. **Practice of psychology.** "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures for any reason, including to prevent, eliminate, or manage symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work, life and developmental adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

(1) psychological research and teaching of psychology;

(2) assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(3) a psychological report, whether written or oral, including testimony of a provider as an expert witness, concerning the characteristics of an individual or entity;

(4) psychotherapy, including but not limited to, categories such as behavioral, cognitive, emotive, systems, psychophysiological, or insight-oriented therapies; counseling; hypnosis; and diagnosis and treatment of:

(i) mental and emotional disorder or disability;

(ii) alcohol and substance dependence or abuse;

(iii) disorders of habit or conduct;

(iv) the psychological aspects of physical illness or condition, accident, injury, or disability, including the psychological impact of medications;

(v) life adjustment issues, including work-related and bereavement issues; and

(vi) child, family, or relationship issues;

(5) psychoeducational services and treatment; and

(6) consultation and supervision.

Sec. 38. Minnesota Statutes 2008, section 148.995, subdivision 2, is amended to read:

Subd. 2. **Certified doula.** "Certified doula" means an individual who has received a certification to perform doula services from the International Childbirth Education Association, the Doulas of North America (DONA), the Association of Labor Assistants and Childbirth Educators (ALACE), Birthworks, Childbirth and Postpartum Professional Association (CAPPA), ~~or~~ Childbirth

International, or International Center for Traditional Childbearing.

Sec. 39. Minnesota Statutes 2008, section 148.995, subdivision 4, is amended to read:

Subd. 4. **Doula services.** "Doula services" means continuous emotional and physical support ~~during pregnancy, labor, birth, and postpartum~~ throughout labor and birth, and intermittently during the prenatal and postpartum periods.

Sec. 40. Minnesota Statutes 2008, section 150A.01, subdivision 8, is amended to read:

Subd. 8. **~~Registered~~ Licensed dental assistant.** "~~Registered~~ Licensed dental assistant" means a person ~~registered~~ licensed pursuant to section 150A.06.

Sec. 41. Minnesota Statutes 2008, section 150A.02, subdivision 1, is amended to read:

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, five qualified resident dentists, one qualified resident ~~registered~~ licensed dental assistant, and one qualified resident dental hygienist appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each board member who is a dentist, ~~registered~~ licensed dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, ~~registered~~ licensed dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor for each term expiring not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, ~~registered~~ licensed dental assistant or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor not less than two dentists, two ~~registered~~ licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. The first four-year term of the dental hygienist and of the ~~registered~~ licensed dental assistant shall commence on the first Monday in January, 1977.

Sec. 42. Minnesota Statutes 2008, section 150A.05, subdivision 2, is amended to read:

Subd. 2. **Exemptions and exceptions of certain practices and operations.** Sections 150A.01 to 150A.12 do not apply to:

(1) the practice of dentistry or dental hygiene in any branch of the armed services of the United States, the United States Public Health Service, or the United States Veterans Administration;

(2) the practice of dentistry, dental hygiene, or dental assisting by undergraduate dental students, dental hygiene students, and dental assisting students of the University of Minnesota, schools of dental hygiene, or schools of dental assisting approved by the board, when acting under the ~~direction and~~ indirect supervision of a Minnesota licensed dentist ~~or a~~ and under the instruction of a licensed dentist, licensed dental hygienist ~~acting as an instructor~~, or licensed dental assistant;

(3) the practice of dentistry by licensed dentists of other states or countries while appearing as clinicians under the auspices of a duly approved dental school or college, or a reputable dental society, or a reputable dental study club composed of dentists;

(4) the actions of persons while they are taking examinations for licensure ~~or registration~~ administered or approved by the board pursuant to sections 150A.03, subdivision 1, and 150A.06, subdivisions 1, 2, and 2a;

(5) the practice of dentistry by dentists and dental hygienists licensed by other states during their functioning as examiners responsible for conducting licensure ~~or registration~~ examinations administered by regional and national testing agencies with whom the board is authorized to affiliate and participate under section 150A.03, subdivision 1, and the practice of dentistry by the regional and national testing agencies during their administering examinations pursuant to section 150A.03, subdivision 1;

(6) the use of X-rays or other diagnostic imaging modalities for making radiographs or other similar records in a hospital under the supervision of a physician or dentist or by a person who is credentialed to use diagnostic imaging modalities or X-ray machines for dental treatment, roentgenograms, or dental diagnostic purposes by a credentialing agency other than the Board of Dentistry; or

(7) the service, other than service performed directly upon the person of a patient, of constructing, altering, repairing, or duplicating any denture, partial denture, crown, bridge, splint, orthodontic, prosthetic, or other dental appliance, when performed according to a written work order from a licensed dentist in accordance with section 150A.10, subdivision 3.

Sec. 43. Minnesota Statutes 2008, section 150A.06, subdivision 2a, is amended to read:

Subd. 2a. **~~Registered~~ Licensed dental assistant.** A person of good moral character, who has graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for ~~registration~~ licensure. The applicant must submit an application and fee as prescribed by the board and the diploma or certificate of dental assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants shall take the examination before applying to the board for ~~registration~~ licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the ~~registration~~ licensure examination required by the board after failing it twice until further education and training are obtained as specified by board rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be ~~registered~~ licensed as a dental assistant.

Sec. 44. Minnesota Statutes 2008, section 150A.06, subdivision 2b, is amended to read:

Subd. 2b. **Examination.** When the Board of Dentistry administers the examination for licensure ~~or registration~~, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure ~~or registration~~ must have been taken within the five years before the board receives the application for licensure ~~or registration~~.

Sec. 45. Minnesota Statutes 2008, section 150A.06, subdivision 2c, is amended to read:

Subd. 2c. **Guest license ~~or registration~~.** (a) The board shall grant a guest license to practice as a dentist ~~or~~, dental hygienist, or ~~a guest registration to practice as a~~ licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed ~~or registered~~ in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license ~~or registration~~ and has paid a nonrefundable license fee to the board not to exceed $75.

(b) A guest license ~~or registration~~ must be renewed annually with the board and an annual renewal fee not to exceed $75 must be paid to the board.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license ~~or registration~~ under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license ~~or registration~~ of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Sec. 46. Minnesota Statutes 2008, section 150A.06, subdivision 2d, is amended to read:

Subd. 2d. **Continuing education and professional development waiver.** (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or ~~registered~~ licensed dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or ~~registered~~ licensed dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or

MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or ~~registered~~ licensed dental assistant to meet the following requirements:

(1) a licensee ~~or registrant~~ seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of ~~certification in advanced or basic cardiac life support recognized by~~ current CPR certification from completion of the American Heart Association healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.

Sec. 47. Minnesota Statutes 2008, section 150A.06, subdivision 4a, is amended to read:

Subd. 4a. **Appeal of denial of application.** A person whose application for licensure ~~or registration~~ by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Sec. 48. Minnesota Statutes 2008, section 150A.06, subdivision 5, is amended to read:

Subd. 5. **Fraud in securing licenses ~~or registrations.~~** Every person implicated in employing fraud or deception in applying for or securing a license ~~or registration~~ to practice dentistry, dental hygiene, or dental assisting or in annually renewing a license ~~or registration~~ under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Sec. 49. Minnesota Statutes 2008, section 150A.06, subdivision 7, is amended to read:

Subd. 7. **Additional remedies for licensure ~~and registration~~.** On a case-by-case basis, for initial or renewal of licensure ~~or registration~~, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Sec. 50. Minnesota Statutes 2008, section 150A.06, subdivision 8, is amended to read:

Subd. 8. **~~Registration~~ Licensure by credentials.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for ~~registration~~ licensure based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific ~~registration~~ licensure requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a must be ~~registered~~ licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for ~~registration~~ licensure under subdivision 2a, the application must be denied. If ~~registration~~ licensure is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for ~~registration~~ licensure. A denial does not prohibit the applicant from applying for ~~registration~~ licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 51. Minnesota Statutes 2008, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry ~~or~~, dental hygiene, or ~~the registration of any~~ dental ~~assistant~~ assisting upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license ~~or registration~~ certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry ~~or~~, dental hygiene, or ~~registered as a~~ dental ~~assistant~~ assisting, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or ~~registered~~ dental assistant's ability to perform the service for which the person is licensed ~~or registered~~;

(9) revocation or suspension of a license~~, registration,~~ or equivalent authority to practice, or other disciplinary action or denial of a license ~~or registration~~ application taken by a licensing~~, registering,~~ or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, sections 144.291 to 144.298 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

(14) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

(15) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 52. Minnesota Statutes 2008, section 150A.08, subdivision 3, is amended to read:

Subd. 3. **Reinstatement.** Any licensee ~~or registrant~~ whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued, as the case may be, when the board deems the action is warranted.

Sec. 53. Minnesota Statutes 2008, section 150A.08, subdivision 3a, is amended to read:

Subd. 3a. **Costs; additional penalties.** (a) The board may impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive a licensee ~~or registrant~~ of any economic advantage gained by reason of the violation, to discourage similar violations by the licensee ~~or registrant~~ or any other licensee ~~or registrant~~, or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(b) In addition to costs and penalties imposed under paragraph (a), the board may also:

(1) order the dentist, dental hygienist, or dental assistant to provide unremunerated service;

(2) censure or reprimand the dentist, dental hygienist, or dental assistant; or

(3) any other action as allowed by law and justified by the facts of the case.

Sec. 54. Minnesota Statutes 2008, section 150A.08, subdivision 5, is amended to read:

Subd. 5. **Medical examinations.** If the board has probable cause to believe that a dentist, dental hygienist, ~~registered~~ dental assistant, or applicant engages in acts described in subdivision 1, clause (4) or (5), or has a condition described in subdivision 1, clause (8), it shall direct the dentist, dental hygienist, assistant, or applicant to submit to a mental or physical examination or a chemical dependency assessment. For the purpose of this subdivision, every dentist, hygienist, or dental assistant licensed ~~or registered~~ under this chapter or person submitting an application for a license ~~or registration~~ is deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and to have waived all objections in any proceeding under this section to the admissibility of the examining physician's testimony or examination reports on the ground that they constitute a privileged communication. Failure to submit to an examination without just cause may result in an application being denied or a default and final order being entered without the taking of testimony or presentation of evidence, other than evidence which may be submitted by affidavit, that the licensee~~, registrant,~~ or applicant did not submit to the examination. A dentist, dental hygienist, ~~registered~~ dental assistant, or applicant affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate ability to start or resume the competent practice of dentistry or perform the duties of a dental hygienist or ~~registered~~ dental assistant with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board is admissible, is subject to subpoena, or may be used against the dentist, dental hygienist, ~~registered~~ dental assistant, or applicant in any proceeding not commenced by the board. Information obtained under this subdivision shall be classified as private pursuant to the Minnesota Government Data Practices Act.

Sec. 55. Minnesota Statutes 2008, section 150A.08, subdivision 6, is amended to read:

Subd. 6. **Medical records.** Notwithstanding contrary provisions of sections 13.384 and 144.651 or any other statute limiting access to medical or other health data, the board may obtain medical data and health records of a licensee~~, registrant,~~ or applicant without the licensee's~~, registrant's,~~ or applicant's consent if the information is requested by the board as part of the process specified

in subdivision 5. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and shall not be liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision shall be classified as private under the Minnesota Government Data Practices Act.

Sec. 56. Minnesota Statutes 2008, section 150A.08, subdivision 8, is amended to read:

Subd. 8. **Suspension of license.** In addition to any other remedy provided by law, the board may, through its designated board members pursuant to section 214.10, subdivision 2, temporarily suspend a license ~~or registration~~ without a hearing if the board finds that the licensee ~~or registrant~~ has violated a statute or rule which the board is empowered to enforce and continued practice by the licensee ~~or registrant~~ would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the licensee ~~or registrant~~ served by first class mail specifying the statute or rule violated, and the time, date, and place of the hearing before the board. If the notice is returned by the post office, the notice shall be effective upon reasonable attempts to locate and serve the licensee ~~or registrant.~~ Within ten days of service of the notice, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or lift the suspension. Evidence presented by the board~~,~~ or licensee~~, or registrant,~~ shall be in affidavit form only. The licensee ~~or registrant~~ or counsel of the licensee ~~or registrant~~ may appear for oral argument. Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, the board shall schedule a disciplinary hearing to be held pursuant to the Administrative Procedure Act within 45 days of issuance of the order. The administrative law judge shall issue a report within 30 days of the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving that report. The board may allow a person who was licensed by any state to practice dentistry and whose license has been suspended to practice dentistry under the supervision of a licensed dentist for the purpose of demonstrating competence and eligibility for reinstatement.

Sec. 57. Minnesota Statutes 2008, section 150A.081, is amended to read:

150A.081 ACCESS TO MEDICAL DATA.

Subdivision 1. **Access to data on licensee ~~or registrant.~~** When the board has probable cause to believe that a licensee's ~~or registrant's~~ condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.384, 144.651, or any other law limiting access to medical data, obtain medical or health records on the licensee ~~or registrant~~ without the licensee's ~~or registrant's~~ consent. The medical data may be requested from a provider, as defined in section 144.291, subdivision 2, paragraph (h), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. **Access to data on patients.** The board has access to medical records of a patient treated

by a licensee ~~or registrant~~ under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee ~~or registrant~~ must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. **Data classification; release of certain health data not required.** Information obtained under this section is classified as private data on individuals under chapter 13. Under this section, the commissioner of health is not required to release health data collected and maintained under section 13.3805, subdivision 2.

Sec. 58. Minnesota Statutes 2008, section 150A.09, subdivision 1, is amended to read:

Subdivision 1. **Registration information and procedure.** On or before the license ~~or registration~~ certificate expiration date every licensed dentist, dental hygienist, and ~~registered~~ dental assistant shall transmit to the executive secretary of the board, pertinent information required by the board, together with the fee established by the board. At least 30 days before a license ~~or registration~~ certificate expiration date, the board shall send a written notice stating the amount and due date of the fee and the information to be provided to every licensed dentist, dental hygienist, and ~~registered~~ dental assistant.

Sec. 59. Minnesota Statutes 2008, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental hygienist, and ~~registered~~ dental assistant shall maintain with the board a correct and current mailing address. For dentists engaged in the practice of dentistry, the address shall be that of the location of the primary dental practice. Within 30 days after changing addresses, every dentist, dental hygienist, and ~~registered~~ dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 60. Minnesota Statutes 2008, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application fees.** Each applicant ~~for licensure or registration~~ shall submit with a license or ~~registration~~ permit application a nonrefundable fee in the following amounts in order to administratively process an application:

(1) dentist, $140;

(2) limited faculty dentist, $140;

(3) resident dentist, $55;

(4) dental hygienist, $55;

(5) ~~registered~~ licensed dental assistant, ~~$35~~ $55; and

(6) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $15.

Sec. 61. Minnesota Statutes 2008, section 150A.091, subdivision 3, is amended to read:

Subd. 3. **Initial license or ~~registration~~ permit fees.** Along with the application fee, each of the following ~~licensees or registrants~~ applicants shall submit a separate prorated initial license or ~~registration~~ permit fee. The prorated initial fee shall be established by the board based on the number

of months of the ~~licensee's or registrant's~~ applicant's initial term as described in Minnesota Rules, part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

(1) dentist, $14 times the number of months of the initial term;

(2) dental hygienist, $5 times the number of months of the initial term;

(3) ~~registered~~ licensed dental assistant, $3 times the number of months of initial term; and

(4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $1 times the number of months of the initial term.

Sec. 62. Minnesota Statutes 2008, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or ~~registration~~ permit fees.** Each of the following ~~licensees or registrants~~ applicants shall submit with a biennial license or ~~registration~~ permit renewal application a fee as established by the board, not to exceed the following amounts:

(1) dentist, $336;

(2) dental hygienist, $118;

(3) ~~registered~~ licensed dental assistant, $80; and

(4) dental assistant with a ~~limited registration~~ permit as described in Minnesota Rules, part 3100.8500, subpart 3, $24.

Sec. 63. Minnesota Statutes 2008, section 150A.091, subdivision 7, is amended to read:

Subd. 7. **Biennial license or ~~registration~~ permit late fee.** Applications for renewal of any license or ~~registration~~ permit received after the time specified in Minnesota Rules, part 3100.1700, must be assessed a late fee equal to 25 percent of the biennial renewal fee.

Sec. 64. Minnesota Statutes 2008, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or ~~registration~~ certificate fee.** Each ~~licensee or registrant~~ applicant shall submit, with a request for issuance of a duplicate of the original license ~~or registration~~, or of an annual or biennial renewal ~~of it~~ certificate for a license or permit, a fee in the following amounts:

(1) original dentist ~~or~~, dental hygiene, or dental assistant license, $35; and

(2) ~~initial and renewal registration certificates and license~~ annual or biennial renewal certificates, $10.

Sec. 65. Minnesota Statutes 2008, section 150A.091, subdivision 9, is amended to read:

Subd. 9. **Licensure ~~and registration~~ by credentials.** Each applicant for licensure as a dentist ~~or~~, dental hygienist, or ~~for registration as a registered~~ dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license ~~or registration~~ application a fee in the following amounts:

(1) dentist, $725;

(2) dental hygienist, $175; and

(3) ~~registered~~ dental assistant, $35.

Sec. 66. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9a. **Credential review; nonaccredited dental institution.** Applicants who have graduated from a nonaccredited dental college desiring licensure as a dentist pursuant to section 150A.06, subdivision 1, shall submit an application for credential review and an application fee not to exceed the amount of $200.

Sec. 67. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 9b. **Limited general license.** Each applicant for licensure as a limited general dentist pursuant to section 150A.06, subdivision 9, shall submit the applicable fees established by the board not to exceed the following amounts:

(1) initial limited general license application, $140;

(2) annual limited general license renewal application, $155; and

(3) late fee assessment for renewal application equal to 50 percent of the annual limited general license renewal fee.

Sec. 68. Minnesota Statutes 2008, section 150A.091, subdivision 10, is amended to read:

Subd. 10. **Reinstatement fee.** No dentist, dental hygienist, or ~~registered~~ dental assistant whose license ~~or registration~~ has been suspended or revoked may have the license ~~or registration~~ reinstated or a new license ~~or registration~~ issued until a fee has been submitted to the board in the following amounts:

(1) dentist, $140;

(2) dental hygienist, $55; and

(3) ~~registered~~ dental assistant, $35.

Sec. 69. Minnesota Statutes 2008, section 150A.091, subdivision 11, is amended to read:

Subd. 11. **Certificate application fee for anesthesia/sedation.** Each dentist shall submit with a general anesthesia or ~~conscious~~ moderate sedation application or a contracted sedation provider application a fee as established by the board not to exceed the following amounts:

(1) for both a general anesthesia and ~~conscious~~ moderate sedation application, ~~$50~~ $250;

(2) for a general anesthesia application only, ~~$50~~ $250; ~~and~~

(3) for a ~~conscious~~ moderate sedation application only, ~~$50.~~ $250; and

(4) for a contracted sedation provider application, $250.

Sec. 70. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11a. **Certificate for anesthesia/sedation late fee.** Applications for renewal of a general anesthesia or moderate sedation certificate or a contracted sedation provider certificate received after the time specified in Minnesota Rules, part 3100.3600, subparts 9 and 9b, must be assessed a late fee equal to 50 percent of the biennial renewal fee for an anesthesia/sedation certificate.

Sec. 71. Minnesota Statutes 2008, section 150A.091, is amended by adding a subdivision to read:

Subd. 11b. **Recertification fee for anesthesia/sedation.** No dentist whose general anesthesia or moderate sedation certificate has been terminated by the board or voluntarily terminated by the dentist may become recertified until a fee has been submitted to the board not to exceed the amount of $500.

Sec. 72. Minnesota Statutes 2008, section 150A.091, subdivision 12, is amended to read:

Subd. 12. **Duplicate certificate fee for anesthesia/sedation.** Each dentist shall submit with a request for issuance of a duplicate of the original general anesthesia or ~~conscious~~ moderate sedation certificate or contracted sedation provider certificate a fee in the amount of $10.

Sec. 73. Minnesota Statutes 2008, section 150A.091, subdivision 14, is amended to read:

Subd. 14. **Affidavit of licensure.** Each licensee ~~or registrant~~ shall submit with a request for an affidavit of licensure a fee in the amount of $10.

Sec. 74. Minnesota Statutes 2008, section 150A.091, subdivision 15, is amended to read:

Subd. 15. **Verification of licensure.** Each institution or corporation shall submit with a request for verification of a license ~~or registration~~ a fee in the amount of $5 for each license ~~or registration~~ to be verified.

Sec. 75. Minnesota Statutes 2008, section 150A.10, subdivision 1a, is amended to read:

Subd. 1a. **Limited authorization for dental hygienists.** (a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, or nonprofit organization to perform dental hygiene services described under paragraph (b) without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has been engaged in the active practice of clinical dental hygiene for not less than 2,400 hours in the past 18 months or a career total of 3,000 hours, including a minimum of 200 hours of clinical practice in two of the past three years;

(2) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist;

(3) has documented participation in courses in infection control and medical emergencies within each continuing education cycle; and

(4) maintains current ~~certification in advanced or basic cardiac life support as recognized by the American Heart Association, the American Red Cross, or another agency that is equivalent to the~~ CPR certification from completion of the American Heart Association ~~or~~ healthcare provider course, the American Red Cross professional rescuer course, or an equivalent entity.

(b) The dental hygiene services authorized to be performed by a dental hygienist under this subdivision are limited to:

(1) oral health promotion and disease prevention education;

(2) removal of deposits and stains from the surfaces of the teeth;

(3) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(4) polishing and smoothing restorations;

(5) removal of marginal overhangs;

(6) performance of preliminary charting;

(7) taking of radiographs; and

(8) performance of scaling and root planing.

The dental hygienist may administer injections of local anesthetic agents or nitrous oxide inhalation analgesia as specifically delegated in the collaborative agreement with a licensed dentist. The dentist need not first examine the patient or be present. If the patient is considered medically compromised, the collaborative dentist shall review the patient record, including the medical history, prior to the provision of these services. Collaborating dental hygienists may work with ~~unregistered~~ unlicensed and ~~registered~~ licensed dental assistants who may only perform duties for which ~~registration~~ licensure is not required. The performance of dental hygiene services in a health care facility, program, or nonprofit organization as authorized under this subdivision is limited to patients, students, and residents of the facility, program, or organization.

(c) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;

(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to assure the efficacy of the sealants after application; and

(5) a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist. This procedure must specify where these records are to be located.

The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist; and must be made available to the board upon request.

(d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further dental procedures, the dental hygienist must fill out a referral form and provide a copy of the form to the collaborating dentist.

(e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" is limited to a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

(f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist. The services authorized under this subdivision and the collaborative agreement may be performed without the presence of a licensed dentist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist and without a dentist's diagnosis and treatment plan, unless specified in the collaborative agreement.

Sec. 76. Minnesota Statutes 2008, section 150A.10, subdivision 2, is amended to read:

Subd. 2. **Dental assistants.** Every licensed dentist who uses the services of any unlicensed person for the purpose of assistance in the practice of dentistry shall be responsible for the acts of such unlicensed person while engaged in such assistance. Such dentist shall permit such unlicensed assistant to perform only those acts which are authorized to be delegated to unlicensed assistants by the Board of Dentistry. Such acts shall be performed under supervision of a licensed dentist. The board may permit differing levels of dental assistance based upon recognized educational standards, approved by the board, for the training of dental assistants. The board may also define by rule the scope of practice of ~~registered~~ licensed and ~~nonregistered~~ unlicensed dental assistants. The board by rule may require continuing education for differing levels of dental assistants, as a condition to their ~~registration~~ license or authority to perform their authorized duties. Any licensed dentist who shall permit such unlicensed assistant to perform any dental service other than that authorized by the board shall be deemed to be enabling an unlicensed person to practice dentistry, and commission of such an act by such unlicensed assistant shall constitute a violation of sections 150A.01 to 150A.12.

Sec. 77. Minnesota Statutes 2008, section 150A.10, subdivision 4, is amended to read:

Subd. 4. **Restorative procedures.** (a) Notwithstanding subdivisions 1, 1a, and 2, a licensed dental hygienist or ~~a registered~~ licensed dental assistant may perform the following restorative procedures:

(1) place, contour, and adjust amalgam restorations;

(2) place, contour, and adjust glass ionomer;

(3) adapt and cement stainless steel crowns; and

(4) place, contour, and adjust class I and class V supragingival composite restorations where the margins are entirely within the enamel.

(b) The restorative procedures described in paragraph (a) may be performed only if:

(1) the licensed dental hygienist or ~~the registered~~ licensed dental assistant has completed a board-approved course on the specific procedures;

(2) the board-approved course includes a component that sufficiently prepares the licensed dental hygienist or ~~registered~~ licensed dental assistant to adjust the occlusion on the newly placed restoration;

(3) a licensed dentist has authorized the procedure to be performed; and

(4) a licensed dentist is available in the clinic while the procedure is being performed.

(c) The dental faculty who teaches the educators of the board-approved courses specified in paragraph (b) must have prior experience teaching these procedures in an accredited dental education program.

Sec. 78. Minnesota Statutes 2008, section 150A.12, is amended to read:

150A.12 VIOLATION AND DEFENSES.

Every person who violates any of the provisions of sections 150A.01 to 150A.12 for which no specific penalty is provided herein, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not more than $3,000 or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. In the prosecution of any person for violation of sections 150A.01 to 150A.12, it shall not be necessary to allege or prove lack of a valid license to practice dentistry ~~or~~, dental hygiene, or dental assisting, but such matter shall be a matter of defense to be established by the defendant.

Sec. 79. Minnesota Statutes 2008, section 150A.13, is amended to read:

150A.13 REPORTING OBLIGATIONS.

Subdivision 1. **Permission to report.** A person who has knowledge of ~~a registrant or~~ a licensee unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental, physical, or psychological condition may report the ~~registrant or~~ licensee to the board.

Subd. 2. **Institutions.** A hospital, clinic, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a ~~registrant's or~~ licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action against a ~~registrant or~~ licensee described under subdivision 1. The institution or organization shall also report the resignation of any ~~registrants or~~ licensees prior to the conclusion of any disciplinary action proceeding against a ~~registrant or~~ licensee described under subdivision 1.

Subd. 3. **Dental societies.** A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a ~~registrant or~~ licensee. If the society or association has received a complaint against a ~~registrant or~~ licensee described under subdivision 1, on which it has not taken any disciplinary action, the society or association shall report the complaint and the reason why it

has not taken action on it or shall direct the complainant to the board. This subdivision does not apply to a society or association when it performs peer review functions as an agent of an outside entity, organization, or system.

Subd. 4. **Licensed professionals.** (a) A licensed ~~or registered~~ health professional shall report to the board personal knowledge of any conduct by any person who the licensed ~~or registered~~ health professional reasonably believes is a ~~registrant or~~ licensee described under subdivision 1.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. **Insurers and other entities making liability payments.** (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to ~~registrants or~~ licensees, shall submit to the board a report concerning the ~~registrants and~~ licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of malpractice settlements or awards made;

(2) the date the malpractice settlements or awards were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made;

(4) the dollar amount of each malpractice settlement or award;

(5) the regular address of the practice of the ~~registrant or~~ licensee against whom an award was made or with whom a settlement was made; and

(6) the name of the ~~registrant or~~ licensee against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of ~~registrants or~~ licensees shall submit to the board a report concerning malpractice settlements or awards paid on behalf of ~~registrants or~~ licensees, and any settlements or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by ~~registrants or~~ licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

Subd. 6. **Courts.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a ~~registrant or~~ licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the ~~registrant or~~ licensee pursuant to sections 524.5-101 to 524.5-502, or commits a ~~registrant or~~ licensee pursuant to chapter 253B.

Subd. 7. **Self-reporting.** A ~~registrant or~~ licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. **Deadlines; forms.** Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. **Subpoenas.** The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

Sec. 80. Minnesota Statutes 2008, section 169.345, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purpose of section 168.021 and this section, the following terms have the meanings given them in this subdivision.

(b) "Health professional" means a licensed physician, ~~registered~~ licensed physician assistant, advanced practice registered nurse, or licensed chiropractor.

(c) "Long-term certificate" means a certificate issued for a period greater than 12 months but not greater than 71 months.

(d) "Organization certificate" means a certificate issued to an entity other than a natural person for a period of three years.

(e) "Permit" refers to a permit that is issued for a period of 30 days, in lieu of the certificate referred to in subdivision 3, while the application is being processed.

(f) "Physically disabled person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/Hg on room air at rest;

(6) uses portable oxygen;

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association;

(8) has lost an arm or a leg and does not have or cannot use an artificial limb; or

(9) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

(g) "Short-term certificate" means a certificate issued for a period greater than six months but not greater than 12 months.

(h) "Six-year certificate" means a certificate issued for a period of six years.

(i) "Temporary certificate" means a certificate issued for a period not greater than six months.

Sec. 81. Minnesota Statutes 2008, section 182.6551, is amended to read:

182.6551 CITATION; SAFE PATIENT HANDLING ACT.

Sections 182.6551 to ~~182.6553~~ 182.6554 may be cited as the "Safe Patient Handling Act."

Sec. 82. Minnesota Statutes 2008, section 182.6552, is amended by adding a subdivision to read:

Subd. 5. **Clinical settings that move patients.** "Clinical settings that move patients" means physician, dental, and other outpatient care facilities, except for outpatient surgical settings, where service requires movement of patients from point to point as part of the scope of service.

Sec. 83. **[182.6554] SAFE PATIENT HANDLING IN CLINICAL SETTINGS.**

Subdivision 1. **Safe patient handling plan required.** (a) By July 1, 2010, every clinical setting that moves patients in the state shall develop a written safe patient handling plan to achieve by January 1, 2012, the goal of ensuring the safe handling of patients by minimizing manual lifting of patients by direct patient care workers and by utilizing safe patient handling equipment.

(b) The plan shall address:

(1) assessment of risks with regard to patient handling that considers the patient population and environment of care;

(2) the acquisition of an adequate supply of appropriate safe patient handling equipment;

(3) initial and ongoing training of direct patient care workers on the use of this equipment;

(4) procedures to ensure that physical plant modifications and major construction projects are consistent with plan goals; and

(5) periodic evaluations of the safe patient handling plan.

(c) A health care organization with more than one covered clinical setting that moves patients may establish a plan at each clinical setting or establish one plan to serve this function for all the clinical settings.

Subd. 2. **Facilities with existing programs.** A clinical setting that moves patients that has already adopted a safe patient handling plan that satisfies the requirements of subdivision 1, or a clinical setting that moves patients that is covered by a safe patient handling plan that is covered under and consistent with section 182.6553, is considered to be in compliance with the requirements of this section.

Subd. 3. **Training materials.** The commissioner shall make training materials on implementation of this section available at no cost to all clinical settings that move patients as part of the training and education duties of the commissioner under section 182.673.

Subd. 4. **Enforcement.** This section shall be enforced by the commissioner under section 182.661. An initial violation of this section shall not be assessed a penalty. A subsequent violation of this section is subject to the penalties provided under section 182.666.

Sec. 84. Minnesota Statutes 2008, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** A "related condition" is a condition (1) that is found to be closely related to developmental disability, including, but not limited to, cerebral palsy, epilepsy, autism, fetal alcohol spectrum disorder, and Prader-Willi syndrome, and (2) that meets all of the following criteria:

~~(1)~~ (i) is severe and chronic;

~~(2)~~ (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with developmental disabilities;

~~(3)~~ (iii) requires treatment or services similar to those required for persons with developmental disabilities;

~~(4)~~ (iv) is manifested before the person reaches 22 years of age;

~~(5)~~ (v) is likely to continue indefinitely;

~~(6)~~ (vi) results in substantial functional limitations in three or more of the following areas of major life activity: ~~(i)~~ (A) self-care, ~~(ii)~~ (B) understanding and use of language, ~~(iii)~~ (C) learning, ~~(iv)~~ (D) mobility, ~~(v)~~ (E) self-direction, ~~(vi)~~ (F) capacity for independent living; and

~~(7)~~ (vii) is not attributable to mental illness as defined in section 245.462, subdivision 20, or an emotional disturbance as defined in section 245.4871, subdivision 15.

For purposes of ~~clause (7)~~ item (vii), notwithstanding section 245.462, subdivision 20, or 245.4871, subdivision 15, "mental illness" does not include autism or other pervasive developmental disorders.

Sec. 85. Minnesota Statutes 2008, section 252.282, subdivision 3, is amended to read:

Subd. 3. **Recommendations.** (a) Upon completion of the local system needs planning assessment, the host county shall make recommendations by May 15, 2000, and by July 1 every two years thereafter beginning in 2001. If no change is recommended, a copy of the assessment along with corresponding documentation shall be provided to the commissioner by July 1 prior to the contract year.

~~(b) Except as provided in section 252.292, subdivision 4, recommendations regarding closures, relocations, or downsizings that include a rate increase shall be submitted to the statewide advisory committee for review, along with the assessment, plan, and corresponding documentation that supports the payment rate adjustment request.~~

~~(c)~~ (b) Recommendations for closures, relocations, and downsizings that do not include a rate increase and for modification of existing services for which a change in the framework of service delivery is necessary shall be provided to the commissioner by July 1 prior to the contract year or at least 90 days prior to the anticipated change, along with the assessment and corresponding documentation.

Sec. 86. Minnesota Statutes 2008, section 252.282, subdivision 5, is amended to read:

Subd. 5. **Responsibilities of commissioner.** (a) In collaboration with counties and providers, the commissioner shall ensure that services recognize the preferences and needs of persons with developmental disabilities and related conditions through a recurring systemic review and assessment of ICF/MR facilities within the state.

~~(b) The commissioner shall publish a notice in the State Register no less than biannually to announce the opportunity for counties or providers to submit requests for payment rate adjustments associated with plans for downsizing, relocation, and closure of ICF/MR facilities.~~

~~(c) The commissioner shall designate funding parameters to counties and to the statewide advisory committee for the overall implementation of system needs within the fiscal resources allocated by the legislature.~~

~~(d)~~ (b) The commissioner shall contract with ICF/MR providers. Contracts shall be for two-year periods.

Sec. 87. Minnesota Statutes 2008, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician;

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health or a licensed physician assistant, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20.

Sec. 88. Minnesota Statutes 2008, section 253B.05, subdivision 2, is amended to read:

Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under

this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a ~~registered~~ licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Sec. 89. Minnesota Statutes 2008, section 256B.0625, subdivision 28a, is amended to read:

Subd. 28a. **~~Registered~~ Licensed physician assistant services.** Medical assistance covers services performed by a ~~registered~~ 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 ~~registered~~ licensed physician assistant as defined in section 147A.09.

Sec. 90. Minnesota Statutes 2008, section 256B.0657, subdivision 5, is amended to read:

Subd. 5. **Self-directed supports option plan requirements.** (a) The plan for the self-directed supports option must meet the following requirements:

(1) the plan must be completed using a person-centered process that:

(i) builds upon the recipient's capacity to engage in activities that promote community life;

(ii) respects the recipient's preferences, choices, and abilities;

(iii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the recipient; and

(iv) addresses the need for personal care assistant services identified in the recipient's self-directed supports option assessment;

(2) the plan shall be developed by the recipient or by the guardian of an adult recipient or by a parent or guardian of a minor child, ~~with the assistance of an enrolled medical assistance home care targeted case manager~~ and may be assisted by a provider who meets the requirements established for using a person-centered planning process and shall be reviewed at least annually upon reassessment or when there is a significant change in the recipient's condition; and

(3) the plan must include the total budget amount available divided into monthly amounts that cover the number of months of personal care assistant services authorization included in the budget. The amount used each month may vary, but additional funds shall not be provided above the annual personal care assistant services authorized amount unless a change in condition is documented.

(b) The commissioner shall:

(1) establish the format and criteria for the plan as well as the requirements for providers who assist with plan development;

(2) review the assessment and plan and, within 30 days after receiving the assessment and plan, make a decision on approval of the plan;

(3) notify the recipient, parent, or guardian of approval or denial of the plan and provide notice of the right to appeal under section 256.045; and

(4) provide a copy of the plan to the fiscal support entity selected by the recipient.

Sec. 91. Minnesota Statutes 2008, section 256B.0751, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of sections 256B.0751 to 256B.0753, the following definitions apply.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of humans services and the commissioner of health, acting jointly.

(d) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(e) "Personal clinician" means a physician licensed under chapter 147, a physician assistant ~~registered~~ licensed and practicing under chapter 147A, or an advanced practice nurse licensed and registered to practice under chapter 148.

(f) "State health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

Sec. 92. Minnesota Statutes 2008, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(4) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding $500,000 as stated in section 256B.056;

(5) the person needs long-term care services that are not funded through other state or federal funding, or other health insurance or other third-party insurance such as long-term care insurance;

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference

between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph; and

(7) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the lead agency to ensure prompt fee payments.

The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 93. Minnesota Statutes 2008, section 256B.0913, subdivision 5a, is amended to read:

Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan, except alternative care does not cover transitional support services, assisted living services, adult foster care services, and residential care and benefits defined under section 256B.0625 that meet primary and acute health care needs.

(b) The lead agency must ensure that the funds are not used to supplant or supplement services available through other public assistance or services programs, including supplementation of client co-pays, deductibles, premiums, or other cost-sharing arrangements for health-related benefits and services or entitlement programs and services that are available to the person, but in which they have elected not to enroll. The lead agency must ensure that the benefit department recovery system in the Medicaid Management Information System (MMIS) has the necessary information on any other health insurance or third-party insurance policy to which the client may have access. For a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250, persons or agencies must be employed by or under a contract with the lead agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

(c) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a lead agency may contract with a client's relative who meets the relative hardship waiver requirements or a relative who meets the criteria and is also the responsible party under an individual service plan that ensures the client's health and safety and supervision of the personal care services by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship is established by the lead agency when the client's care causes a relative caregiver to do any of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain a leave of absence resulting in lost wages, incur substantial client-related expenses, provide services to address authorized, unstaffed direct care time, or meet special needs of the client unmet in the formal service plan.

Sec. 94. Minnesota Statutes 2008, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. **Client fees.** (a) A fee is required for all alternative care eligible clients to help pay for the cost of participating in the program. The amount of the fee for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is less than 100 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than $10,000, the fee is zero;

(2) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 100 percent but less than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than $10,000, the fee is five percent of the cost of alternative care services;

(3) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 150 percent but less than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than $10,000, the fee is 15 percent of the cost of alternative care services;

(4) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than $10,000, the fee is 30 percent of the cost of alternative care services; and

(5) when the alternative care client's assets are equal to or greater than $10,000, the fee is 30 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

All alternative care services shall be included in the estimated costs for the purpose of determining the fee.

Fees are due and payable each month alternative care services are received unless the actual cost of the services is less than the fee, in which case the fee is the lesser amount.

(b) The fee shall be waived by the commissioner when:

(1) a person is residing in a nursing facility;

(2) a married couple is requesting an asset assessment under the spousal impoverishment provisions;

(3) a person is found eligible for alternative care, but is not yet receiving alternative care services including case management services; or

(4) a person has chosen to participate in a consumer-directed service plan for which the cost is no greater than the total cost of the person's alternative care service plan less the monthly fee amount that would otherwise be assessed.

(c) The commissioner will bill and collect the fee from the client. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the lead agency with the client's Social Security number at the time of application. The lead agency shall supply the commissioner with the client's Social Security number and other information the commissioner requires to collect the fee from the client. The commissioner shall collect unpaid fees using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require lead agencies to inform clients of the collection procedures that may be used by the state if a fee is not paid. ~~This paragraph does not apply to alternative care pilot projects authorized in Laws 1993, First Special Session chapter 1, article 5, section 133, if a county operating under the pilot project reports the following dollar amounts to the commissioner quarterly:~~

~~(1) total fees billed to clients;~~

~~(2) total collections of fees billed; and~~

~~(3) balance of fees owed by clients.~~

~~If a lead agency does not adhere to these reporting requirements, the commissioner may terminate~~

~~the billing, collecting, and remitting portions of the pilot project and require the lead agency involved to operate under the procedures set forth in this paragraph.~~

Sec. 95. Minnesota Statutes 2008, section 256B.0915, subdivision 2, is amended to read:

Subd. 2. **Spousal impoverishment policies.** The commissioner shall apply:

~~(1)~~ the spousal impoverishment criteria as authorized under United States Code, title 42, section 1396r-5, and as implemented in sections 256B.0575, 256B.058, and 256B.059~~;~~, except that individuals with income at or below the special income standard according to Code of Federal Regulations, title 42, section 435.236, receive the maintenance needs amount in subdivision 1d.

~~(2) the personal needs allowance permitted in section 256B.0575; and~~

~~(3) an amount equivalent to the group residential housing rate as set by section 256I.03, subdivision 5, and according to the approved federal waiver and medical assistance state plan.~~

Sec. 96. Minnesota Statutes 2008, section 256B.431, subdivision 10, is amended to read:

Subd. 10. **Property rate adjustments and construction projects.** A nursing ~~facility's~~ facility completing a construction project that is eligible for a rate adjustment under section 256B.434, subdivision 4f, and that was not approved through the moratorium exception process in section 144A.073 must request ~~for~~ from the commissioner a property-related payment rate adjustment ~~and the related supporting documentation of project construction cost information must be submitted to the commissioner.~~ If the request is made within 60 days after the construction project's completion date ~~to be considered eligible for a property-related payment rate adjustment~~ the effective date of the rate adjustment is the first of the month following the completion date. If the request is made more than 60 days after the completion date, the rate adjustment is effective on the first of the month following the request. The commissioner shall provide a rate notice reflecting the allowable costs within 60 days after receiving all the necessary information to compute the rate adjustment. No sooner than the effective date of the rate adjustment for the ~~building~~ construction project, a nursing facility may adjust its rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective. Construction projects with completion dates within one year of the completion date associated with the property rate adjustment request and phased projects with project completion dates within three years of the last phase of the phased project must be aggregated for purposes of the minimum thresholds in subdivisions 16 and 17, and the maximum threshold in section 144A.071, subdivision 2. "Construction project" and "project construction costs" have the meanings given them in Minnesota Statutes, section 144A.071, subdivision 1a.

Sec. 97. Minnesota Statutes 2008, section 256B.433, subdivision 1, is amended to read:

Subdivision 1. **Setting payment; monitoring use of therapy services.** The commissioner shall ~~promulgate~~ adopt rules ~~pursuant to~~ under the Administrative Procedure Act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing facilities. Payment for materials and services may be made to either ~~the nursing facility in the operating cost per diem, to~~ the vendor of ancillary services pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475, or to a nursing facility pursuant to Minnesota Rules, parts 9505.0170 to 9505.0475. Payment for the same or similar service to a recipient shall not be made to both the

nursing facility and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing facility's annual cost report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost-effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing facility, or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing facility, or ordering physician's participation in the medical assistance program. If the provider number of a nursing facility is used to bill services provided by a vendor of therapy services that is not related to the nursing facility by ownership, control, affiliation, or employment status, no withholding of payment shall be imposed against the nursing facility for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c). For the purpose of this subdivision, no monetary recovery may be imposed against the nursing facility for funds paid to the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c), for services not medically necessary. For purposes of this section and section 256B.47, therapy includes physical therapy, occupational therapy, speech therapy, audiology, and mental health services that are covered services according to Minnesota Rules, parts 9505.0170 to 9505.0475~~, and that could be reimbursed separately from the nursing facility per diem~~. For purposes of this subdivision, "ancillary services" include transportation defined as a covered service in section 256B.0625, subdivision 17.

Sec. 98. Minnesota Statutes 2008, section 256B.441, subdivision 5, is amended to read:

Subd. 5. **Administrative costs.** "Administrative costs" means the direct costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, and permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, all training except as specified in subdivision 11, voice and data communication or transmission, office supplies, liability insurance and other forms of insurance not designated to other areas, personnel recruitment, legal services, accounting services, management or business consultants, data processing, information technology, Web site, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, advertising, board of director's fees, working capital interest expense, and bad debts and bad debt collection fees.

Sec. 99. Minnesota Statutes 2008, section 256B.441, subdivision 11, is amended to read:

Subd. 11. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, ~~staff education,~~ direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a supplemental nursing services agency; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, clinical reagents or similar diagnostic agents,

drugs that are not paid on a separate fee schedule by the medical assistance program or any other payer, and technology related to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics.

Sec. 100. Minnesota Statutes 2008, section 256B.5011, subdivision 2, is amended to read:

Subd. 2. **Contract provisions.** (a) The service contract with each intermediate care facility must include provisions for:

(1) modifying payments when significant changes occur in the needs of the consumers;

~~(2) the establishment and use of a quality improvement plan. Using criteria and options for performance measures developed by the commissioner, each intermediate care facility must identify a minimum of one performance measure on which to focus its efforts for quality improvement during the contract period;~~

~~(3)~~ (2) appropriate and necessary statistical information required by the commissioner;

~~(4)~~ (3) annual aggregate facility financial information; and

~~(5)~~ (4) additional requirements for intermediate care facilities not meeting the standards set forth in the service contract.

(b) The commissioner of human services and the commissioner of health, in consultation with representatives from counties, advocacy organizations, and the provider community, shall review the consolidated standards under chapter 245B and the supervised living facility rule under Minnesota Rules, chapter 4665, to determine what provisions in Minnesota Rules, chapter 4665, may be waived by the commissioner of health for intermediate care facilities in order to enable facilities to implement the performance measures in their contract and provide quality services to residents without a duplication of or increase in regulatory requirements.

Sec. 101. Minnesota Statutes 2008, section 256B.5012, subdivision 6, is amended to read:

Subd. 6. **ICF/MR rate increases October 1, 2005, and October 1, 2006.** (a) For the rate periods beginning October 1, 2005, and October 1, 2006, the commissioner shall make available to each facility reimbursed under this section an adjustment to the total operating payment rate of 2.2553 percent.

(b) 75 percent of the money resulting from the rate adjustment under paragraph (a) must be used to increase wages and benefits and pay associated costs for employees, except for administrative and central office employees. 75 percent of the money received by a facility as a result of the rate adjustment provided in paragraph (a) must be used only for wage, benefit, and staff increases implemented on or after the effective date of the rate increase each year, and must not be used for increases implemented prior to that date. The wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

(c) For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in paragraph (a) multiplied by the total payment rate, including variable rate but excluding the property-related payment rate, in effect on the preceding day. The total payment rate shall include the adjustment provided in section 256B.501, subdivision 12.

(d) A facility whose payment rates are governed by closure agreements~~,~~ or receivership agreements~~, or Minnesota Rules, part 9553.0075,~~ is not eligible for an adjustment otherwise granted under this subdivision.

(e) A facility may apply for the portion of the payment rate adjustment provided under paragraph (a) for employee wages and benefits and associated costs. The application must be made to the commissioner and contain a plan by which the facility will distribute the funds according to paragraph (b). For facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. A negotiated agreement may constitute the plan only if the agreement is finalized after the date of enactment of all rate increases for the rate year. The commissioner shall review the plan to ensure that the payment rate adjustment per diem is used as provided in this subdivision. To be eligible, a facility must submit its plan by March 31, 2006, and December 31, 2006, respectively. If a facility's plan is effective for its employees after the first day of the applicable rate period that the funds are available, the payment rate adjustment per diem is effective the same date as its plan.

(f) A copy of the approved distribution plan must be made available to all employees by giving each employee a copy or by posting it in an area of the facility to which all employees have access. If an employee does not receive the wage and benefit adjustment described in the facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or telephone number provided by the commissioner and included in the approved plan.

Sec. 102. Minnesota Statutes 2008, section 256B.5012, subdivision 7, is amended to read:

Subd. 7. **ICF/MR rate increases effective October 1, 2007, and October 1, 2008.** (a) For the rate year beginning October 1, 2007, the commissioner shall make available to each facility reimbursed under this section operating payment rate adjustments equal to 2.0 percent of the operating payment rates in effect on September 30, 2007. For the rate year beginning October 1, 2008, the commissioner shall make available to each facility reimbursed under this section operating payment rate adjustments equal to 2.0 percent of the operating payment rates in effect on September 30, 2008. For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in this paragraph multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding day. The total payment rate shall include the adjustment provided in section 256B.501, subdivision 12. A facility whose payment rates are governed by closure agreements~~,~~ or receivership agreements~~, or Minnesota Rules, part 9553.0075,~~ is not eligible for an adjustment otherwise granted under this subdivision.

(b) Seventy-five percent of the money resulting from the rate adjustments under paragraph (a) must be used for increases in compensation-related costs for employees directly employed by the facility on or after the effective date of the rate adjustments, except:

(1) the administrator;

(2) persons employed in the central office of a corporation that has an ownership interest in the facility or exercises control over the facility; and

(3) persons paid by the facility under a management contract.

(c) Two-thirds of the money available under paragraph (b) must be used for wage increases for all employees directly employed by the facility on or after the effective date of the rate adjustments, except those listed in paragraph (b), clauses (1) to (3). The wage adjustment that employees receive under this paragraph must be paid as an equal hourly percentage wage increase for all eligible employees. All wage increases under this paragraph must be effective on the same date. Only costs associated with the portion of the equal hourly percentage wage increase that goes to all employees shall qualify under this paragraph. Costs associated with wage increases in excess of the amount of the equal hourly percentage wage increase provided to all employees shall be allowed only for meeting the requirements in paragraph (b). This paragraph shall not apply to employees covered by a collective bargaining agreement.

(d) The commissioner shall allow as compensation-related costs all costs for:

(1) wages and salaries;

(2) FICA taxes, Medicare taxes, state and federal unemployment taxes, and workers' compensation;

(3) the employer's share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and pensions; and

(4) other benefits provided, subject to the approval of the commissioner.

(e) The portion of the rate adjustments under paragraph (a) that is not subject to the requirements in paragraphs (b) and (c) shall be provided to facilities effective October 1 of each year.

(f) Facilities may apply for the portion of the rate adjustments under paragraph (a) that is subject to the requirements in paragraphs (b) and (c). The application must be submitted to the commissioner within six months of the effective date of the rate adjustments, and the facility must provide additional information required by the commissioner within nine months of the effective date of the rate adjustments. The commissioner must respond to all applications within three weeks of receipt. The commissioner may waive the deadlines in this paragraph under extraordinary circumstances, to be determined at the sole discretion of the commissioner. The application must contain:

(1) an estimate of the amounts of money that must be used as specified in paragraphs (b) and (c);

(2) a detailed distribution plan specifying the allowable compensation-related and wage increases the facility will implement to use the funds available in clause (1);

(3) a description of how the facility will notify eligible employees of the contents of the approved application, which must provide for giving each eligible employee a copy of the approved application, excluding the information required in clause (1), or posting a copy of the approved application, excluding the information required in clause (1), for a period of at least six weeks in an area of the facility to which all eligible employees have access; and

(4) instructions for employees who believe they have not received the compensation-related or wage increases specified in clause (2), as approved by the commissioner, and which must include a mailing address, e-mail address, and the telephone number that may be used by the employee to contact the commissioner or the commissioner's representative.

(g) The commissioner shall ensure that cost increases in distribution plans under paragraph (f), clause (2), that may be included in approved applications, comply with requirements in clauses (1) to (4):

(1) costs to be incurred during the applicable rate year resulting from wage and salary increases effective after October 1, 2006, and prior to the first day of the facility's payroll period that includes October 1 of each year shall be allowed if they were not used in the prior year's application and they meet the requirements of paragraphs (b) and (c);

(2) a portion of the costs resulting from tenure-related wage or salary increases may be considered to be allowable wage increases, according to formulas that the commissioner shall provide, where employee retention is above the average statewide rate of retention of direct care employees;

(3) the annualized amount of increases in costs for the employer's share of health and dental insurance, life insurance, disability insurance, and workers' compensation shall be allowable compensation-related increases if they are effective on or after April 1 of the year in which the rate adjustments are effective and prior to April 1 of the following year; and

(4) for facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the application only upon receipt of a letter of acceptance of the distribution plan, as regards members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 25, 2007. Upon receipt of the letter of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

(h) The commissioner shall review applications received under paragraph (f) and shall provide the portion of the rate adjustments under paragraphs (b) and (c) if the requirements of this subdivision have been met. The rate adjustments shall be effective October 1 of each year. Notwithstanding paragraph (a), if the approved application distributes less money than is available, the amount of the rate adjustment shall be reduced so that the amount of money made available is equal to the amount to be distributed.

Sec. 103. Minnesota Statutes 2008, section 256B.5013, subdivision 1, is amended to read:

Subdivision 1. **Variable rate adjustments.** (a) For rate years beginning on or after October 1, 2000, when there is a documented increase in the needs of a current ICF/MR recipient, the county of financial responsibility may recommend a variable rate to enable the facility to meet the individual's increased needs. Variable rate adjustments made under this subdivision replace payments for persons with special needs under section 256B.501, subdivision 8, and payments for persons with special needs for crisis intervention services under section 256B.501, subdivision 8a. Effective July 1, 2003, facilities with a base rate above the 50th percentile of the statewide average reimbursement rate for a Class A facility or Class B facility, whichever matches the facility licensure, are not eligible for a variable rate adjustment. Variable rate adjustments may not exceed a 12-month period, except when approved for purposes established in paragraph (b), clause (1). Variable rate adjustments approved solely on the basis of changes on a developmental disabilities screening document will end June 30, 2002.

(b) A variable rate may be recommended by the county of financial responsibility for increased needs in the following situations:

(1) a need for resources due to an individual's full or partial retirement from participation in a day training and habilitation service when the individual: (i) has reached the age of 65 or has a change in health condition that makes it difficult for the person to participate in day training and habilitation services over an extended period of time because it is medically contraindicated; and (ii) has expressed a desire for change through the developmental disability screening process under section 256B.092;

(2) a need for additional resources for intensive short-term programming which is necessary prior to an individual's discharge to a less restrictive, more integrated setting;

(3) a demonstrated medical need that significantly impacts the type or amount of services needed by the individual; or

(4) a demonstrated behavioral need that significantly impacts the type or amount of services needed by the individual.

(c) The county of financial responsibility must justify the purpose, the projected length of time, and the additional funding needed for the facility to meet the needs of the individual.

(d) The facility shall provide ~~a quarterly~~ an annual report to the county case manager on the use of the variable rate funds and the status of the individual on whose behalf the funds were approved. The county case manager will forward the facility's report with a recommendation to the commissioner to approve or disapprove a continuation of the variable rate.

(e) Funds made available through the variable rate process that are not used by the facility to meet the needs of the individual for whom they were approved shall be returned to the state.

Sec. 104. Minnesota Statutes 2008, section 256B.5013, subdivision 6, is amended to read:

Subd. 6. **Commissioner's responsibilities.** The commissioner shall:

(1) make a determination to approve, deny, or modify a request for a variable rate adjustment within 30 days of the receipt of the completed application;

(2) notify the ICF/MR facility and county case manager of the duration and conditions of variable rate adjustment approvals; and

(3) modify MMIS II service agreements to reimburse ICF/MR facilities for approved variable rates~~;~~.

~~(4) provide notification of legislatively appropriated funding for facility closures, downsizings, and relocations;~~

~~(5) assess the fiscal impacts of the proposals for closures, downsizings, and relocations forwarded for consideration through the state advisory committee; and~~

~~(6) review the payment rate process on a biannual basis and make recommendations to the legislature for necessary adjustments to the review and approval process.~~

Sec. 105. Minnesota Statutes 2008, section 256B.69, subdivision 9b, is amended to read:

Subd. 9b. **Reporting provider payment rates.** (a) According to guidelines developed by the commissioner, in consultation with health care providers, managed care plans, and county-based

purchasing plans, each managed care plan and county-based purchasing plan must annually provide to the commissioner~~, at the commissioner's request, detailed or aggregate~~ information on reimbursement rates paid by the managed care plan under this section or the county-based purchasing plan under section 256B.692 to ~~provider types~~ providers and vendors for administrative services under contract with the plan.

(b) Each managed care plan and county-based purchasing plan must annually provide to the commissioner, in the form and manner specified by the commissioner:

(1) the amount of the payment made to the plan under this section that is paid to health care providers for patient care;

(2) aggregate provider payment data, categorized by inpatient payments and outpatient payments, with the outpatient payments categorized by payments to primary care providers and nonprimary care providers;

(3) the process by which increases or decreases in payments made to the plan under this section, that are based on actuarial analysis related to provider cost increases or decreases, or that are required by legislative action, are passed through to health care providers, categorized by payments to primary care providers and nonprimary care providers; and

(4) specific information on the methodology used to establish provider reimbursement rates paid by the managed health care plan and county-based purchasing plan.

Data provided to the commissioner under this subdivision must allow the commissioner to conduct the analyses required under paragraph (d).

~~(b)~~ (c) Data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02.

(d) The commissioner shall analyze data provided under this subdivision to assist the legislature in providing oversight and accountability related to expenditures under this section. The analysis must include information on payments to physicians, physician extenders, and hospitals, and may include other provider types as determined by the commissioner. The commissioner shall also array aggregate provider reimbursement rates by health plan, by primary care, and nonprimary care categories. The commissioner shall report the analysis to the legislature annually, beginning December 15, 2010, and each December 15 thereafter. The commissioner shall also make this information available on the agency's Web site to managed care and county-based purchasing plans, health care providers, and the public.

Sec. 106. Minnesota Statutes 2008, section 403.03, is amended to read:

403.03 911 SERVICES TO BE PROVIDED.

Services available through a 911 system ~~shall~~ must include police, firefighting, and emergency medical and ambulance services. Other emergency and civil defense services may be incorporated into the 911 system at the discretion of the public agency operating the public safety answering point. The 911 system may include a referral to mental health crisis teams, where available.

Sec. 107. Minnesota Statutes 2008, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead

agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall ~~destroy data~~ maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead agency; and

(ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be ~~destroyed~~ maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, ~~two~~ maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead agency and for which there is no final disposition, ~~two~~ maintained for three years from the date of the report.

(e) The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

(1) whether and where backlogs of cases result in a failure to conform with statutory time frames;

(2) where adequate coverage requires additional appropriations and staffing; and

(3) any other trends that affect the safety of vulnerable adults.

(f) Each lead agency must have a record retention policy.

(g) Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Upon completion of the review, not public data received by the review panel must be returned to the lead agency.

(h) Each lead agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 108. **STUDY OF ALLOWING LONG-TERM CARE INSURANCE TO BE PURCHASED BY LOCAL GOVERNMENT EMPLOYEES.**

The commissioner of management and budget, in conjunction with two representatives of state government employees, with one each to be designated by the American Federation of State, County, and Municipal Employees and the Minnesota Association of Professional Employees; one representative of local government employees to be designated by the American Federation of State, County, and Municipal Employees; and one representative each designated by the League of Minnesota Cities and the Association of Minnesota Counties, shall study allowing local government employees to purchase long-term care insurance authorized under Minnesota Statutes, section 43A.318, subdivision 2. On or before February 15, 2010, the commissioner shall report on their findings and recommendations to the chairs of the house of representatives Health Care and Human Services Policy and Oversight Committee and the senate Health, Housing, and Family Security Committee.

Sec. 109. **HEALTH DEPARTMENT WORKGROUP.**

The commissioner of health shall consult with hospitals, RN staff nurses, and quality assurance staff working in facilities that report under Minnesota Statutes, section 144.7065, subdivision 8, and other stakeholders, taking into account geographic balance, to define and develop questions related to staffing for inclusion in the root cause analysis tool required under that subdivision.

Sec. 110. **ALZHEIMER'S DISEASE WORKING GROUP.**

Subdivision 1. **Establishment; members.** The Minnesota Board on Aging must appoint, unless otherwise provided, an Alzheimer's disease working group that consists of no more than 20 members including, but not limited to:

(1) at least one caregiver of a person who has been diagnosed with Alzheimer's disease;

(2) at least one person who has been diagnosed with Alzheimer's disease;

(3) a representative of the nursing facility industry;

(4) a representative of the assisted living industry;

(5) a representative of the adult day services industry;

(6) a representative of the medical care provider community;

(7) a psychologist who specializes in dementia care;

(8) an Alzheimer's researcher;

(9) a representative of the Alzheimer's Association;

(10) the commissioner of human services or a designee;

(11) the commissioner of health or a designee;

(12) the ombudsman for long-term care or a designee; and

(13) at least two public members named by the governor.

The appointing authorities under this subdivision must complete their appointments no later than September 1, 2009.

Subd. 2. **Duties; recommendations.** The Alzheimer's disease working group must examine the array of needs of individuals diagnosed with Alzheimer's disease, services available to meet these needs, and the capacity of the state and current providers to meet these and future needs. The working group shall consider and make recommendations and findings on the following issues:

(1) trends in the state's Alzheimer's population and service needs including, but not limited to:

(i) the state's role in long-term care, family caregiver support, and assistance to persons with early-stage and early-onset of Alzheimer's disease;

(ii) state policy regarding persons with Alzheimer's disease and dementia; and

(iii) establishment of a surveillance system to provide proper estimates of the number of persons in the state with Alzheimer's disease, and the changing population with dementia;

(2) existing resources, services, and capacity including, but not limited to:

(i) type, cost, and availability of dementia services;

(ii) dementia-specific training requirements for long-term care staff;

(iii) quality care measures for residential care facilities;

(iv) availability of home and community-based resources for persons with Alzheimer's disease, including respite care;

(v) number and availability of long-term care dementia units;

(vi) adequacy and appropriateness of geriatric psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;

(vii) assisted living residential options for persons with dementia; and

(viii) state support of Alzheimer's research through Minnesota universities and other resources; and

(3) needed policies or responses including, but not limited to, the provision of coordinated services and supports to persons and families living with Alzheimer's and related disorders, the

capacity to meet these needs, and strategies to address identified gaps in services.

Subd. 3. **Meetings.** The board must select a designee to convene the first meeting of the working group no later than September 1, 2009. Meetings of the working group must be open to the public, and to the extent practicable, technological means, such as Web casts, shall be used to reach the greatest number of people throughout the state. The members of the working group shall select a chair from their membership at the first meeting.

Subd. 4. **Report.** The Board on Aging must submit a report providing the findings and recommendations of the working group, including any draft legislation necessary to implement the recommendations, to the governor and chairs and ranking minority members of the legislative committees with jurisdiction over health care no later than January 15, 2011.

Subd. 5. **Private funding.** To the extent available, the Board on Aging may utilize funding provided by private foundations and other private funding sources to complete the duties of the Alzheimer's disease working group.

Subd. 6. **Expiration.** This section expires when the report under subdivision 4 is submitted.

Sec. 111. **DEADLINE FOR APPOINTMENT.**

(a) The Minnesota Psychological Association must complete the appointment required under Minnesota Statutes, section 62U.09, subdivision 2, paragraph (a), clause (13), no later than October 1, 2009.

(b) The Minnesota Chiropractic Association must complete the appointment required under Minnesota Statutes, section 62U.09, subdivision2, paragraph (a), clause (14), no later than October 1, 2009.

Sec. 112. **REPEALER.**

Minnesota Statutes 2008, sections 147A.22; 148.627; 150A.09, subdivision 6; and 256B.5013, subdivisions 2, 3, and 5, are repealed."

Delete the title and insert:

"A bill for an act relating to state government; modifying health and human services policy provisions; changing health plan requirements; modifying nursing facility provisions; requiring licensure of physician assistants; requiring patient record keeping; changing the definition of doula services; requiring licensure of dental assistants; changing health occupation fees; imposing late fees; establishing safe patient handling in clinical settings; changing medical assistant reimbursement provisions; requiring annual payment reports from manage care plans and county-based purchasing plans; requiring a study of long-term care insurance and local government employees; creating workgroups; requiring reports; amending Minnesota Statutes 2008, sections 62A.65, subdivision 4; 62M.09, subdivision 3a; 62Q.525, subdivision 2; 62U.01, subdivision 8; 62U.09, subdivision 2; 144.1501, subdivision 1; 144.7065, subdivisions 8, 10; 144E.001, subdivisions 3a, 9c; 145.56, subdivisions 1, 2; 147.09; 147A.01; 147A.02; 147A.03; 147A.04; 147A.05; 147A.06; 147A.07; 147A.08; 147A.09; 147A.11; 147A.13; 147A.16; 147A.18; 147A.19; 147A.20; 147A.21; 147A.23; 147A.24; 147A.26; 147A.27; 148.06, subdivision 1; 148.624, subdivision 2; 148.89, subdivision 5; 148.995, subdivisions 2, 4; 150A.01, subdivision 8; 150A.02, subdivision 1; 150A.05, subdivision 2; 150A.06, subdivisions 2a, 2b, 2c, 2d, 4a, 5,

7, 8; 150A.08, subdivisions 1, 3, 3a, 5, 6, 8; 150A.081; 150A.09, subdivisions 1, 3; 150A.091, subdivisions 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, by adding subdivisions; 150A.10, subdivisions 1a, 2, 4; 150A.12; 150A.13; 169.345, subdivision 2; 182.6551; 182.6552, by adding a subdivision; 252.27, subdivision 1a; 252.282, subdivisions 3, 5; 253B.02, subdivision 7; 253B.05, subdivision 2; 256B.0625, subdivision 28a; 256B.0657, subdivision 5; 256B.0751, subdivision 1; 256B.0913, subdivisions 4, 5a, 12; 256B.0915, subdivision 2; 256B.431, subdivision 10; 256B.433, subdivision 1; 256B.441, subdivisions 5, 11; 256B.5011, subdivision 2; 256B.5012, subdivisions 6, 7; 256B.5013, subdivisions 1, 6; 256B.69, subdivision 9b; 403.03; 626.557, subdivision 12b; proposing coding for new law in Minnesota Statutes, chapters 148; 182; repealing Minnesota Statutes 2008, sections 147A.22; 148.627; 150A.09, subdivision 6; 256B.5013, subdivisions 2, 3, 5."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Paul Thissen, Maria Ruud, Julie Bunn, Patti Fritz, Tim Kelly

Senate Conferees: (Signed) Tony Lourey, John Marty, Yvonne Prettner Solon

Senator Lourey moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1760 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1760 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 60 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koering	Olseen	Saxhaug
Berglin	Erickson Ropes	Kubly	Olson, G.	Scheid
Betzold	Fischbach	Langseth	Olson, M.	Senjem
Bonoff	Fobbe	Latz	Ortman	Sheran
Carlson	Foley	Limmer	Pappas	Sieben
Chaudhary	Frederickson	Lourey	Pogemiller	Skoe
Clark	Gerlach	Lynch	Prettner Solon	Skogen
Cohen	Gimse	Marty	Rest	Sparks
Dahle	Higgins	Metzen	Robling	Stumpf
Day	Ingebrigtsen	Michel	Rosen	Tomassoni
Dibble	Johnson	Moua	Rummel	Vickerman
Dille	Kelash	Murphy	Saltzman	Wiger

Those who voted in the negative were:

Hann	Jungbauer	Koch	Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1237:

H.F. No. 1237: A bill for an act relating to natural resources; modifying wild rice season and harvest authority; modifying certain definitions; modifying state park permit requirements; modifying authority to establish secondary units; eliminating liquor service at John A. Latsch State Park; providing for establishment of boater waysides; modifying watercraft and off-highway motorcycle operation requirements; expanding snowmobile grant-in-aid program; modifying state trails; modifying Water Law; providing for appeals and enforcement of certain civil penalties; providing for taking wild animals to protect public safety; modifying Board of Water and Soil Resources membership; modifying local water program; modifying Reinvest in Minnesota Resources Law; modifying certain easement authority; providing for notice of changes to public waters inventory; modifying critical habitat plate eligibility; modifying cost-share program; amending Minnesota Statutes 2008, sections 84.105; 84.66, subdivision 2; 84.793, subdivision 1; 84.83, subdivision 3; 84.92, subdivision 8; 85.015, subdivisions 13, 14; 85.053, subdivision 3; 85.054, by adding subdivisions; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 97A.321; 103B.101, subdivisions 1, 2; 103B.3355; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 168.1296, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2008, sections 85.0505, subdivision 2; 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530, subparts 1, 2, 2a; 8400.3560.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Eken, Dill, Hansen, Persell and Loon have been appointed as such committee on the part of the House.

House File No. 1237 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

Senator Chaudhary moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1237, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 492, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 492: A bill for an act relating to transportation; regulating use and operation of mini trucks on public roadways; amending Minnesota Statutes 2008, sections 169.011, by adding a subdivision; 169.045.

Senate File No. 492 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1481: A bill for an act relating to capital improvements; appropriating money for a sewer extension in the city of Remer; authorizing the sale and issuance of state bonds.

There has been appointed as such committee on the part of the House:

Solberg, Masin and Downey.

Senate File No. 1481 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time.

Senators Metzen, Wiger and Bakk introduced–

S.F. No. 2166: A resolution memorializing the President of the United States, the United States Secretary of the Treasury, and the United States Treasury Automotive Task Force to reconsider the treatment of Minnesota auto dealerships.

Referred to the Committee on Rules and Administration.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1503 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1503

A bill for an act relating to human services; changing child welfare provisions; modifying provisions governing adoption records; amending Minnesota Statutes 2008, sections 13.46, subdivision 2; 256.01, subdivision 14b; 259.52, subdivisions 2, 6; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.012; 260.93; 260B.007, subdivision 7; 260B.157, subdivision 3; 260B.198, subdivision 1; 260C.007, subdivisions 18, 25; 260C.151, subdivisions 1, 2, 3, by adding a subdivision; 260C.163, by adding a subdivision; 260C.175, subdivision 1; 260C.176, subdivision 1; 260C.178, subdivisions 1, 3; 260C.201, subdivisions 1, 3, 5, 11; 260C.209, subdivision 3; 260C.212, subdivisions 1, 2, 4, 4a, 5, 7; 260D.02, subdivision 5; 260D.03, subdivision 1; 260D.07; 484.76, subdivision 2; Laws 2008, chapter 361, article 6, section 58; proposing coding for new law in Minnesota Statutes, chapter 260C; repealing Minnesota Statutes 2008, section 260C.209, subdivision 4.

May 18, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1503 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1503 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

CHILD WELFARE TECHNICAL

Section 1. Minnesota Statutes 2008, section 260.93, is amended to read:

260.93 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means ~~to attest, declare, or be sworn to~~ attesting, declaring, or swearing before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home study" means an evaluation of a home environment conducted according to the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child according to the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act at United States Code, title 43, chapter 33, section 1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal risk placement" ("Legal risk adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with according to applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of an assessment and the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a ~~non-relative~~ nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. Rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child-placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a ~~non-relative~~ nonrelative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by the child's parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; ~~and~~

b. The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction ~~over the child's case.~~ in interstate placements in which the public child-placing agency is a party to the proceedings.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with the child's family, at least one of whom is in the United States armed services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the armed services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in article IV, section ~~G~~ H and article V, section B, paragraphs 2 and

3, concerning private and independent adoptions and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone; by audio-video conference; or by other means as approved by the rules of the Interstate Commission. Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

~~C.~~ D. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or

2. The child is adopted;

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

~~D.~~ E. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

~~E.~~ F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

~~F.~~ G. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

~~G.~~ H. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is

filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement;

2. when the child is in the legal custody of a public agency in the sending state; or

3. when the court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state's public child-placing agency. The required content to accompany a request for provisional approval shall include all of the following:

1. A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birthparents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or other authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making, and the request for an assessment, shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable Administrative ~~procedures~~ Procedure Act.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (United States Code, title 25, chapter 21, section 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy-related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF

THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly

unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to

the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF

THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking

record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules

2. Forms and procedures

3. Timelines

4. Data collection and reporting

5. Rulemaking

6. Visitation

7. Progress reports/supervision

8. Sharing of information/confidentiality

9. Financing of the Interstate Commission

10. Mediation, arbitration, and dispute resolution

11. Education, training, and technical assistance

12. Enforcement

13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety, and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION,

ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws, or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought

may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE

AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a ~~non-voting~~ nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT

AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

Sec. 2. Minnesota Statutes 2008, section 260C.201, subdivision 3, is amended to read:

Subd. 3. **Domestic child abuse.** (a) If the court finds that the child is a victim of domestic child abuse, as defined in section 260C.007, subdivision ~~28~~ 13, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518 or 518A, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

(b) No order excluding the abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling;

(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and

(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

(c) Upon a finding that the remaining parent is able to care adequately for the child and enforce an order excluding the abusing party from the home and that the provision of supportive services by the responsible social services agency is no longer necessary, the responsible social services agency may be dismissed as a party to the proceedings. Orders entered regarding the abusing party remain in full force and effect and may be renewed by the remaining parent as necessary for the continued protection of the child for specified periods of time, not to exceed one year.

Sec. 3. Minnesota Statutes 2008, section 260C.201, subdivision 11, is amended to read:

Subd. 11. **Review of court-ordered placements; permanent placement determination.** (a) This subdivision and subdivision 11a do not apply ~~in~~ to cases where the child is in ~~placement due solely to~~ foster care for treatment of the child's developmental disability or emotional disturbance~~, where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons~~ under ~~section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision~~ chapter 260D. Foster care placements of children ~~due solely to their disability~~ for treatment are governed by ~~section 260C.141, subdivision 2a~~ chapter 260D. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this subdivision and a permanency review for a child under eight years of age under subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing required under paragraph (a) and the rules of juvenile court, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child, including a termination of parental rights petition, according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152.

(c) The permanency proceedings shall be conducted in a timely fashion including that any trial required under section 260C.163 shall be commenced within 60 days of the admit-deny hearing required under paragraph (a). At the conclusion of the permanency proceedings, the court shall:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) order a permanent placement or termination of parental rights if permanent placement or termination of parental rights is in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met or according to the following conditions:

(i) order the social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it approves the responsible social service agency's compelling reasons that neither an award of permanent legal and physical custody

to a relative, nor termination of parental rights is in the child's best interests;

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or with a fit and willing relative who will agree to a transfer of permanent legal and physical custody of the child, but such efforts have not proven successful; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; and

(iii) at least annually, the responsible social services agency reconsiders its provision of services to the child and the child's placement in long-term foster care to ensure that:

(A) long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability, including whether there is another permanent placement option under this chapter that would better serve the child's needs and best interests;

(B) whenever possible, there is an identified long-term foster care family that is committed to being the foster family for the child as long as the child is a minor or under the jurisdiction of the court;

(C) the child is receiving appropriate services or assistance to maintain or build connections with the child's family and community;

(D) the child's physical and mental health needs are being appropriately provided for; and

(E) the child's educational needs are being met;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section that has agreed to

adopt the child and the court accepts the parent's voluntary consent to adopt under section 259.24, except that such consent executed by a parent under this item, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable unless fraud is established and an order issues permitting revocation as stated in item (vii);

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner;

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(vii) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact. When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize the permanent plan for the child including the agency's efforts to:

(1) ensure that long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanent placement option under this chapter that would better serve the child's needs and best interests;

(2) identify a specific long-term foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of long-term foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1.

(h) In the event it is necessary for a child that has been ordered into foster care for a specified period of time to be in foster care longer than one year after the permanency hearing held under this section, not later than 12 months after the time the child was ordered into foster care for a specified period of time, the matter must be returned to court for a review of the appropriateness of continuing the child in foster care and of the responsible social services agency's reasonable efforts to finalize a permanent plan for the child; if it is in the child's best interests to continue the order for foster care for a specified period of time past a total of 12 months, the court shall set objectives for the child's continuation in foster care, specify any further amount of time the child may be in foster care, and review the plan for the safe return of the child to the parent.

(i) An order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a

showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests. Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) if the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent as calculated in this subdivision, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child remaining in the care of the parent; and

(2) if a trial home visit ordered or continued at proceedings under this subdivision terminates, the court shall re-commence proceedings under this subdivision to determine the permanent status of the child not later than 30 days after the child is returned to foster care.

Sec. 4. Minnesota Statutes 2008, section 260C.209, subdivision 3, is amended to read:

Subd. 3. **Multistate information.** ~~For every background study completed under this section, the subject of the background study shall provide the responsible social services agency with a set of classifiable fingerprints obtained from an authorized agency. The responsible social services agency shall provide the fingerprints to the commissioner, and the commissioner shall obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.~~

In cases involving the emergency relative placement of children under section 245A.035, the social services agency or county attorney may request a name-based check of the National Criminal Records Repository. In those cases, fingerprints of the individual being checked must be forwarded

to the Bureau of Criminal Apprehension for submission to the Federal Bureau of Investigation within 15 calendar days of the name-based check. If the subject of the name-based check does not provide fingerprints upon request, the child or children must be removed from the home.

Sec. 5. Minnesota Statutes 2008, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **Agency responsibilities for parents and children in placement.** (a) When a child is in foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, ~~as well as the notice provided in section 260C.209, subdivision 4,~~ and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent or guardian of each child in foster care, other than a child in voluntary foster care for treatment under chapter 260D, of the following information:

(1) that the child's placement in foster care may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of foster care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in foster care.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child under subdivision 8, of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's social and medical history, as defined in section 259.43, and education report.

Sec. 6. Minnesota Statutes 2008, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) There shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2 or 2a, clause (2); or 260C.317 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

(1) the safety, permanency needs, and well-being of the child;

(2) the continuing necessity for and appropriateness of the placement;

(3) the extent of compliance with the out-of-home placement plan;

(4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;

(5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and

(6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), item (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section ~~256.245~~ 256.045. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) The court shall make findings regarding progress toward or accomplishment of the following goals:

(i) the child has obtained a high school diploma or its equivalent;

(ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;

(iii) the child is employed or enrolled in postsecondary education;

(iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

Sec. 7. Minnesota Statutes 2008, section 260D.07, is amended to read:

260D.07 REQUIRED PERMANENCY REVIEW HEARING.

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.06, and the child continues in voluntary foster care as defined in section 260D.02, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

(1) terminate the voluntary foster care agreement and return the child home; or

(2) determine whether there are compelling reasons to continue the voluntary foster care arrangement and, if the agency determines there are compelling reasons, seek judicial approval of its determination; or

(3) file a petition for the termination of parental rights.

(b) When the agency is asking for the court's approval of its determination that there are compelling reasons to continue the child in the voluntary foster care arrangement, the agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" and ask the court to proceed under this section.

(c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" shall be drafted or approved by the county attorney and be under oath. The petition shall include:

(1) the date of the voluntary placement agreement;

(2) whether the petition is due to the child's developmental disability or emotional disturbance;

(3) the plan for the ongoing care of the child and the parent's participation in the plan;

(4) a description of the parent's visitation and contact with the child;

(5) the date of the court finding that the foster care placement was in the best interests of the child, if required under section 260D.06, or the date the agency filed the motion under section 260D.09, paragraph (b);

(6) the agency's reasonable efforts to finalize the permanent plan for the child, including returning the child to the care of the child's family; and

(7) a citation to this chapter as the basis for the petition.

(d) An updated copy of the out-of-home placement plan required under section 260C.212, subdivision 1, shall be filed with the petition.

(e) The court shall set the date for the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of the petition filing date when the child has been in placement 15 of the last 22 months. The court shall serve the petition together with a notice of hearing by United States mail on the parent, the child age 12 or older, the child's guardian ad litem, if one has been appointed, the agency, the county attorney, and counsel for any party.

(f) The court shall conduct the permanency review hearing on the petition no later than 14 months after the date of the voluntary placement agreement, within 30 days of the filing of the petition when the child has been in placement 15 days of the last 22 months, or within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care under chapter 260C, as provided in section 260D.09, paragraph (b).

(g) At the permanency review hearing, the court shall:

(1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate, and whether the parent agrees to the continued voluntary foster care arrangement as being in the child's best interests;

(2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to finalize the permanent plan for the child, including whether there are services available and accessible to the parent that might allow the child to safely be with the child's family;

(3) inquire of the parent if the parent consents to the court entering an order that:

(i) approves the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing future planning for the safety, health, and best interests of the child; and

(ii) approves the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests; and

(4) inquire of the child's guardian ad litem and any other party whether the guardian or the party agrees that:

(i) the court should approve the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing and future planning for the safety, health, and best interests of the child; and

(ii) the court should approve of the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests.

(h) At a permanency review hearing under this section, the court may take the following actions based on the contents of the sworn petition and the consent of the parent:

(1) approve the agency's compelling reasons that the voluntary foster care arrangement is in the best interests of the child; and

(2) find that the agency has made reasonable efforts to finalize ~~a plan for~~ the permanent plan for the child.

(i) A child, age 12 or older, may object to the agency's request that the court approve its compelling reasons for the continued voluntary arrangement and may be heard on the reasons for the objection. Notwithstanding the child's objection, the court may approve the agency's compelling reasons and the voluntary arrangement.

(j) If the court does not approve the voluntary arrangement after hearing from the child or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

(1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141, asking for appropriate relief under section 260C.201, subdivision 11, or 260C.301.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing the child's placement every 12 months while the child is in foster care.

(l) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.10. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

Sec. 8. Laws 2008, chapter 361, article 6, section 58, is amended to read:

Sec. 58. **REVISOR'S INSTRUCTION.**

(a) In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
259.67	260.851, article 5	~~260.853~~ 260.93, article 4
256B.094	260.851	~~260.853~~ 260.93

(b) In each section of Minnesota Rules referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
9545.0755	260.851 to 260.91	260.855 to 260.93
9545.0815	260.851	260.93
9550.6210	260.851 to 260.91	260.855 to 260.93
9560.0130	260.851	260.93

(c) The revisor of statutes shall replace "Interstate Compact on the Placement of Children" with "Interstate Compact for the Placement of Children" wherever it appears in rules or statutes.

EFFECTIVE DATE. This section is effective upon legislative enactment of the compact in Minnesota Statutes, section 260.93, into law by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

Sec. 9. **REPEALER.**

Minnesota Statutes 2008, section 260C.209, subdivision 4, is repealed.

ARTICLE 2

CHILD WELFARE POLICY

Section 1. Minnesota Statutes 2008, section 13.46, subdivision 2, is amended to read:

Subd. 2. **General.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) according to section 13.05;

(2) according to court order;

(3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) to the Department of Revenue to assess parental contribution amounts for purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Employment and Economic Development, and when applicable, the Department of Education, for the following purposes:

(i) to monitor the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency;

(ii) to administer any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system;

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of

investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced-price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions; ~~or~~

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education~~.~~; or

(30) child support data on the parents and the child may be disclosed to agencies administering programs under Titles IV-E and IV-B of the Social Security Act, as provided by federal law. Data may be disclosed only to the extent necessary for the purpose of establishing parentage or for determining who has or may have parental rights with respect to a child, which could be related to permanency planning.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 2. Minnesota Statutes 2008, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed

to accomplish the projects. Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under 18 years of age who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

(1) be one of the existing tribes with reservation land in Minnesota;

(2) have a tribal court with jurisdiction over child custody proceedings;

(3) have a substantial number of children for whom determinations of maltreatment have occurred;

(4) have capacity to respond to reports of abuse and neglect under section 626.556;

(5) provide a wide range of services to families in need of child welfare services; and

(6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

(1) assessment and prevention of child abuse and neglect;

(2) family preservation;

(3) facilitative, supportive, and reunification services;

(4) out-of-home placement for children removed from the home for child protective purposes; and

(5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under section 626.556 for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to

develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) Participating tribes may conduct children's mental health screenings under section 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the initiative and living on the reservation and who meet one of the following criteria:

(1) the child must be receiving child protective services;

(2) the child must be in foster care; or

(3) the child's parents must have had parental rights suspended or terminated.

Tribes may access reimbursement from available state funds for conducting the screenings. Nothing in this section shall alter responsibilities of the county for providing services under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under section 256.01, subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under section 256.01, subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

~~(f)~~ (h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

Sec. 3. Minnesota Statutes 2008, section 259.52, subdivision 2, is amended to read:

Subd. 2. **Requirement to search registry before adoption petition can be granted; proof of search.** No petition for adoption may be granted unless the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota fathers' adoption registry was filed with the court in that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of

adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time. Search requirements of this section do not apply when the responsible social services agency is proceeding under Safe Place for Newborns, section 260C.217.

Sec. 4. Minnesota Statutes 2008, section 259.52, subdivision 6, is amended to read:

Subd. 6. **Who may register.** Any putative father may register with the fathers' adoption registry. ~~However,~~ Any limitation on a putative father's right to assert an interest in the child as provided in this section applies only in adoption proceedings, termination of parental rights proceedings under chapter 260C, and only to those putative fathers not entitled to notice and consent under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7).

Sec. 5. Minnesota Statutes 2008, section 259.67, subdivision 1, is amended to read:

Subdivision 1. **Adoption assistance.** (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents ~~who adopt a child who meets the eligibility requirements under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, or who otherwise meets the requirements in subdivision 4~~ of an eligible child. To be eligible for adoption assistance a child must:

(1) be determined to be a child with special needs, according to subdivision 4; and

(2)(i) meet the criteria outlined in section 473 of the Social Security Act; or

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance with tribal law as the child's documented permanency plan.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

(c) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E adoption assistance. A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded

adoption assistance.

(d) Subject to commissioner approval, the legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. Children who meet all eligibility criteria except those specific to title IV-E adoption assistance shall receive adoption assistance paid through state funds.

(e) Payments for adoption assistance shall not be made to a biological parent of the child who later adopts the same child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

Sec. 6. Minnesota Statutes 2008, section 259.67, subdivision 2, is amended to read:

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance ~~payments,~~ agreement, the nature and amount of any payment, services, and assistance to be provided under such agreement, the child's eligibility for Medicaid services, eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that total cost does not exceed $2,000 per child, provisions for modification of the terms of the agreement, the effective date of the agreement, that the agreement must remain in effect regardless of the state of which the adoptive parents are residents at any given time, and the payment terms. The agreement is effective the date of the adoption decree. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered. The agreement must be negotiated with the adoptive parent or parents. A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs.

The amount of adoption assistance ~~is subject to the availability of state and federal funds and~~ shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed ~~that which would be allowable for the child under foster family care~~ the payment schedule outlined in

subdivision 2a, and, for state-funded cases, is subject to the availability of state ~~and federal~~ funds.

Sec. 7. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 2a. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) Basic maintenance payments are available for all children eligible for adoption assistance except those eligible solely based on high risk of developing a disability. Basic maintenance payments must be made according to the following schedule:

Birth through age five	up to $247 per month
Age six through age 11	up to $277 per month
Age 12 through age 14	up to $307 per month
Age 15 and older	up to $337 per month

A child must receive the maximum payment amount for the child's age, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

Level I	up to $150 per month
Level II	up to $275 per month
Level III	up to $400 per month
Level IV	up to $500 per month

A child's level shall be assessed on a supplemental maintenance needs assessment form prescribed by the commissioner. A child must receive the maximum payment amount for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

Sec. 8. Minnesota Statutes 2008, section 259.67, subdivision 3, is amended to read:

Subd. 3. **Modification, ~~or~~ termination, or extension of adoption assistance agreement.** The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. If the commissioner determines that the adoptive parents are no longer legally responsible for support of the child or are no longer providing financial support to the child, the agreement shall terminate. Under certain limited circumstances, the adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. An application for extension must be completed and submitted by the adoptive parent prior to the date the child attains age 18. The application for extension must be made according to policies and procedures prescribed by the commissioner,

including documentation of eligibility, and on forms prescribed by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When an adoptive parent requests modification of the adoption assistance agreement, a reassessment of the child must be completed consistent with subdivision 2a. If the reassessment indicates that the child's level has changed or, for a high-risk child, that the potential disability upon which eligibility for the agreement was based has manifested itself, the agreement shall be renegotiated to include an appropriate payment, consistent with subdivision 2a. The agreement must not be modified unless the commissioner and the adoptive parent mutually agree to the changes. When the commissioner determines that a child is eligible for extension of title IV-E adoption assistance under ~~Title IV-E~~ section 473 of the Social Security Act, ~~United States Code, title 42, sections 670 to 679a,~~ the commissioner shall ~~modify the adoption assistance agreement~~ require the adoptive parents to submit the necessary documentation in order to obtain the funds under that act.

Sec. 9. Minnesota Statutes 2008, section 259.67, subdivision 4, is amended to read:

Subd. 4. **~~Eligibility conditions~~ Special needs determination.** (a) ~~The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only~~ A child is considered a child with special needs under this section if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful;

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child; ~~or~~

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iv) for a non-Indian child, the family that previously adopted a child of the same mother or father desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)~~(i) The child is a ward of the commissioner or a tribal social service agency of Minnesota recognized by the Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.~~ There has been a determination that the child cannot or should not be returned to the home of the child's parents as evidenced by:

(i) a court-ordered termination of parental rights;

(ii) a petition to terminate parental rights;

(iii) a consent to adopt accepted by the court under sections 260C.201, subdivision 11, and 259.24;

(iv) in circumstances where tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by tribal court indicating the valid reason why the child cannot or should not return home;

(v) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or

(vi) the death of the legal parent.

(b) The characteristics or circumstances that may be considered in determining whether a child meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:

(1) The child is a member of a sibling group to be ~~placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3)~~ adopted at the same time by the same parent.

(2) The child has been determined by the Social Security Administration to meet all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits.

~~(2)~~ (3) The child has documented physical, mental, emotional, or behavioral disabilities not covered under clause (2).

~~(3)~~ (4) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

~~(4)~~ (5) The child is five years of age or older.

(6) The child is placed for adoption in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability upon which eligibility for the agreement was based manifests itself as documented by an appropriate ~~health care~~ professional.

(d) Documentation must be provided to verify that a child meets the special needs criteria in this subdivision. Documentation is limited to evidence deemed appropriate by the commissioner.

Sec. 10. Minnesota Statutes 2008, section 259.67, subdivision 5, is amended to read:

Subd. 5. **Determination of residency.** A child placed in the state from another state or a tribe outside of the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child. A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement,

regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

Sec. 11. Minnesota Statutes 2008, section 259.67, subdivision 7, is amended to read:

Subd. 7. **Reimbursement of costs.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing child-specific adoption services. Adoption services under this subdivision may include ~~adoptive family~~ child-specific recruitment, ~~counseling, and special~~ training ~~when needed~~, and home studies for prospective adoptive parents, and placement services.

(b) An eligible child must have a goal of adoption, which may include an adoption in accordance with tribal law, and meet one of the following criteria:

(1) is a ward of the commissioner of human services or a ward of tribal court pursuant to section 260.755, subdivision 20, who meets one of the criteria in subdivision 4, paragraph (a), clause (3), and one of the criteria in subdivision 4, paragraph (b)~~, clause (1), (2), or (3)~~; or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the criteria in subdivision 4, paragraph (b), clause (1) ~~or~~, (2), (3), (5), or (6).

(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into with the commissioner. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. ~~The commissioner of human services~~ Reimbursement shall ~~agree~~ not be made unless the commissioner agrees that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to $16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner and agreed to in writing by the commissioner prior to commencement of services. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Sec. 12. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 11. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including information to prospective

adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must also be informed as to the adoption tax credit.

Sec. 13. Minnesota Statutes 2008, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5; ~~and~~

(4) place siblings removed from their home in the same home for foster care, adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

~~(4)~~ (5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its

prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency

decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 14. Minnesota Statutes 2008, section 260B.007, subdivision 7, is amended to read:

Subd. 7. **Foster care.** ~~"Foster care" means the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes.~~ "Foster care" means 24-hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Sec. 15. Minnesota Statutes 2008, section 260B.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate. The team may be the same team as defined in section 260C.157, subdivision 3.

(b) If the court, prior to, or as part of, a final disposition, proposes to place a child:

(1) for the primary purpose of treatment for an emotional disturbance, and residential placement is consistent with section 260.012, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A; or

(2) in any out-of-home setting potentially exceeding 30 days in duration, including a ~~postdispositional~~ post-dispositional placement in a facility licensed by the commissioner of corrections or human services, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either:

(i) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or

(ii) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

Sec. 16. Minnesota Statutes 2008, section 260B.198, subdivision 1, is amended to read:

Subdivision 1. **Court order, findings, remedies, treatment.** If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(1) counsel the child or the parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(3) <u>if the court determines that the child is a danger to self or others,</u> subject to the supervision of the court, transfer legal custody of the child to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency; or

(iii) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(iv) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(v) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) transfer legal custody by commitment to the commissioner of corrections;

(5) if the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(6) require the child to pay a fine of up to $1,000. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(7) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(8) if the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize;

(9) if the court believes that it is in the best interest of the child and of public safety that the child is enrolled in school, the court may require the child to remain enrolled in a public school until the child reaches the age of 18 or completes all requirements needed to graduate from high school. Any child enrolled in a public school under this clause is subject to the provisions of the Pupil Fair Dismissal Act in chapter 127;

(10) if the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding, the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing;

(11) if the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court must be experienced

in the evaluation and treatment of juvenile sex offenders. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

(i) medical data under section 13.384;

(ii) corrections and detention data under section 13.85;

(iii) health records under sections 144.291 to 144.298;

(iv) juvenile court records under section 260B.171; and

(v) local welfare agency records under section 626.556.

Data disclosed under this clause may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law;

(12) if the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs;

(13) any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered and shall also set forth in writing the following information:

(i) why the best interests of the child are served by the disposition ordered; and

(ii) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Sec. 17. Minnesota Statutes 2008, section 260C.007, subdivision 18, is amended to read:

Subd. 18. **Foster care.** "Foster care" means 24 hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. "Foster care" includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. "Foster care" does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Sec. 18. Minnesota Statutes 2008, section 260C.007, subdivision 25, is amended to read:

Subd. 25. **Parent.** "Parent" means ~~the birth or adoptive parent of a minor.~~ a person who has a legal parent and child relationship with a child under section 257.52 which confers or imposes

on the person legal rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship. For ~~an Indian child~~ matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14. For matters governed by the Indian Child Welfare Act, parent does not include the unwed father where paternity has not been acknowledged or established. Parent does not mean a putative father of a child unless the putative father also meets the requirements of section 257.55 or unless the putative father is entitled to notice under section 259.49, subdivision 1.

Sec. 19. **[260C.150] DILIGENT EFFORTS TO IDENTIFY PARENTS OF A CHILD; PROCEDURES FOR REVIEW; REASONABLE EFFORTS.**

Subdivision 1. **Determining parentage.** A parent and child relationship may be established under this chapter according to the requirements of section 257.54 and the Minnesota Rules of Juvenile Protection Procedure.

Subd. 2. **Genetic test results; duty to cooperate.** (a) For purposes of proceedings under this chapter, a positive test result under section 257.62, subdivision 5, shall be used by the court to treat a person determined to be the biological father of a child by a positive test as if the individual were a presumed father under section 257.55, including giving the biological father the right to notice of proceedings and the right to be assessed and considered for day-to-day care of his child under section 260C.212, subdivision 4.

(b) Nothing in this subdivision relieves a person determined to be the biological father of the child by a positive test from the duty to cooperate with paternity establishment proceedings under section 260C.212, subdivision 4.

Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social services agency shall make diligent efforts to identify and locate both parents of any child who is the subject of proceedings under this chapter. Diligent efforts include:

(1) asking the custodial or known parent to identify any nonresident parent of the child and provide information that can be used to verify the nonresident parent's identity including the dates and locations of marriages and divorces, dates and locations of any legal proceedings regarding paternity, date and place of the child's birth, nonresident parent's full legal name, nonresident parent's date of birth, if the nonresident parent's date of birth is unknown, an approximate age, the nonresident parent's Social Security number, the nonresident parent's whereabouts including last known whereabouts, and the whereabouts of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent" means a parent who does not reside in the same household as the child or did not reside in the same household as the child at the time the child was removed when the child is in foster care;

(2) obtaining information that will identify and locate the nonresident parent from the county and state of Minnesota child support enforcement information system;

(3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and

(4) using any other reasonable means to identify and locate the nonresident parent.

(b) The agency may disclose data which is otherwise private under section 13.46 or 626.556 in

order to carry out its duties under this subdivision.

Subd. 4. **Court inquiry regarding identities of both parents.** At the first hearing regarding the petition and at any subsequent hearings, as appropriate, the court shall inquire of the parties whether the identities and whereabouts of both parents of the child are known and correctly reflected in the petition filed with the court. If either the identity or whereabouts of both parents is not known, the court shall make inquiry on the record of any party or participant present regarding the identity and whereabouts of the unknown parent of the child.

Subd. 5. **Sworn testimony from known parent.** When the county attorney requests, the court shall have the custodial or known parent of the child sworn for the purpose of answering questions relevant to the identity of a child's other parent in any proceeding under this chapter. The county attorney may request this information at any point in the proceedings if the custodial or known parent has not been cooperative in providing information to identify and locate the nonresident parent or information that may lead to identifying and locating the nonresident parent. If the child's custodial or known parent testifies that disclosure of identifying information regarding the identity of the nonresident parent would cause either the custodial or known parent, the child, or another family member to be endangered, the court may make a protective order regarding any information necessary to protect the custodial or known parent, the child, or family member. Consistent with section 260C.212, subdivision 4, paragraph (a), clause (4), if the child remains in the care of the known or custodial parent and the court finds it in the child's best interests, the court may waive notice to the nonresident parent of the child if such notice would endanger the known or custodial parent, the child, or another family member.

Subd. 6. **Court review of diligent efforts and service.** As soon as possible, but not later than the first review hearing required under the Minnesota Rules of Juvenile Protection Procedure, unless the responsible social services agency has identified and located both parents of the child, the agency shall include in its report to the court required under the Minnesota Rules of Juvenile Protection Procedure a description of its diligent efforts to locate any parent who remains unknown or who the agency has been unable to locate. The court shall determine whether (1) diligent efforts have been made by the agency to identify both parents of the child, (2) both parents have been located, and (3) both parents have been served with the summons or notice of the proceedings required by section 260C.151 or 260C.152 and the Minnesota Rules of Juvenile Protection Procedure. If the court determines the agency has not made diligent efforts to locate both parents of the child or if both parents of the child have not been served as required by the rules, the court shall order the agency to take further steps to identify and locate both parents of the child identifying what further specific efforts are appropriate. If the summons has not been served on the parent as required by section 260C.151, subdivision 1, the court shall order further efforts to complete service.

Subd. 7. **Reasonable efforts findings.** When the court finds the agency has made diligent efforts to identify and locate both parents of the child and one or both parents remain unknown or cannot be located, the court may find that the agency has made reasonable efforts under sections 260.012, 260C.178, 260C.201, and 260C.301, subdivision 8, regarding any parent who remains unknown or cannot be located. The court may also find that further reasonable efforts for reunification with the parent who cannot be identified or located would be futile.

Subd. 8. **Safe place for newborns.** Neither the requirements of this subdivision nor the search requirements of section 259.52, subdivision 2, apply when the agency is proceeding under section 260C.217. When the agency is proceeding under section 260C.217, the agency has no duty to

identify and locate either parent of the newborn and no notice or service of summons on either parent is required under section 260C.151 or 260C.152 or the Minnesota Rules of Juvenile Protection Procedure.

Sec. 20. Minnesota Statutes 2008, section 260C.151, subdivision 1, is amended to read:

Subdivision 1. **Issuance of summons.** After a petition has been filed and unless the parties hereinafter named voluntarily appear, the court shall set a time for a hearing and shall issue a summons requiring the child's parents or legal guardian and any person who has legal custody ~~or control~~ of the child to appear ~~with the child~~ before the court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The court shall give docket priority to any child in need of protection or services or neglected and in foster care, that contains allegations of child abuse over any other case. As used in this subdivision, "child abuse" has the meaning given it in section 630.36, subdivision 2.

Sec. 21. Minnesota Statutes 2008, section 260C.151, subdivision 2, is amended to read:

Subd. 2. **Notice; child in need of protection or services.** After a petition has been filed alleging a child to be in need of protection or services and unless the persons named in ~~clauses~~ clause (1) ~~to (4)~~ or (2) voluntarily ~~appear or are summoned according to subdivision 1~~ appears, the court shall issue a notice to:

~~(1) an adjudicated or presumed father of the child;~~

~~(2) an alleged~~ (1) a putative father of the child, including any putative father who has timely registered with the Minnesota Fathers' Adoption Registry under section 259.52; and

~~(3) a noncustodial mother; and~~

~~(4)~~ (2) a grandparent with the right to participate under section 260C.163, subdivision 2.

Sec. 22. Minnesota Statutes 2008, section 260C.151, is amended by adding a subdivision to read:

Subd. 2a. **Notice; termination of parental rights or permanency proceeding.** (a) After a petition for termination of parental rights or petition for permanent placement of a child away from a parent under section 260C.201, subdivision 11, has been filed, the court shall set a time for the admit or deny hearing as required under the Minnesota Rules of Juvenile Protection Procedure and shall issue a summons requiring the parents of the child to appear before the court at the time and place stated. The court shall issue a notice to:

(1) a putative father who has timely registered with the Minnesota Fathers' Adoption Registry and who is entitled to notice of an adoption proceeding under section 259.49, subdivision 1; and

(2) a grandparent with the right to participate under section 260C.163, subdivision 2.

(b) Neither summons nor notice under this section or section 260C.152 of a termination of parental rights matter or other permanent placement matter under section 260C.201, subdivision 11, is required to be given to a putative father who has failed to timely register with the Minnesota Father's Adoption Registry under section 259.52 unless that individual also meets the requirements of section 257.55 or, is required to be given notice under section 259.49, subdivision 1. When a putative father is not entitled to notice under this clause and is therefore not given notice, any

order terminating his rights does not give rise to a presumption of parental unfitness under section 260C.301, subdivision 1, paragraph (b), clause (4).

Sec. 23. Minnesota Statutes 2008, section 260C.151, subdivision 3, is amended to read:

Subd. 3. **Notice of pendency of case.** Notice means written notice as provided in the Minnesota Rules of Juvenile Protection Procedure. The court shall have notice of the pendency of the case and of the time and place of the hearing served ~~upon a parent, guardian, or spouse of the child, who has not been summoned as provided in subdivision 1~~ as required by subdivision 2. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 260.765.

Sec. 24. Minnesota Statutes 2008, section 260C.163, is amended by adding a subdivision to read:

Subd. 12. **Alternative dispute resolution authorized; family group decision making, parallel protection process and mediation.** The court may authorize parties and participants in any child in need of protection or services, permanency, or termination of parental rights petition to participate in any appropriate form of alternative dispute resolution including family group decision making, parallel protection process, and mediation when such alternative dispute resolution is in the best interests of the child. The court may order that a child be included in the alternative dispute resolution process, as appropriate and in the best interests of the child. An alternative dispute resolution process, including family group decision making, parallel protection process, and mediation, may be used to resolve part or all of a matter before the court at any point in the proceedings subject to approval by the court that the resolution is in the best interests of the child.

Sec. 25. Minnesota Statutes 2008, section 260C.175, subdivision 1, is amended to read:

Subdivision 1. **Immediate custody.** No child may be taken into immediate custody except:

(1) with an order issued by the court in accordance with the provisions of section 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260C.154;

(2) by a peace officer:

(i) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian, but only for the purpose of transporting the child home, to the home of a relative, or to another safe place; or

(ii) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(3) by a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(4) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4.

Sec. 26. Minnesota Statutes 2008, section 260C.176, subdivision 1, is amended to read:

Subdivision 1. **Notice; release.** If a child is taken into custody as provided in section 260C.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, ~~run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released,~~ or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, ~~custodian,~~ or other suitable ~~person~~ relative. When a child is taken into custody by a peace officer under section 260C.175, subdivision 1, clause (2), item (ii), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, ~~or~~ the county attorney, or the social services agency, provided that the agency has conducted an assessment and with the family has developed and implemented a safety plan for the child, if needed. ~~If the social services agency has determined that the child's health or welfare will not be endangered and the provision of appropriate and available services will eliminate the need for placement, the agency shall request authorization for the child's release from detention.~~ The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

Sec. 27. Minnesota Statutes 2008, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, ~~run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released,~~ or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others; not return for a court hearing; ~~run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released;~~ or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the

child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause

(2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

(h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with the requirements of sections 260C.151, 260C.212, and 260C.215.

(k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement ~~due solely to the child's own behavior~~ for treatment or a child is placed with a previously noncustodial parent who is not parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan ~~for~~ to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

Sec. 28. Minnesota Statutes 2008, section 260C.178, subdivision 3, is amended to read:

Subd. 3. **Parental visitation.** (a) If a child has been taken into custody under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (2), item (ii), and the court determines that the child should continue in foster care, the court shall include in its order ~~reasonable rules for supervised or unsupervised~~ notice that the responsible social services agency has a duty to develop and implement a plan for parental visitation of and contact with the child ~~in the foster care facility~~ that promotes the parent and child relationship unless ~~it~~ the court finds that visitation would endanger the child's physical or emotional well-being.

(b) Unless the court finds that visitation would endanger the child's physical or emotional well-being or unless paragraph (c) or (d) apply, the plan for parental visitation required under

section 260C.212, subdivision 1, paragraph (c), clause (5), must be developed and implemented by the agency and the child's parents as soon as possible after the court's order for the child to continue in foster care.

(c) When a parent has had no or only limited visitation or contact with the child prior to the court order for the child to continue in foster care, the court shall not order a visitation plan developed and implemented until the agency has conducted the assessment of the parent's ability to provide day-to-day care for the child required under section 260C.212, subdivision 4.

(d) When it is in the best interests of the child, the agency may ask the court to defer its duty to develop a visitation plan between a putative father and the child until the paternity status of the child's father is adjudicated or until there is a positive test result under section 257.62, subdivision 5.

(e) The visitation plan developed under this subdivision is the same visitation plan required under section 260C.212, subdivision 1, paragraph (c), clause (5).

Sec. 29. Minnesota Statutes 2008, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. **Dispositions.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home; and

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In making a foster care placement for a child whose custody has been transferred under this subdivision, the agency shall make an individualized determination of how the placement is in the child's best interests using the consideration for relatives and the best interest factors in section 260C.212, subdivision 2, paragraph (b); or

(3) order a trial home visit without modifying the transfer of legal custody to the responsible social services agency under clause (2). Trial home visit means the child is returned to the care of the parent or guardian from whom the child was removed for a period not to exceed six months. During the period of the trial home visit, the responsible social services agency:

(i) shall continue to have legal custody of the child, which means the agency may see the child in the parent's home, at school, in a child care facility, or other setting as the agency deems necessary and appropriate;

(ii) shall continue to have the ability to access information under section 260C.208;

(iii) shall continue to provide appropriate services to both the parent and the child during the period of the trial home visit;

(iv) without previous court order or authorization, may terminate the trial home visit in order to protect the child's health, safety, or welfare and may remove the child to foster care;

(v) shall advise the court and parties within three days of the termination of the trial home visit when a visit is terminated by the responsible social services agency without a court order; and

(vi) shall prepare a report for the court when the trial home visit is terminated whether by the agency or court order which describes the child's circumstances during the trial home visit and recommends appropriate orders, if any, for the court to enter to provide for the child's safety and stability. In the event a trial home visit is terminated by the agency by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within ten days of receiving notice of the termination of the trial home visit by the agency and shall order disposition under this subdivision or conduct a permanency hearing under subdivision 11 or 11a. The time period for the hearing may be extended by the court for good cause shown and if it is in the best interests of the child as long as the total time the child spends in foster care without a permanency hearing does not exceed 12 months;

(4) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical or mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(5) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child~~; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision~~;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child or of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Sec. 30. Minnesota Statutes 2008, section 260C.201, subdivision 5, is amended to read:

Subd. 5. **Visitation.** If the court orders ~~that~~ the child ~~be placed outside of the child's home or present residence~~ into foster care, ~~it shall set reasonable rules for~~ the court shall review and either modify or approve the agency's plan for supervised or unsupervised ~~parental~~ visitation that ~~contribute~~ contributes to the objectives of the ~~court order and~~ court-ordered case plan, the maintenance of the familial relationship, and that meets the requirements of section 260C.212, subdivision 1, paragraph (c), clause (5). No parent may be denied visitation unless the court finds at the disposition hearing that the visitation ~~would act to prevent the achievement of the order's objectives or that it~~ would endanger the child's physical or emotional well-being, is not in the child's best interests, or is not required under section 260C.178, subdivision 3, paragraph (c) or (d). The court shall ~~set reasonable rules~~ review and either modify or approve the agency plan for visitation for any relatives as defined in section 260C.007, subdivision 27, and with siblings of the child, if visitation is consistent with the best interests of the child.

Sec. 31. Minnesota Statutes 2008, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to subdivision 8 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178,

subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the residential facility including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a residential facility, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child. At a minimum, the documentation must include child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) efforts to ensure the child's educational stability while in foster care, including:

(i) efforts to ensure that the child in placement remains in the same school in which the child

was enrolled prior to placement, including efforts to work with the local education authorities to ensure the child's educational stability; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(8) the ~~health and~~ educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's ~~health and~~ educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) ~~assurances that~~ a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

~~(v) a record of the child's immunizations;~~

~~(vi) the child's known medical problems, including any known communicable diseases, as defined in section 144.4172, subdivision 2;~~

~~(vii) the child's medications; and~~

~~(viii) any other relevant health and education information;~~

(v) any other relevant educational information;

~~(8)~~ (9) the efforts by the local agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, will be monitored and treated while the child is in foster care;

(iii) how the child's medical information will be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals will be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(10) the health records of the child including information available regarding:

(i) the name and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(11) an independent living plan for a child age 16 or older who is in placement as a result of a permanency disposition. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management;

(v) planning for housing;

(vi) social and recreational skills; and

(vii) establishing and maintaining connections with the child's family and community; and

~~(9)~~ (12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 32. Minnesota Statutes 2008, section 260C.212, subdivision 2, is amended to read:

Subd. 2. **Placement decisions based on best interest of the child.** (a) The policy of the state

of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical, educational, and developmental needs of the child;

(3) the child's history and past experience;

(4) the child's religious and cultural needs;

(5) the child's connection with a community, school, and ~~church~~ faith community;

(6) the child's interests and talents;

(7) the child's relationship to current caretakers, parents, siblings, and relatives; and

(8) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is ~~determined not to be in the best interests of a sibling~~ documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after ~~appropriate~~ reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, a completed background study is required under section 245C.08 before the approval of a foster placement in a related or unrelated home.

Sec. 33. Minnesota Statutes 2008, section 260C.212, subdivision 4a, is amended to read:

Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child, including whether the child is enrolled and attending school as required by law.

Sec. 34. Minnesota Statutes 2008, section 260C.212, subdivision 5, is amended to read:

Subd. 5. **Relative search.** (a) ~~In implementing the requirement that the responsible social services agency must~~ The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under subdivision 2 without delay ~~after identifying the need for placement of the child in foster care, the responsible social services agency shall identify relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child~~. The relative search required by this section shall be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified. The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. The relatives must be notified ~~that they must~~:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency informed of their current address in order to receive notice in the event that a permanent placement is ~~being~~ sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later~~.~~;

(3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice; and

(4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home.

(b) A responsible social services agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate possible placement with relatives. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that relatives or

a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

(e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision.

Sec. 35. Minnesota Statutes 2008, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) There shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193;

260C.201, subdivision 1 or 11; 260C.141, subdivision 2 or 2a, clause (2); or 260C.317 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

(1) the safety, permanency needs, and well-being of the child;

(2) the continuing necessity for and appropriateness of the placement;

(3) the extent of compliance with the out-of-home placement plan;

(4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;

(5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and

(6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), item (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.245. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) The court shall make findings regarding progress toward or accomplishment of the following goals:

(i) the child has obtained a high school diploma or its equivalent;

(ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;

(iii) the child is employed or enrolled in postsecondary education;

(iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

(e) When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.

Sec. 36. Minnesota Statutes 2008, section 260D.02, subdivision 5, is amended to read:

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent ~~that the child's level of care requires placement in foster care either~~ when it is determined that foster care is medically necessary:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Sec. 37. Minnesota Statutes 2008, section 260D.03, subdivision 1, is amended to read:

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or medical necessity screenings under section 256B.092, subdivision 7, determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency

legal authority to place the child in foster care.

Sec. 38. Minnesota Statutes 2008, section 484.76, subdivision 2, is amended to read:

Subd. 2. **Scope.** Alternative dispute resolution methods provided for under the rules must include arbitration, private trials, neutral expert fact-finding, mediation, minitrials, consensual special magistrates including retired judges and qualified attorneys to serve as special magistrates for binding proceedings with a right of appeal, and any other methods developed by the Supreme Court. The methods provided must be nonbinding unless otherwise agreed to in a valid agreement between the parties. Alternative dispute resolution may not be required in guardianship, conservatorship, or civil commitment matters; ~~proceedings in the juvenile court under chapter 260;~~ or in matters arising under section 144.651, 144.652, 518B.01, or 626.557.

Sec. 39. **REPEALER.**

Minnesota Rules, parts 9560.0081; 9560.0083, subparts 1, 5, and 6; and 9560.0091, subpart 4, item C, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; changing child welfare provisions; making technical and policy changes; clarifying data practices; authorizing children's mental health screening by tribes; changing certain adoption provisions; modifying adoption assistance eligibility, agreements, and benefits; changing foster care provisions; requiring diligent efforts to identify parents of a child; changing notice requirements for termination of parental rights or permanency proceedings; authorizing alternative dispute resolution; changing parental visitation; requiring additional information in a child's out-of-home placement plan; amending Minnesota Statutes 2008, sections 13.46, subdivision 2; 256.01, subdivision 14b; 259.52, subdivisions 2, 6; 259.67, subdivisions 1, 2, 3, 4, 5, 7, by adding subdivisions; 260.012; 260.93; 260B.007, subdivision 7; 260B.157, subdivision 3; 260B.198, subdivision 1; 260C.007, subdivisions 18, 25; 260C.151, subdivisions 1, 2, 3, by adding a subdivision; 260C.163, by adding a subdivision; 260C.175, subdivision 1; 260C.176, subdivision 1; 260C.178, subdivisions 1, 3; 260C.201, subdivisions 1, 3, 5, 11; 260C.209, subdivision 3; 260C.212, subdivisions 1, 2, 4, 4a, 5, 7; 260D.02, subdivision 5; 260D.03, subdivision 1; 260D.07; 484.76, subdivision 2; Laws 2008, chapter 361, article 6, section 58; proposing coding for new law in Minnesota Statutes, chapter 260C; repealing Minnesota Statutes 2008, section 260C.209, subdivision 4; Minnesota Rules, parts 9560.0081; 9560.0083, subparts 1, 5, 6; 9560.0091, subpart 4, item C."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Patricia Torres Ray, Mee Moua, Warren Limmer

House Conferees: (Signed) Larry Hosch, Erin Murphy, Tara Mack

Senator Torres Ray moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1503 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1503 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olson, G.	Scheid
Berglin	Fischbach	Kubly	Olson, M.	Sheran
Betzold	Fobbe	Langseth	Ortman	Sieben
Bonoff	Foley	Latz	Pappas	Skoe
Carlson	Frederickson	Limmer	Pariseau	Skogen
Chaudhary	Gerlach	Lourey	Pogemiller	Sparks
Clark	Gimse	Lynch	Prettner Solon	Stumpf
Cohen	Hann	Marty	Rest	Tomassoni
Dahle	Higgins	Metzen	Robling	Torres Ray
Day	Ingebrigtsen	Michel	Rosen	Vandeveer
Dibble	Johnson	Moua	Rummel	Vickerman
Dille	Jungbauer	Murphy	Saltzman	Wiger
Doll	Kelash	Olseen	Saxhaug	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 29 and 1208.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 971: A bill for an act relating to education; providing for harassment, bullying, intimidation, hazing, and violence policies; amending Minnesota Statutes 2008, sections 121A.03; 124D.10, subdivision 8; repealing Minnesota Statutes 2008, sections 121A.0695; 121A.69.

Senate File No. 971 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

CONCURRENCE AND REPASSAGE

Senator Dibble moved that the Senate concur in the amendments by the House to S.F. No. 971 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 971: A bill for an act relating to education; providing for harassment, bullying, intimidation, and violence policies; amending Minnesota Statutes 2008, sections 121A.03; 124D.10, subdivision 8; repealing Minnesota Statutes 2008, section 121A.0695.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 46 and nays 8, as follows:

Those who voted in the affirmative were:

Bakk	Erickson Ropes	Latz	Pappas	Sieben
Berglin	Fischbach	Lourey	Pogemiller	Skoe
Betzold	Fobbe	Lynch	Prettner Solon	Stumpf
Bonoff	Foley	Metzen	Rest	Tomassoni
Carlson	Gimse	Michel	Robling	Vickerman
Clark	Higgins	Moua	Rosen	Wiger
Dahle	Kelash	Murphy	Saltzman	
Dibble	Koering	Olseen	Scheid	
Dille	Kubly	Olson, M.	Senjem	
Doll	Langseth	Ortman	Sheran	

Those who voted in the negative were:

Day	Hann	Limmer	Pariseau
Gerlach	Johnson	Olson, G.	Vandeveer

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 191: A bill for an act relating to retirement; various retirement plans; making various

statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a

subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 471.61, subdivision 1; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

There has been appointed as such committee on the part of the House:

Murphy, M.; Kahn; Thissen; Nelson and Smith.

Senate File No. 191 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1331, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1331: A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system

requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; changing certain caucus and campaign provisions; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2; 205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 211B.20, subdivisions 1, 2; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169;

204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5.

Senate File No. 1331 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1503, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1503: A bill for an act relating to human services; changing child welfare provisions; modifying provisions governing adoption records; amending Minnesota Statutes 2008, sections 13.46, subdivision 2; 256.01, subdivision 14b; 259.52, subdivisions 2, 6; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.012; 260.93; 260B.007, subdivision 7; 260B.157, subdivision 3; 260B.198, subdivision 1; 260C.007, subdivisions 18, 25; 260C.151, subdivisions 1, 2, 3, by adding a subdivision; 260C.163, by adding a subdivision; 260C.175, subdivision 1; 260C.176, subdivision 1; 260C.178, subdivisions 1, 3; 260C.201, subdivisions 1, 3, 5, 11; 260C.209, subdivision 3; 260C.212, subdivisions 1, 2, 4, 4a, 5, 7; 260D.02, subdivision 5; 260D.03, subdivision 1; 260D.07; 484.76, subdivision 2; Laws 2008, chapter 361, article 6, section 58; proposing coding for new law in Minnesota Statutes, chapter 260C; repealing Minnesota Statutes 2008, section 260C.209, subdivision 4.

Senate File No. 1503 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1880:

H.F. No. 1880: A bill for an act relating to veterans; requiring an interview for veterans listed as meeting minimum qualifications and claiming veterans preference for positions of state government employment; applying to state civil service certain removal provisions in current local government law; requiring a report of certain state employment statistics pertaining to veterans; amending Minnesota Statutes 2008, sections 43A.11, subdivision 7; 197.455, subdivision 1.

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

Severson, Hausman and Juhnke have been appointed as such committee on the part of the House.

House File No. 1880 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

Senator Gerlach moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1880, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 1237: Senators Chaudhary, Skogen, Fobbe, Ingebrigtsen and Moua.

H.F. No. 1880: Senators Gerlach, Sieben and Vickerman.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1504 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1504

A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; changing special contracts with bordering states; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4835, subdivisions 1, 2; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8, by adding a subdivision; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

May 17, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1504 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1504 be further amended as follows:

Page 3, after line 34, insert:

"Sec. 4. Minnesota Statutes 2008, section 245.4871, subdivision 26, is amended to read:

Subd. 26. **Mental health practitioner.** "Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and:

(i) has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to children with emotional disturbances, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; hours worked as a mental health behavioral aide I or II under section 256B.0943, subdivision 7, may be included in the 6,000 hours of experience;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance."

Page 8, after line 9, insert:

"(h) Paragraph (c), clause (2), is effective for services provided on or after January 1, 2010, to December 31, 2011, and does not change contracts or agreements relating to services provided before January 1, 2010."

Page 8, after line 33, insert:

"(f) This subdivision is effective for services provided on or after January 1, 2010, to December 31, 2011, and does not change contracts or agreements relating to services provided before January

1, 2010."

Page 11, delete section 13 and insert:

"Sec. 14. Minnesota Statutes 2008, section 256B.0943, subdivision 1, is amended to read:

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

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) "County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured program consisting of group psychotherapy for more than three individuals and other intensive therapeutic services provided by a multidisciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision 11.

(h) "Direct service time" means the time that a mental health professional, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family. Direct service time includes time in which the provider obtains a client's history or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision ~~directly related to the client's psychotherapy session~~, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21.

(m) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a trained paraprofessional to assist a child retain or generalize psychosocial skills as taught by a mental health professional or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

~~(m)~~ (n) "Mental health professional" means an individual as defined in section 245.4871, subdivision 27, clauses (1) to (5), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b).

~~(n)~~ (o) "Preschool program" means a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and supports provider to provide a structured treatment program to a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

~~(o)~~ (p) "Skills training" means individual, family, or group training, delivered by or under the direction of a mental health professional, designed to ~~improve the basic functioning of the child with emotional disturbance and the child's family in the activities of daily living and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. Individual, family, and group skills training must:~~

~~(1) consist of activities designed to promote skill development of the child and the child's family in the use of age-appropriate daily living skills, interpersonal and family relationships, and leisure and recreational services;~~

~~(2) consist of activities that will assist the family's understanding of normal child development and to use parenting skills that will help the child with emotional disturbance achieve the goals outlined in the child's individual treatment plan; and~~

~~(3) promote family preservation and unification, promote the family's integration with the community, and reduce the use of unnecessary out-of-home placement or institutionalization of children with emotional disturbance.~~ facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the following requirements:

(1) a mental health professional or a mental health practitioner must provide skills training;

(2) the child must always be present during skills training; however, a brief absence of the

child for no more than ten percent of the session unit may be allowed to redirect or instruct family members;

(3) skills training delivered to children or their families must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(4) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development and to help the child use in daily life the skills previously taught by a mental health professional or mental health practitioner and to develop or maintain a home environment that supports the child's progressive use skills;

(5) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(i) one mental health professional or one mental health practitioner under supervision of a licensed mental health professional must work with a group of four to eight clients; or

(ii) two mental health professionals or two mental health practitioners under supervision of a licensed mental health professional, or one professional plus one practitioner must work with a group of nine to 12 clients."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 5, delete everything before "changing"

Correct the title numbers

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Linda Berglin, Ann Lynch, Michelle Fischbach

House Conferees: (Signed) Larry Hosch, Jeff Hayden, Carol McFarlane

Senator Berglin moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1504 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1504 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 62 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Bonoff	Dahle	Doll	Foley
Bakk	Carlson	Day	Erickson Ropes	Gerlach
Berglin	Chaudhary	Dibble	Fischbach	Gimse
Betzold	Clark	Dille	Fobbe	Hann

Higgins	Latz	Olson, G.	Rummel	Sparks
Ingebrigtsen	Limmer	Ortman	Saltzman	Stumpf
Johnson	Lourey	Pappas	Saxhaug	Tomassoni
Jungbauer	Lynch	Pariseau	Scheid	Torres Ray
Kelash	Metzen	Pogemiller	Senjem	Vickerman
Koch	Michel	Prettner Solon	Sheran	Wiger
Koering	Moua	Rest	Sieben	
Kubly	Murphy	Robling	Skoe	
Langseth	Olseen	Rosen	Skogen	

Those who voted in the negative were:

Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Pogemiller, Chair of the Committee on Rules and Administration, designated H.F. No. 927 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 927: A bill for an act relating to labor and industry; modifying construction codes and licensing; exempting certain municipal building ordinances; requiring rulemaking; amending Minnesota Statutes 2008, sections 326B.082, subdivision 12; 326B.084; 326B.121, by adding a subdivision; 326B.43, subdivision 1, by adding a subdivision; 326B.435, subdivisions 2, 6; 326B.475, subdivisions 1, 6; 326B.52; 326B.53; 326B.55; 326B.57; 326B.58; 326B.59; 326B.801; 326B.84; 326B.921, subdivision 1; 326B.974; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, section 326B.43, subdivision 5.

Senator Scheid moved to amend H.F. No. 927, as amended pursuant to Rule 45, adopted by the Senate May 16, 2009, as follows:

(The text of the amended House File is identical to S.F. No. 1004.)

Page 2, line 20, after the period, insert "Nothing in this subdivision prohibits an offer to sell, repair, or perform services provided those services are performed by a licensed person."

Page 3, after line 9, insert:

"Sec. 5. Minnesota Statutes 2008, section 326B.43, is amended by adding a subdivision to read:

Subd. 1a. **Licenses; experience.** All state plumbing inspectors and plumbing inspectors contracted by the department shall hold licenses as master or journeyman plumbers and have five years of documented practical plumbing experience under this chapter."

Page 3, line 24, strike "except for rules regulating continuing education,"

Page 3, strike lines 32 and 33 and insert:

"(6) adopt rules that regulate continuing education for individuals licensed as master plumbers, journeyman plumbers, restricted master plumbers, restricted journeyman plumbers, water

conditioning contractors, and water conditioning installers. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);"

Page 4, after line 19, insert:

"Sec. 7. Minnesota Statutes 2008, section 326B.435, subdivision 6, is amended to read:

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each plumbing code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next plumbing code rulemaking proceeding initiated by the board. If a plumbing code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the plumbing code amendment shall not be included in the next plumbing code rulemaking proceeding initiated by the board.

(c) If the plumbing code amendment considered by the board is to replace the Minnesota Plumbing Code with a model plumbing code, then the amendment may only be included in the next plumbing code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider plumbing code amendments during an active plumbing code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the plumbing code amendment is presented to the board. The board may also reconsider failed plumbing code amendments in subsequent plumbing code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), ~~clause~~ clauses (5) or (6), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider proposed rules or rule amendments during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Sec. 8. **[326B.438] MEDICAL GAS SYSTEMS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Medical gas" means medical gas as defined under the National Fire Protection Association

NFPA 99C Standard on Gas and Vacuum Systems.

(c) "Medical gas system" means a level 1, 2, or 3 piped medical gas and vacuum system as defined under the National Fire Protection Association NFPA 99C Standard on Gas and Vacuum Systems.

Subd. 2. **License and certification required.** A person shall not engage in the installation, maintenance, or repair of a medical gas system unless the person possesses a current Minnesota master or journeyman plumber's license and is certified by the commissioner under rules adopted by the Minnesota Plumbing Board. The certification must be renewed annually for as long as the certificate holder engages in the installation, maintenance, or repair of medical gas and vacuum systems. If a medical gas and vacuum system certificate is not renewed within 12 months after its expiration the medical gas and vacuum certificate is permanently forfeited.

Subd. 3. **Exemptions.** (a) A person who on the effective date of this section holds a valid certificate authorized by the American Society of Sanitary Engineering (ASSE) in accordance with standards recommended by the National Fire Protection Association under NFPA 99C is exempt from the requirements of subdivision 2. This exemption applies only if the person maintains a valid certification authorized by the ASSE.

(b) A person who on the effective date of this section possesses a current Minnesota master or journeyman plumber's license and a valid certificate authorized by the ASSE in accordance with standards recommended by the National Fire Protection Association under NFPA 99C is exempt from the requirements of subdivision 2 and may install, maintain, and repair a medical gas system. This exemption applies only if a person maintains a valid Minnesota master or journeyman plumber's license and valid certification authorized by the ASSE.

Subd. 4. **Fees.** The fee for a medical gas certificate issued by the commissioner according to subdivision 2 is $30 per year.

EFFECTIVE DATE. This section is effective August 1, 2009, except that the requirement under subdivision 2 that a master or journeyman plumber must be certified by the Minnesota Plumbing Board and the fee in subdivision 4 are not effective until 180 days after the board adopts rules.

Sec. 9. Minnesota Statutes 2008, section 326B.475, subdivision 1, is amended to read:

Subdivision 1. **Licensure.** (a) The commissioner of labor and industry shall grant a restricted journeyman or restricted master plumber license to an individual if:

(1) the individual completes an application with information required by the commissioner of labor and industry;

(2) the completed application is accompanied by a fee of $30;

(3) the commissioner of labor and industry receives the completed application and fee ~~before October 1, 2008~~ between October 1, 2009, and October 15, 2009;

(4) the completed application for a restricted journeyman plumber license demonstrates that, prior to the application, the applicant has had at least two years of practical plumbing experience in the plumbing trade; and

(5) the completed application for a restricted master plumber license demonstrates that, prior to

the application, the applicant has had:

(i) at least four years of practical plumbing experience in the plumbing trade; or

(ii) at least two years of practical plumbing experience as a plumbing contractor in the plumbing trade.

(b) ~~Until October 1, 2008~~ For applications received between October 1, 2009, and October 15, 2009, the commissioner may waive penalties for an applicant who failed to post a bond after June 30, 1999, under section 326B.46, subdivision 2, if the commissioner finds that the penalty would cause undue hardship or the waiver is otherwise warranted under the circumstances."

Page 10, after line 18, insert:

"Sec. 21. Minnesota Statutes 2008, section 326B.974, is amended to read:

326B.974 SCHOOL ENGINEER ~~OPERATIONAL REQUIREMENTS.~~

Subdivision 1. **License required.** Any custodial engineer employed by a school whose duties include the operation of a boiler shall be licensed pursuant to section 326B.978, to operate the particular class of boiler used in the school.

Subd. 2. **School district training.** A school district shall allow to occur annually at least eight hours of training related to boiler operation to a licensee described in subdivision 1. The training must be administered by a licensed first or chief class engineer during the licensee's normal working hours. Two hours of the required training shall occur in the boiler room and must include demonstration of tasks associated with operating boilers. The tasks associated with operating boilers acceptable for the training must be from the list of approved tasks supplied by the chief boiler inspector. The administrator of the training shall receive training credit for time spent administering training pursuant to this subdivision."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 927 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 6, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olson, G.	Sheran
Bakk	Erickson Ropes	Koering	Pappas	Sieben
Berglin	Fischbach	Kubly	Pariseau	Skoe
Betzold	Fobbe	Langseth	Pogemiller	Skogen
Bonoff	Frederickson	Latz	Prettner Solon	Sparks
Carlson	Gerlach	Lourey	Rest	Stumpf
Chaudhary	Gimse	Marty	Rosen	Tomassoni
Clark	Hann	Metzen	Rummel	Torres Ray
Dahle	Higgins	Michel	Saltzman	Vickerman
Day	Ingebrigtsen	Moua	Saxhaug	Wiger
Dibble	Johnson	Murphy	Scheid	
Dille	Kelash	Olseen	Senjem	

Those who voted in the negative were:

Foley	Limmer	Robling
Jungbauer	Ortman	Vandeveer

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

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Olson, M. moved that the following members be excused for a Conference Committee on H.F. No. 705 at 7:30 p.m.:

Senators Olson, M.; Sheran and Prettner Solon. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 108.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 108: A bill for an act relating to traffic regulations; making seat belt violation a primary offense in all seating positions regardless of age; providing for increased speed limit when passing; making technical changes; amending Minnesota Statutes 2008, sections 169.14, by

adding a subdivision; 169.686, subdivisions 1, 2, by adding a subdivision; 171.05, subdivision 2b; 171.055, subdivision 2.

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 108 and that the rules of the Senate be so far suspended as to give H.F. No. 108 its second and third reading and place it on its final passage.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on H.F. No. 108. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Pogemiller motion.

The roll was called, and there were yeas 45 and nays 21, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Latz	Olson, M.	Sheran
Bakk	Dille	Lourey	Pappas	Sieben
Berglin	Erickson Ropes	Lynch	Pogemiller	Skoe
Betzold	Fobbe	Marty	Prettner Solon	Skogen
Bonoff	Foley	Metzen	Rest	Sparks
Carlson	Higgins	Michel	Rummel	Stumpf
Clark	Kelash	Moua	Saltzman	Torres Ray
Cohen	Kubly	Murphy	Saxhaug	Vickerman
Dahle	Langseth	Olseen	Scheid	Wiger

Those who voted in the negative were:

Chaudhary	Gerlach	Jungbauer	Ortman	Tomassoni
Day	Gimse	Koch	Pariseau	
Doll	Hann	Koering	Robling	
Fischbach	Ingebrigtsen	Limmer	Rosen	
Frederickson	Johnson	Olson, G.	Senjem	

The motion prevailed.

H.F. No. 108 was read the second time.

Senator Vandeveer moved to amend H.F. No. 108 as follows:

Page 1, line 11, delete "ten" and insert "12"

The question was taken on the adoption of the amendment.

Senator Murphy moved that those not voting be excused from voting.

The question was taken on the adoption of the Murphy motion.

The roll was called, and there were yeas 37 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Betzold	Bonoff	Carlson	Dahle

Dibble	Kubly	Murphy	Saxhaug	Tomassoni
Doll	Langseth	Olseen	Scheid	Torres Ray
Erickson Ropes	Latz	Olson, M.	Sheran	Vickerman
Foley	Lourey	Pogemiller	Sieben	Wiger
Higgins	Lynch	Prettner Solon	Skoe	
Johnson	Marty	Rest	Sparks	
Kelash	Metzen	Saltzman	Stumpf	

Those who voted in the negative were:

Day	Gimse	Limmer	Pariseau	Vandeveer
Dille	Hann	Michel	Robling	
Fischbach	Jungbauer	Olson, G.	Rosen	
Gerlach	Koch	Ortman	Senjem	

The motion prevailed.

The roll was called on the Vandeveer amendment, and there were yeas 14 and nays 42, as follows:

Those who voted in the affirmative were:

Day	Johnson	Koering	Ortman	Sparks
Gerlach	Jungbauer	Limmer	Pariseau	Tomassoni
Hann	Koch	Olson, G.	Senjem	

Those who voted in the negative were:

Anderson	Fischbach	Lourey	Prettner Solon	Sieben
Betzold	Foley	Lynch	Rest	Skoe
Bonoff	Frederickson	Marty	Robling	Stumpf
Carlson	Gimse	Metzen	Rosen	Torres Ray
Dahle	Higgins	Michel	Rummel	Vickerman
Dibble	Kelash	Murphy	Saltzman	Wiger
Dille	Kubly	Olseen	Saxhaug	
Doll	Langseth	Olson, M.	Scheid	
Erickson Ropes	Latz	Pogemiller	Sheran	

The motion did not prevail. So the amendment was not adopted.

Senator Vandeveer moved that H.F. No. 108 be referred to the Committee on Transportation.

The question was taken on the adoption of the motion.

Senator Pogemiller moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 17 and nays 34, as follows:

Those who voted in the affirmative were:

Day	Gimse	Koch	Robling	Vandeveer
Erickson Ropes	Hann	Koering	Senjem	
Fischbach	Johnson	Limmer	Sparks	
Gerlach	Jungbauer	Ortman	Tomassoni	

Those who voted in the negative were:

Anderson	Doll	Lourey	Pariseau	Sieben
Betzold	Foley	Lynch	Pogemiller	Skoe
Bonoff	Higgins	Marty	Rest	Stumpf
Carlson	Kelash	Metzen	Rosen	Torres Ray
Dahle	Kubly	Michel	Saltzman	Vickerman
Dibble	Langseth	Murphy	Saxhaug	Wiger
Dille	Latz	Olseen	Scheid	

The motion did not prevail.

Senator Vandeveer moved to amend H.F. No. 108 as follows:

Page 5, after line 17, insert:

"Sec. 7. **LOCAL OPTION.**

Notwithstanding any law to the contrary, a county by resolution of its governing body may prohibit primary enforcement seat belt laws."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

Senator Pogemiller moved that those not voting be excused from voting.

The question was taken on the adoption of the Pogemiller motion:

The roll was called, and there were yeas 35 and nays 17 as follows:

Those who voted in the affirmative were:

Anderson	Doll	Latz	Pogemiller	Skoe
Bakk	Erickson Ropes	Lourey	Rest	Sparks
Betzold	Foley	Lynch	Rummel	Stumpf
Bonoff	Higgins	Marty	Saltzman	Tomassoni
Carlson	Kelash	Metzen	Saxhaug	Torres Ray
Dahle	Kubly	Murphy	Scheid	Vickerman
Dibble	Langseth	Olseen	Sieben	Wiger

Those who voted in the negative were:

Fischbach	Johnson	Limmer	Pariseau	Vandeveer
Gerlach	Jungbauer	Michel	Robling	
Gimse	Koch	Olson, G.	Rosen	
Hann	Koering	Ortman	Senjem	

The motion prevailed.

The roll was called on the second Vandeveer amendment, and there were yeas 14 and nays 37, as follows:

Those who voted in the affirmative were:

Gerlach	Jungbauer	Limmer	Robling	Tomassoni
Hann	Koch	Ortman	Senjem	Vandeveer
Johnson	Koering	Pariseau	Sparks	

Those who voted in the negative were:

Anderson	Doll	Langseth	Pogemiller	Skoe
Bakk	Erickson Ropes	Lourey	Rest	Stumpf
Betzold	Fischbach	Lynch	Rosen	Torres Ray
Bonoff	Foley	Marty	Rummel	Vickerman
Carlson	Gimse	Metzen	Saltzman	Wiger
Dahle	Higgins	Michel	Saxhaug	
Dibble	Kelash	Murphy	Scheid	
Dille	Kubly	Olseen	Sieben	

The motion did not prevail. So the amendment was not adopted.

Senator Pogemiller moved that further proceedings under the call of the Senate be dispensed with.

The question was taken on the adoption of the motion.

Senator Pogemiller moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 36 and nays 14, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Latz	Rest	Tomassoni
Bakk	Erickson Ropes	Lourey	Rosen	Torres Ray
Betzold	Foley	Lynch	Rummel	Vickerman
Bonoff	Higgins	Marty	Saltzman	Wiger
Carlson	Johnson	Metzen	Saxhaug	
Dahle	Kelash	Murphy	Sieben	
Dibble	Koering	Olseen	Skoe	
Dille	Langseth	Pogemiller	Stumpf	

Those who voted in the negative were:

Fischbach	Hann	Limmer	Ortman	Senjem
Gerlach	Jungbauer	Michel	Pariseau	Vandeveer
Gimse	Koch	Olson, G.	Robling	

The motion prevailed.

Senator Vandeveer moved to amend H.F. No. 108 as follows:

Page 5, after line 17, insert:

"Sec. 7. **LOCAL OPTION.**

Notwithstanding any law to the contrary, a town by resolution of its governing body may prohibit primary enforcement seat belt laws."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail. So the amendment was not adopted.

Senator Vandeveer moved to amend H.F. No. 108 as follows:

Page 5, after line 17, insert:

"Sec. 7. **LOCAL OPTION.**

Notwithstanding any law to the contrary, a city by resolution of its governing body may prohibit primary enforcement seat belt laws."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 13 and nays 39, as follows:

Those who voted in the affirmative were:

Gerlach	Jungbauer	Michel	Pariseau	Vandeveer
Hann	Koch	Olson, G.	Senjem	
Johnson	Koering	Ortman	Tomassoni	

Those who voted in the negative were:

Anderson	Doll	Latz	Pogemiller	Sieben
Bakk	Erickson Ropes	Limmer	Rest	Skoe
Betzold	Fischbach	Lourey	Robling	Sparks
Bonoff	Foley	Lynch	Rosen	Stumpf
Carlson	Gimse	Marty	Rummel	Torres Ray
Dahle	Higgins	Metzen	Saltzman	Vickerman
Dibble	Kelash	Murphy	Saxhaug	Wiger
Dille	Langseth	Olseen	Scheid	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 108 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 47 and nays 19, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Latz	Pappas	Senjem
Berglin	Foley	Lourey	Pogemiller	Sheran
Betzold	Frederickson	Lynch	Prettner Solon	Sieben
Bonoff	Gimse	Marty	Rest	Skoe
Carlson	Higgins	Metzen	Robling	Torres Ray
Clark	Ingebrigtsen	Michel	Rosen	Vickerman
Cohen	Jungbauer	Moua	Rummel	Wiger
Dahle	Kelash	Murphy	Saltzman	
Dibble	Kubly	Olseen	Saxhaug	
Dille	Langseth	Olson, M.	Scheid	

Those who voted in the negative were:

Bakk	Fobbe	Koch	Ortman	Stumpf
Day	Gerlach	Koering	Pariseau	Tomassoni
Doll	Hann	Limmer	Skogen	Vandeveer
Fischbach	Johnson	Olson, G.	Sparks	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Murphy moved that S.F. No. 42, No. 73 on General Orders, be stricken and laid on the table. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Cohen moved that the following members be excused for a Conference Committee on H.F. No. 2251 from 7:45 to 8:25 p.m.:

Senators Cohen, Berglin, Pappas, Frederickson and Clark. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 191 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 191

A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a

subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 471.61, subdivision 1; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

May 18, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 191 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 191 be further amended as follows:

Page 97, delete article 6

Page 119, after line 18, insert:

"Sec. 2. Minnesota Statutes 2008, section 423A.02, subdivision 1, is amended to read:

Subdivision 1. **Amortization state aid.** (a) A municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, that had an unfunded actuarial accrued liability in the most recent relief association actuarial valuation, is entitled, upon application as required by the commissioner of revenue, to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77. ~~If a municipality loses entitlement for amortization state aid in any year because its local relief association no longer has an unfunded actuarial accrued liability, the municipality is not entitled to amortization state aid in any subsequent year.~~

(b) The total amount of amortization state aid to all entitled municipalities must not exceed $5,055,000.

(c) Subject to the adjustment for the city of Minneapolis provided in this paragraph, the amount of amortization state aid to which a municipality is entitled annually is an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded actuarial accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared under sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded actuarial accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 8. For the city of Minneapolis, the amortization state aid amount thus determined must be reduced by $747,232 on account of the Minneapolis Police Relief Association and by $772,768 on account of the Minneapolis Fire Department Relief Association. If the amortization state aid amounts determined under this paragraph exceed the amount appropriated for this purpose, the amortization state aid for actual allocation must be reduced pro rata.

(d) Payment of amortization state aid to municipalities must be made directly to the municipalities involved in three equal installments on July 15, September 15, and November 15 annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association.

(e) The commissioner of revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid.

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

Subd. 3. **Reallocation of amortization or supplementary amortization state aid.** (a) Seventy percent of the difference between $5,720,000 and the current year amortization aid or supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a

municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute ~~70~~ 50 percent of the amounts derived under this paragraph to the Teachers Retirement Association, ten percent to the Duluth Teachers Retirement Fund Association, and ~~30~~ 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. The amount required under this paragraph is appropriated annually from the general fund to the commissioner of revenue. If the St. Paul Teachers Retirement Fund Association becomes fully funded, its eligibility for this aid ceases. Amounts remaining in the undistributed balance account at the end of the biennium if aid eligibility ceases cancel to the general fund.

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

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

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

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

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

(e) Thirty percent of the difference between $5,720,000 and the current year amortization aid or

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

Amend the title as follows:

Page 1, line 17, delete everything after the semicolon

Page 1, delete lines 18 to 20

Page 1, line 21, delete everything before the semicolon and insert "modifying amortization state aid and supplemental amortization state aid"

Renumber the sections and articles in sequence

Correct the title numbers accordingly

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Don Betzold, Sandra Pappas, Mary Olson, Ann Lynch, Julie Rosen

House Conferees: (Signed) Mary Murphy, Phyllis Kahn, Michael V. Nelson, Steve Smith

Senator Betzold moved that the foregoing recommendations and Conference Committee Report on S.F. No. 191 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 191 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 8, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kelash	Olseen	Senjem
Bakk	Doll	Koering	Olson, G.	Sieben
Berglin	Erickson Ropes	Kubly	Pappas	Skoe
Betzold	Fischbach	Langseth	Pariseau	Skogen
Bonoff	Fobbe	Latz	Pogemiller	Sparks
Carlson	Foley	Lourey	Rest	Stumpf
Clark	Frederickson	Lynch	Rosen	Tomassoni
Cohen	Gimse	Marty	Rummel	Torres Ray
Dahle	Hann	Metzen	Saltzman	Vickerman
Day	Higgins	Michel	Saxhaug	Wiger
Dibble	Ingebrigtsen	Moua	Scheid	

Those who voted in the negative were:

Gerlach	Jungbauer	Limmer	Robling
Johnson	Koch	Ortman	Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1853, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1853 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1853

A bill for an act relating to commerce; regulating various licenses, forms, coverages, disclosures, notices, marketing practices, and records; classifying certain data; removing certain state regulation of telephone solicitations; regulating the use of prerecorded or synthesized voice messages; regulating debt management services providers; permitting a deceased professional's surviving spouse to retain ownership of a professional firm under certain circumstances; amending Minnesota Statutes 2008, sections 13.716, by adding a subdivision; 45.011, subdivision 1; 45.0135, subdivision 7; 58.02, subdivision 17; 59B.01; 60A.08, by adding a subdivision; 60A.198, subdivisions 1, 3; 60A.201, subdivision 3; 60A.205, subdivision 1; 60A.2085, subdivisions 1, 3, 7, 8; 60A.23, subdivision 8; 60A.235; 60A.32; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 62A.011, subdivision 3; 62A.136; 62A.17, by adding a subdivision; 62A.29, by adding a subdivision; 62A.3099, subdivision 18; 62A.31, subdivision 1, by adding a subdivision; 62A.315; 62A.316; 62L.02, subdivision 26; 62M.05, subdivision 3a; 65A.27, subdivision 1; 65B.133, subdivisions 2, 3, 4; 67A.191, subdivision 2; 72A.20, subdivisions 15, 26; 79A.04, subdivision 1, by adding a subdivision; 79A.06, by adding a subdivision; 79A.24, subdivision 1, by adding a subdivision; 82.31, subdivision 4; 82B.08, by adding a subdivision; 82B.20, subdivision 2; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 325E.27; 332A.02, subdivision 13, as amended; 332A.14, as amended; 471.98, subdivision 2; 471.982, subdivision 3; Laws 2009, chapter 37, article 4, sections 19, subdivision 13; 20; 23; 26, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 62Q; 72A; 80A; 82B; 325E; repealing Minnesota Statutes 2008, sections 60A.201, subdivision 4; 61B.19, subdivision 6; 70A.07; 79.56, subdivision 4.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1853 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. 1853 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

REGULATION OF COMMERCE

Section 1. Minnesota Statutes 2008, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 83, 155A, 332, 332A, 345, and 359, and sections 123A.21, subdivision 7, paragraph (a), clause (23); 123A.25; 325D.30 to 325D.42~~,~~; 326B.802 to 326B.885~~, and~~; 386.61 to 386.78~~,~~; 471.617; and 471.982, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2008, section 45.0135, subdivision 7, is amended to read:

Subd. 7. **Assessment.** Each insurer authorized to sell insurance in the state of Minnesota, including surplus lines carriers, and having Minnesota earned premium the previous calendar year shall remit an assessment to the commissioner for deposit in the insurance fraud prevention account on or before June 1 of each year. The amount of the assessment shall be based on the insurer's total assets and on the insurer's total written Minnesota premium, for the preceding fiscal year, as reported pursuant to section 60A.13. The assessment is calculated ~~as follows~~ to be an amount up to the following:

Total Assets		Assessment
Less than $100,000,000	$	200
$100,000,000 to $1,000,000,000	$	750
Over $1,000,000,000	$	2,000

Minnesota Written Premium		Assessment
Less than $10,000,000	$	200
$10,000,000 to $100,000,000	$	750
Over $100,000,000	$	2,000

For purposes of this subdivision, the following entities are not considered to be insurers authorized to sell insurance in the state of Minnesota: risk retention groups; or township mutuals organized under chapter 67A.

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

Sec. 3. Minnesota Statutes 2008, section 58.02, subdivision 17, is amended to read:

Subd. 17. **Person in control.** "Person in control" means any member of senior management, including owners or officers, and other persons who possess, directly or indirectly, the power to direct or cause the direction of the management policies of an applicant or licensee under this chapter, regardless of whether the person has any ownership interest in the applicant or licensee. Control is presumed to exist if a person, directly or indirectly, owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or licensee or of a person who owns, controls, or holds with power to vote ten percent or more of the voting stock of an applicant or licensee.

Sec. 4. Minnesota Statutes 2008, section 59B.01, is amended to read:

59B.01 SCOPE AND PURPOSE.

(a) The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state.

(b) The following are exempt from this chapter:

(1) warranties;

(2) maintenance agreements;

(3) warranties, service contracts, or maintenance agreements offered by public utilities, as defined in section 216B.02, subdivision 4, or an entity or operating unit owned by or under common control with a public utility;

(4) service contracts sold or offered for sale to persons other than consumers;

(5) service contracts on tangible property where the tangible property for which the service contract is sold has a purchase price of $250 or less, exclusive of sales tax;

(6) service contracts for home security equipment installed by a licensed technology systems contractor; and

(7) motor club membership contracts that typically provide roadside assistance services to motorists stranded for reasons that include, but are not limited to, mechanical breakdown or adverse road conditions.

(c) The types of agreements referred to in paragraph (b) are not subject to chapters 60A to 79A, except as otherwise specifically provided by law.

(d) Service contracts issued by motor vehicle manufacturers covering private passenger automobiles are only subject to sections 59B.03, subdivision 5, 59B.05, and 59B.07.

(e) All warranty service contracts are deemed to be made in Minnesota for the purpose of arbitration.

Sec. 5. Minnesota Statutes 2008, section 60A.08, is amended by adding a subdivision to read:

Subd. 15. **Classification of insurance filings data.** (a) All forms, rates, and related information filed with the commissioner under section 61A.02 shall be nonpublic data until the filing becomes effective.

(b) All forms, rates, and related information filed with the commissioner under section 62A.02 shall be nonpublic data until the filing becomes effective.

(c) All forms, rates, and related information filed with the commissioner under section 62C.14, subdivision 10, shall be nonpublic data until the filing becomes effective.

(d) All forms, rates, and related information filed with the commissioner under section 70A.06 shall be nonpublic data until the filing becomes effective.

(e) All forms, rates, and related information filed with the commissioner under section 79.56 shall be nonpublic data until the filing becomes effective.

Sec. 6. **[60A.1755] AGENT ERRORS AND OMISSIONS INSURANCE; CHOICE OF SOURCE.**

An insurance company shall not require an insurance agent to maintain insurance coverage for the agent's errors and omissions from a specific insurance company. This section does not apply if the insurance producer is a captive producer or employee of the insurance company imposing the requirement, or if that insurance company or affiliated broker-dealer pays for or contributes to the premiums for the errors and omissions coverage. For purposes of this section, "captive producer" means a producer that writes 80 percent or more of the producer's gross annual insurance business for that insurance company or any or all of its subsidiaries. Nothing in this section shall prohibit an insurance company from requiring an insurance producer to maintain errors and omissions coverage or requiring that errors and omissions coverage meet certain criteria.

Sec. 7. Minnesota Statutes 2008, section 60A.198, subdivision 1, is amended to read:

Subdivision 1. **License required.** A person, as defined in section 60A.02, subdivision 7, shall not act in any other manner as an agent or broker in the transaction of surplus lines insurance unless licensed under sections 60A.195 to 60A.209. A surplus lines license is not required for a licensed ~~resident~~ agent who assists in the ~~procurement~~ placement of surplus lines insurance with a surplus lines licensee pursuant to sections 60A.195 to 60A.209.

Sec. 8. Minnesota Statutes 2008, section 60A.198, subdivision 3, is amended to read:

Subd. 3. **Procedure for obtaining license.** A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) registering with the association created pursuant to section 60A.2085;

~~(c)~~ (d) agreeing to file with the commissioner of revenue all returns required by chapter 297I and paying to the commissioner of revenue all amounts required under chapter 297I; ~~and~~

(e) agreeing to file all documents required pursuant to section 60A.2086 and to pay the stamping fee assessed pursuant to section 60A.2085, subdivision 7; and

~~(d)~~ (f) paying a fee as prescribed by section 60K.55.

Sec. 9. Minnesota Statutes 2008, section 60A.201, subdivision 3, is amended to read:

Subd. 3. **Unavailability of other coverage; presumption.** There shall be a rebuttable presumption that the following coverages are unavailable from a licensed insurer:

(a) ~~coverages on a list of unavailable coverages maintained by the commissioner pursuant to subdivision 4;~~

~~(b)~~ coverages where one portion of the risk is acceptable to licensed insurers but another portion of the same risk is not acceptable. The entire coverage may be placed with eligible surplus lines insurers if it can be shown that the eligible surplus lines insurer will accept the entire coverage but not the rejected portion alone; and

~~(c)~~ (b) any coverage that the licensee is unable to procure after diligent search among licensed insurers.

Sec. 10. Minnesota Statutes 2008, section 60A.205, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** A surplus lines licensee may be compensated by an eligible surplus lines insurer and the licensee may compensate a licensed ~~resident~~ agent in this state for obtaining surplus lines insurance business. A licensed ~~resident~~ agent authorized by the licensee may collect a premium on behalf of the licensee, and as between the insured and the licensee, the licensee shall be considered to have received the premium if the premium payment has been made to the agent.

Sec. 11. Minnesota Statutes 2008, section 60A.2085, subdivision 1, is amended to read:

Subdivision 1. **Association created; duties.** There is hereby created a nonprofit association to be known as the Surplus Lines Association of Minnesota. The association is not a state agency for purposes of chapter 16A, 16B, 16C, or 43A. All surplus lines licensees are members of this association. Section 60A.208~~, subdivision 5,~~ does not apply to the association created pursuant to the provisions of this section. The association shall perform its functions under the plan of operation established under subdivision 3 and must exercise its powers through a board of directors established under subdivision 2 as set forth in the plan of operation. The association shall be authorized and have the duty to:

(1) receive, record, and stamp all surplus lines insurance documents that surplus lines licensees are required to file with the association;

(2) prepare and deliver monthly to the commissioners of revenue and commerce a report regarding surplus lines business. The report must include a list of all the business procured during the preceding month, in the form the commissioners prescribe;

(3) educate its members regarding the surplus lines law of this state including insurance tax responsibilities and the rules and regulations of the commissioners of revenue and commerce relative to surplus lines insurance;

(4) communicate with organizations of agents, brokers, and admitted insurers with respect to the proper use of the surplus lines market;

(5) employ and retain persons necessary to carry out the duties of the association;

(6) borrow money necessary to effect the purposes of the association and grant a security interest or mortgage in its assets, including the stamping fees charged pursuant to subdivision 7 in order to secure the repayment of any such borrowed money;

(7) enter contracts necessary to effect the purposes of the association;

(8) provide other services to its members that are incidental or related to the purposes of the association; ~~and~~

(9) form and organize itself as a nonprofit corporation under chapter 317A, with the powers set forth in section 317A.161 that are not otherwise limited by this section or in its articles, bylaws, or plan of operation;

(10) file such applications and take such other action as necessary to establish and maintain the association as tax exempt pursuant to the federal income tax code;

(11) recommend to the commissioner of commerce revisions to Minnesota law relating to the regulation of surplus lines insurance in order to improve the efficiency and effectiveness of that regulation; and

~~(9)~~ (12) take other actions reasonably required to implement the provisions of this section.

Sec. 12. Minnesota Statutes 2008, section 60A.2085, subdivision 3, is amended to read:

Subd. 3. **Plan of operation.** (a) The plan of operation shall provide for the formation, operation, and governance of the association as a nonprofit corporation under chapter 317A. The plan of operation must provide for the election of a board of directors by the members of the association. The board of directors shall elect officers as provided for in the plan of operation. The plan of operation shall establish the manner of voting and may weigh each member's vote to reflect the annual surplus lines insurance premium written by the member. Members employed by the same or affiliated employers may consolidate their premiums written and delegate an individual officer or partner to represent the member in the exercise of association affairs, including service on the board of directors.

(b) The plan of operation shall provide for an independent audit once each year of all the books and records of the association and a report of such independent audit shall be made to the board of directors, the commissioner of revenue, and the commissioner of commerce, with a copy made available to each member to review at the association office.

(c) The plan of operation and any amendments to the plan of operation shall be submitted to the commissioner and shall be effective upon approval in writing by the commissioner. The association and all members shall comply with the plan of operation or any amendments to it. Failure to comply with the plan of operation or any amendments shall constitute a violation for which the commissioner may issue an order requiring discontinuance of the violation.

(d) If the interim board of directors fails to submit a suitable plan of operation within 60 days following the creation of the interim board, or if at any time thereafter the association fails to submit required amendments to the plan, the commissioner may submit to the association a plan of operation or amendments to the plan, which the association must follow. The plan of operation

or amendments submitted by the commissioner shall continue in force until amended by the commissioner or superseded by a plan of operation or amendment submitted by the association and approved by the commissioner. A plan of operation or an amendment submitted by the commissioner constitutes an order of the commissioner.

Sec. 13. Minnesota Statutes 2008, section 60A.2085, subdivision 7, is amended to read:

Subd. 7. **Stamping fee.** The services performed by the association shall be funded by a stamping fee assessed for each premium-bearing document submitted to the association. The stamping fee shall be established by the board of directors of the association from time to time. The stamping fee shall be paid by the insured to the surplus lines licensee and remitted ~~electronically~~ to the association by the surplus lines licensee in the manner established by the association.

Sec. 14. Minnesota Statutes 2008, section 60A.2085, subdivision 8, is amended to read:

Subd. 8. **Data classification.** Unless otherwise classified by statute, a temporary classification under section 13.06, or federal law, information obtained by the commissioner from the association is public, except that any data identifying insureds or the Social Security number of a licensee or any information derived therefrom is private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

Sec. 15. Minnesota Statutes 2008, section 60A.23, subdivision 8, is amended to read:

Subd. 8. **Self-insurance or insurance plan administrators who are vendors of risk management services.** (1) **Scope.** This subdivision applies to any vendor of risk management services and to any entity which administers, for compensation, a self-insurance or insurance plan. This subdivision does not apply (a) to an insurance company authorized to transact insurance in this state, as defined by section 60A.06, subdivision 1, clauses (4) and (5); (b) to a service plan corporation, as defined by section 62C.02, subdivision 6; (c) to a health maintenance organization, as defined by section 62D.02, subdivision 4; (d) to an employer directly operating a self-insurance plan for its employees' benefits; (e) to an entity which administers a program of health benefits established pursuant to a collective bargaining agreement between an employer, or group or association of employers, and a union or unions; or (f) to an entity which administers a self-insurance or insurance plan if a licensed Minnesota insurer is providing insurance to the plan and if the licensed insurer has appointed the entity administering the plan as one of its licensed agents within this state.

(2) **Definitions.** For purposes of this subdivision the following terms have the meanings given them.

(a) "Administering a self-insurance or insurance plan" means (i) processing, reviewing or paying claims, (ii) establishing or operating funds and accounts, or (iii) otherwise providing necessary administrative services in connection with the operation of a self-insurance or insurance plan.

(b) "Employer" means an employer, as defined by section 62E.02, subdivision 2.

(c) "Entity" means any association, corporation, partnership, sole proprietorship, trust, or other business entity engaged in or transacting business in this state.

(d) "Self-insurance or insurance plan" means a plan for the benefit of employees or members of an association providing life, medical or hospital care, accident, sickness or disability insurance ~~for~~

~~the benefit of employees or members of an association~~, or pharmacy benefits, or a plan providing liability coverage for any other risk or hazard, which is or is not directly insured or provided by a licensed insurer, service plan corporation, or health maintenance organization.

(e) "Vendor of risk management services" means an entity providing for compensation actuarial, financial management, accounting, legal or other services for the purpose of designing and establishing a self-insurance or insurance plan for an employer.

(3) **License.** No vendor of risk management services or entity administering a self-insurance or insurance plan may transact this business in this state unless it is licensed to do so by the commissioner. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license may be granted only when the commissioner is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee is $1,500 for the initial application and $1,500 for each three-year renewal. All licenses are for a period of three years.

(4) **Regulatory restrictions; powers of the commissioner.** To assure that self-insurance or insurance plans are financially solvent, are administered in a fair and equitable fashion, and are processing claims and paying benefits in a prompt, fair, and honest manner, vendors of risk management services and entities administering insurance or self-insurance plans are subject to the supervision and examination by the commissioner. Vendors of risk management services, entities administering insurance or self-insurance plans, and insurance or self-insurance plans established or operated by them are subject to the trade practice requirements of sections 72A.19 to 72A.30. In lieu of an unlimited guarantee from a parent corporation for a vendor of risk management services or an entity administering insurance or self-insurance plans, the commissioner may accept a surety bond in a form satisfactory to the commissioner in an amount equal to 120 percent of the total amount of claims handled by the applicant in the prior year. If at any time the total amount of claims handled during a year exceeds the amount upon which the bond was calculated, the administrator shall immediately notify the commissioner. The commissioner may require that the bond be increased accordingly.

No contract entered into after July 1, 2001, between a licensed vendor of risk management services and a group authorized to self-insure for workers' compensation liabilities under section 79A.03, subdivision 6, may take effect until it has been filed with the commissioner, and either (1) the commissioner has approved it or (2) 60 days have elapsed and the commissioner has not disapproved it as misleading or violative of public policy.

(5) **Rulemaking authority.** To carry out the purposes of this subdivision, the commissioner may adopt rules pursuant to sections 14.001 to 14.69. These rules may:

(a) establish reporting requirements for administrators of insurance or self-insurance plans;

(b) establish standards and guidelines to assure the adequacy of financing, reinsuring, and administration of insurance or self-insurance plans;

(c) establish bonding requirements or other provisions assuring the financial integrity of entities administering insurance or self-insurance plans; or

(d) establish other reasonable requirements to further the purposes of this subdivision.

Sec. 16. Minnesota Statutes 2008, section 60A.235, is amended to read:

60A.235 STANDARDS FOR DETERMINING WHETHER CONTRACTS ARE HEALTH PLAN CONTRACTS OR STOP LOSS CONTRACTS.

Subdivision 1. **Findings and purpose.** The purpose of this section is to establish a standard for the determination of whether an insurance policy or other evidence or coverage should be treated as a policy of accident and sickness insurance or a stop loss policy for the purpose of the regulation of the business of insurance. The laws regulating the business of insurance in Minnesota impose distinctly different requirements upon accident and sickness insurance policies and stop loss policies. In particular, the regulation of accident and sickness insurance in Minnesota includes measures designed to reform the health insurance market, to minimize or prohibit selective rating or rejection of employee groups or individual group members based upon health conditions, and to provide access to affordable health insurance coverage regardless of preexisting health conditions. The health care reform provisions enacted in Minnesota will only be effective if they are applied to all insurers and health carriers who in substance, regardless of purported form, engage in the business of issuing health insurance coverage to employees of an employee group. This section applies to insurance companies and health carriers and the policies or other evidence of coverage that they issue. This section does not apply to employers or the benefit plans they establish for their employees.

Subd. 2. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given.

(a) "Attachment point" means the claims amount incurred by an insured group beyond which the insurance company or health carrier incurs a liability for payment.

(b) "Direct coverage" means coverage under which an insurance company or health carrier assumes a direct obligation to an individual, under the policy or evidence of coverage, with respect to health care expenses incurred by the individual or a member of the individual's family.

(c) "Expected claims" means the amount of claims that, in the absence of a stop loss policy or other insurance or evidence of coverage, are projected to be incurred ~~under~~ by an employer-sponsored plan covering health care expenses.

(d) "Expected plan claims" means the expected claims less the projected claims in excess of the specific attachment point, adjusted to be consistent with the employer's aggregate contract period.

(e) "Health plan" means a health plan as defined in section 62A.011 and includes group coverage regardless of the size of the group.

(f) "Health carrier" means a health carrier as defined in section 62A.011.

Subd. 3. **Health plan policies issued as stop loss coverage.** (a) An insurance company or health carrier issuing or renewing an insurance policy or other evidence of coverage, that provides coverage to an employer for health care expenses incurred under an employer-sponsored plan provided to the employer's employees, retired employees, or their dependents, shall issue the policy or evidence of coverage as a health plan if the policy or evidence of coverage:

(1) has a specific attachment point for claims incurred per individual that is lower than ~~$10,000~~ $20,000; or

(2) has an aggregate attachment point, for groups of 50 or fewer, that is lower than the ~~sum~~ greater of:

~~(i) 140 percent of the first $50,000 of expected plan claims;~~

~~(ii) 120 percent of the next $450,000 of expected plan claims; and~~

~~(iii) 110 percent of the remaining expected plan claims.~~

(i) $4,000 times the number of group members;

(ii) 120 percent of expected claims; or

(iii) $20,000; or

(3) has an aggregate attachment point for groups of 51 or more that is lower than 110 percent of expected claims.

(b) An insurer shall determine the number of persons in a group, for the purposes of this section, on a consistent basis, at least annually. Where the insurance policy or evidence of coverage applies to a contract period of more than one year, the dollar amounts set forth in paragraph (a), clauses (1) and (2), must be multiplied by the length of the contract period expressed in years.

(c) The commissioner may adjust the constant dollar amounts provided in paragraph (a), clauses (1) ~~and~~, (2), and (3), on January 1 of any year, based upon changes in the medical component of the Consumer Price Index (CPI). Adjustments must be in increments of $100 and must not be made unless at least that amount of adjustment is required. The commissioner shall publish any change in these dollar amounts at least ~~three~~ six months before their effective date.

(d) A policy or evidence of coverage issued by an insurance company or health carrier that provides direct coverage of health care expenses of an individual including a policy or evidence of coverage administered on a group basis is a health plan regardless of whether the policy or evidence of coverage is denominated as stop loss coverage.

Subd. 3a. **Actuarial certification.** An insurer shall file with the commissioner annually on or before March 15, an actuarial certification certifying that the insurer is in compliance with sections 60A.235 and 60A.236. The certification shall be in a form and manner, and shall contain information, specified by the commissioner. A copy of the certification shall be retained by the insurer at its principal place of business.

Subd. 4. **Compliance.** (a) An insurance company or health carrier that is required to issue a policy or evidence of coverage as a health plan under this section shall, even if the policy or evidence of coverage is denominated as stop loss coverage, comply with all the laws of this state that apply to the health plan, including, but not limited to, chapters 62A, 62C, 62D, 62E, 62L, and 62Q.

(b) With respect to an employer who had been issued a policy or evidence of coverage denominated as stop loss coverage before ~~June 2, 1995~~ the effective date of this section, compliance with this section is required as of the first renewal date occurring on or after ~~June 2, 1995~~ August 1, 2009, and applies to policies issued or renewed on or after that date.

Sec. 17. Minnesota Statutes 2008, section 60A.32, is amended to read:

60A.32 RATE FILING FOR CROP HAIL INSURANCE.

Subdivision 1. **Authority.** An insurer issuing policies of insurance against crop damage by hail in this state shall file its insurance rates with the commissioner using the expedited filing procedure under subdivision 2. The insurance rates must be filed before February 1 of the year in which a policy is issued.

Subd. 2. **Compliance certifications.** In addition to the proposed rates, an insurer shall file with the Department of Commerce on a form prescribed by the commissioner a written certification, signed by an officer of the insurer, that the rates comply with section 70A.04. Rates filed under this procedure are effective upon the date of receipt or on a subsequent date requested by the insurer.

Subd. 3. **Fee.** In order to be effective, the filing must be accompanied by payment of the applicable filing fee.

Sec. 18. **[60A.39] CERTIFICATES OF INSURANCE.**

Subdivision 1. **Issuance.** A licensed insurer or insurance producer may provide to a third party a certificate of insurance which documents insurance coverage. The purpose of a certificate of insurance is to provide evidence of insurance coverage and the amount of insurance issued.

Subd. 2. **Approval.** An insurer or licensed producer shall not issue a certificate of insurance or other document or instrument that either affirmatively or negatively amends, extends, or alters the coverage provided by an approved policy, form, or endorsement without the written approval of the commissioner.

Subd. 3. **Required statement.** A certificate or memorandum of property or casualty insurance when issued to any person other than the policyholder must contain the following or similar statement: "This certificate or memorandum of insurance does not affirmatively or negatively amend, extend, or alter the coverage afforded by the insurance policy."

Subd. 4. **Cancellation notice.** A certificate provided to a third party must not provide for notice of cancellation that exceeds the statutory notice of cancellation provided to the policyholder.

Subd. 5. **Filing.** An insurer not using the standard ACORD or ISO form "Certificate of Insurance" shall file with the commissioner, prior to its use, the form of certificate or memorandum of insurance coverage that will be used by the insurer. Filed forms may not be amended at the request of a third party.

Subd. 6. **Opinion letters.** A licensed insurance producer may not issue, in lieu of a certificate, an agent's opinion letter or other correspondence that is inconsistent with this section.

Sec. 19. Minnesota Statutes 2008, section 60K.46, is amended by adding a subdivision to read:

Subd. 8. **Certificates of insurance.** An insurance producer shall not issue a certificate of insurance, or other evidence of insurance coverage that either affirmatively or negatively amends, extends, or alters the coverage as provided by the policy, or provides notice of cancellation to a third party that exceeds the statutory notice requirement to a policyholder.

Sec. 20. Minnesota Statutes 2008, section 62A.011, subdivision 3, is amended to read:

Subd. 3. **Health plan.** "Health plan" means a policy or certificate of accident and sickness insurance as defined in section 62A.01 offered by an insurance company licensed under chapter 60A; a subscriber contract or certificate offered by a nonprofit health service plan corporation operating under chapter 62C; a health maintenance contract or certificate offered by a health maintenance organization operating under chapter 62D; a health benefit certificate offered by a fraternal benefit society operating under chapter 64B; or health coverage offered by a joint self-insurance employee health plan operating under chapter 62H. Health plan means individual and group coverage, unless otherwise specified. Health plan does not include coverage that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity, or non-expense-incurred basis;

(5) credit accident and health insurance as defined in section 62B.02;

(6) designed solely to provide hearing, dental, or vision care;

(7) blanket accident and sickness insurance as defined in section 62A.11;

(8) accident-only coverage;

(9) a long-term care policy as defined in section 62A.46 or 62S.01;

(10) issued as a supplement to Medicare, as defined in sections 62A.3099 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;

(11) workers' compensation insurance; or

(12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health plan.

Sec. 21. Minnesota Statutes 2008, section 62A.136, is amended to read:

62A.136 HEARING, DENTAL, AND VISION PLAN COVERAGE.

The following provisions do not apply to health plans as defined in section 62A.011, subdivision 3, clause (6), providing hearing, dental, or vision coverage only: sections 62A.041; 62A.0411; 62A.047; 62A.149; 62A.151; 62A.152; 62A.154; 62A.155; 62A.17, subdivision 6; 62A.21, subdivision 2b; 62A.26; 62A.28; 62A.285; 62A.30; 62A.304; 62A.3093; and 62E.16.

Sec. 22. Minnesota Statutes 2008, section 62A.17, is amended by adding a subdivision to read:

Subd. 5b. **Notices required by the American Recovery and Reinvestment Act of 2009 (ARRA).** (a) An employer that maintains a group health plan that is not described in Internal Revenue Code, section 6432(b)(1) or (2), as added by section 3001(a)(12)(A) of the American

Recovery and Reinvestment Act of 2009 (ARRA), must notify the health carrier of the termination of, or the layoff from, employment of a covered employee, and the name and last known address of the employee, within the later of ten days after the termination or layoff event, or June 8, 2009.

(b) The health carrier for a group health plan that is not described in Internal Revenue Code, section 6432(b)(1) or (2), as added by section 3001(a)(12)(A) of the ARRA, must provide the notice of extended election rights which is required by subdivision 5a, paragraph (a), as well as any other notice that is required by the ARRA regarding the availability of premium reduction rights, to the individual within 30 days after the employer notifies the health carrier as required by paragraph (a).

(c) The notice responsibilities set forth in this subdivision end when the premium reduction provisions under ARRA expire.

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

Sec. 23. Minnesota Statutes 2008, section 62A.3099, subdivision 18, is amended to read:

Subd. 18. **Medicare supplement policy or certificate.** "Medicare supplement policy or certificate" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, other than those policies or certificates covered by section 1833 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., or an issued policy under a demonstration project specified under amendments to the federal Social Security Act, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare or as a supplement to Medicare Advantage Plans established under Medicare Part C. "Medicare supplement policy" does not include Medicare Advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, or any health care prepayment plan that provides benefits under an agreement under section 1833(a)(1)(A) of the Social Security Act.

Sec. 24. Minnesota Statutes 2008, section 62A.31, subdivision 1, is amended to read:

Subdivision 1. **Policy requirements.** No individual or group policy, certificate, subscriber contract issued by a health service plan corporation regulated under chapter 62C, or other evidence of accident and health insurance the effect or purpose of which is to supplement Medicare coverage, including to supplement coverage under Medicare Advantage Plans established under Medicare Part C, issued or delivered in this state or offered to a resident of this state shall be sold or issued to an individual covered by Medicare unless the requirements in subdivisions 1a to 1u are met.

Sec. 25. Minnesota Statutes 2008, section 62A.31, is amended by adding a subdivision to read:

Subd. 8. **Prohibition against use of genetic information and requests for genetic information.** This subdivision applies to all policies with policy years beginning on or after May 21, 2009.

(a) An issuer of a Medicare supplement policy or certificate:

(1) shall not deny or condition the issuance or effectiveness of the policy or certificate, including the imposition of any exclusion of benefits under the policy based on a preexisting condition, on the basis of the genetic information with respect to such individual; and

(2) shall not discriminate in the pricing of the policy or certificate, including the adjustment of premium rates, of an individual on the basis of the genetic information with respect to such individual.

(b) Nothing in paragraph (a) shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

(1) denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

(2) increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group.

(c) An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

(d) Paragraph (c) shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment, as defined for the purposes of applying the regulations promulgated under Part C of title XI and section 264 of the Health Insurance Portability and Accountability Act of 1996 as they may be revised from time to time, and consistent with paragraph (a).

(e) For purposes of carrying out paragraph (d), an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

(f) Notwithstanding paragraph (c), an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions are met:

(1) the request is made pursuant to research that complies with Code of Federal Regulations title 45, part 46, or equivalent federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research;

(2) the issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

(i) compliance with the request is voluntary; and

(ii) noncompliance will have no effect on enrollment status or premium or contribution amounts.

(3) no genetic information collected or acquired under this paragraph shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate;

(4) the issuer notifies the secretary in writing that the issuer is conducting activities pursuant to the exception provided for under this paragraph, including a description of the activities conducted; and

(5) the issuer complies with such other conditions as the secretary may by regulation require for activities under this paragraph.

(g) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

(h) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

(i) An issuer of a Medicare supplement policy or certificate that obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (h) if such request, requirement, or purchase is not in violation of paragraph (g).

(j) For purposes of this subdivision only:

(1) "family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual;

(2) "genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic test of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such terms includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term genetic information does not include information about the sex or age of any individual;

(3) "genetic services" means a genetic test or genetic counseling, including obtaining, interpreting, or assessing genetic information or genetic education;

(4) "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term genetic test does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved;

(5) "issuer of a Medicare supplement policy or certificate" includes a third-party administrator or other person acting for or on behalf of such issuer; and

(6) "underwriting purposes" means:

(i) rules for, or determination of, eligibility including enrollment and continued eligibility, for benefits under the policy;

(ii) the computation of premium or contribution amounts under the policy;

(iii) the application of any preexisting condition exclusion under the policy; and

(iv) other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Sec. 26. Minnesota Statutes 2008, section 62A.315, is amended to read:

62A.315 EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to section 62E.07, and will provide:

(1) coverage for all of the Medicare Part A inpatient hospital deductible and coinsurance amounts, and 100 percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare;

(2) coverage for the daily co-payment amount of Medicare Part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the coinsurance amount or in the case of hospital outpatient department services paid under a prospective payment system, the co-payment amount, of Medicare eligible expenses under Medicare Part B regardless of hospital confinement, and the Medicare Part B deductible amount;

(4) 80 percent of the usual and customary hospital and medical expenses and supplies described in section 62E.06, subdivision 1, not to exceed any charge limitation established by the Medicare program or state law, the usual and customary hospital and medical expenses and supplies, described in section 62E.06, subdivision 1, while in a foreign country; and prescription drug expenses, not covered by Medicare. An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare supplement policy or certificate issued on or after January 1, 2006;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare Parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations not otherwise covered under Part D of the Medicare program and routine screening procedures for cancer, including mammograms and pap smears;

(7) preventive medical care benefit: coverage for the following preventive health services not covered by Medicare:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes to a maximum of $120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare;

~~(8) at-home recovery benefit: coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:~~

~~(i) for purposes of this benefit, the following definitions shall apply:~~

~~(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;~~

~~(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;~~

~~(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;~~

~~(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;~~

~~(ii) coverage requirements and limitations:~~

~~(A) at-home recovery services provided must be primarily services that assist in activities of daily living;~~

~~(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;~~

~~(C) coverage is limited to:~~

~~(I) no more than the number and type of at-home recovery visits certified as medically necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment;~~

~~(II) the actual charges for each visit up to a maximum reimbursement of $100 per visit;~~

~~(III) $4,000 per calendar year;~~

~~(IV) seven visits in any one week;~~

~~(V) care furnished on a visiting basis in the insured's home;~~

~~(VI) services provided by a care provider as defined in this section;~~

~~(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;~~

~~(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;~~

~~(iii) coverage is excluded for:~~

~~(A) home care visits paid for by Medicare or other government programs; and~~

~~(B) care provided by unpaid volunteers or providers who are not care providers.~~

(8) coverage of cost sharing for all Medicare Part A eligible hospice care and respite care expenses; and

(9) coverage for cost sharing for Medicare Part A or B home health care services and medical supplies.

Sec. 27. Minnesota Statutes 2008, section 62A.316, is amended to read:

62A.316 BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.

(a) The basic Medicare supplement plan must have a level of coverage that will provide:

(1) coverage for all of the Medicare Part A inpatient hospital coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare, after satisfying the Medicare Part A deductible;

(2) coverage for the daily co-payment amount of Medicare Part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the coinsurance amount, or in the case of outpatient department services paid under a prospective payment system, the co-payment amount, of Medicare eligible expenses under Medicare Part B regardless of hospital confinement, subject to the Medicare Part B deductible amount;

(4) 80 percent of the hospital and medical expenses and supplies incurred during travel outside the United States as a result of a medical emergency;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare Parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations not otherwise covered under Part D of the Medicare program and routine screening procedures for cancer screening including mammograms and pap smears; ~~and~~

(7) 80 percent of coverage for all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes not otherwise covered under Part D of the Medicare program. Coverage must include persons with gestational, type I, or type II diabetes. Coverage under this clause is subject to section 62A.3093, subdivision ~~2.~~;

(8) coverage of cost sharing for all Medicare Part A eligible hospice care and respite care expenses; and

(9) coverage for cost sharing for Medicare Part A or B home health care services and medical supplies subject to the Medicare Part B deductible amount.

(b) ~~Only~~ The following ~~optional~~ benefit riders ~~may be added to~~ must be offered with this plan:

(1) coverage for all of the Medicare Part A inpatient hospital deductible amount;

(2) ~~a minimum of 80 percent of eligible medical expenses and supplies not covered by Medicare Part B~~ 100 percent of the Medicare Part B excess charges coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge;

(3) coverage for all of the Medicare Part B annual deductible; and

~~(4) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses. An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006;~~

~~(5)~~ (4) preventive medical care benefit coverage for the following preventative health services not covered by Medicare:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes, to a maximum of $120 annually under this benefit. This benefit shall not include payment for a procedure covered by Medicare~~;~~.

~~(6) coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:~~

~~(i) For purposes of this benefit, the following definitions apply:~~

~~(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;~~

~~(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aid, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;~~

~~(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;~~

~~(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;~~

~~(ii) Coverage requirements and limitations:~~

~~(A) at-home recovery services provided must be primarily services that assist in activities of daily living;~~

~~(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;~~

~~(C) coverage is limited to:~~

~~(I) no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home care visits under a Medicare-approved home care plan of treatment;~~

~~(II) the actual charges for each visit up to a maximum reimbursement of $40 per visit;~~

~~(III) $1,600 per calendar year;~~

~~(IV) seven visits in any one week;~~

~~(V) care furnished on a visiting basis in the insured's home;~~

~~(VI) services provided by a care provider as defined in this section;~~

~~(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;~~

~~(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;~~

~~(iii) Coverage is excluded for:~~

~~(A) home care visits paid for by Medicare or other government programs; and~~

~~(B) care provided by family members, unpaid volunteers, or providers who are not care providers;~~

~~(7) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses to a maximum of $1,200 paid by the issuer annually under this benefit. An issuer of Medicare supplement insurance policies that elects to offer this benefit rider shall also make available coverage that contains the rider specified in clause (4). An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006.~~

Sec. 28. **[62A.3163] MEDICARE SUPPLEMENT PLAN WITH 50 PERCENT PART A DEDUCTIBLE COVERAGE.**

The Medicare supplement plan with 50 percent Part A deductible coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period;

(3) coverage for the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for post-hospital skilled nursing care eligible under Medicare Part A;

(4) coverage for cost sharing for all Medicare Part A eligible hospice and respite care expenses;

(5) coverage under Medicare Part A or B for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations;

(6) coverage for 100 percent of the cost sharing otherwise applicable under Medicare Part B, after the policyholder pays the Medicare Part B deductible;

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible;

(8) coverage of 80 percent of the hospital and medical expenses and supplies incurred during travel outside of the United States as a result of a medical emergency; and

(9) coverage for 100 percent of the Medicare Part A or B home health care services and medical supplies after the policyholder pays the Medicare Part B deductible.

Sec. 29. **[62A.3164] MEDICARE SUPPLEMENT PLAN WITH $20 AND $50 CO-PAYMENT MEDICARE PART B COVERAGE.**

The Medicare supplement plan with $20 and $50 co-payment Medicare Part B coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for the Medicare Part A inpatient hospital deductible amount per benefit period;

(3) coverage for the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for post-hospital skilled nursing care eligible under Medicare Part A;

(4) coverage for the cost sharing for all Medicare Part A eligible hospice and respite care expenses;

(5) coverage for Medicare Part A or B of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations;

(6) coverage for 100 percent of the cost sharing otherwise applicable under Medicare Part B except for the lesser of $20 or the Medicare Part B coinsurance or co-payment for each covered health care provider office visit and the lesser of $50 or the Medicare Part B coinsurance or co-payment for each covered emergency room visit; however, this co-payment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense;

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible;

(8) coverage of 80 percent of the hospital and medical expenses and supplies incurred during travel outside of the United States as a result of a medical emergency; and

(9) coverage for Medicare Part A or B home health care services and medical supplies after the policyholder pays the Medicare Part B deductible.

Sec. 30. **[62A.3165] MEDICARE SUPPLEMENT PLAN WITH HIGH DEDUCTIBLE COVERAGE.**

The Medicare supplement plan will pay 100 percent coverage upon payment of the annual high deductible. The annual deductible shall consist of out-of-pocket expenses, other than premiums, for services covered. This plan must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 100 percent of the Medicare Part A inpatient hospital deductible amount per benefit period;

(3) coverage for 100 percent of the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for post-hospital skilled nursing care eligible under Medicare Part A;

(4) coverage for 100 percent of cost sharing for all Medicare Part A eligible expenses and respite care;

(5) coverage for 100 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations;

(6) except for coverage provided in this clause, coverage for 100 percent of the cost sharing otherwise applicable under Medicare Part B;

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible;

(8) coverage of 100 percent of the hospital and medical expenses and supplies incurred during travel outside of the United States as a result of a medical emergency;

(9) coverage for 100 percent of Medicare Part A and B home health care services and medical supplies; and

(10) the basis for the deductible shall be $1,860 and shall be adjusted annually from 2010 by the secretary of the United States Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of $10.

Sec. 31. Minnesota Statutes 2008, section 62L.02, subdivision 26, is amended to read:

Subd. 26. **Small employer.** (a) "Small employer" means, with respect to a calendar year and a plan year, a person, firm, corporation, partnership, association, or other entity actively engaged in

business in Minnesota, including a political subdivision of the state, that employed an average of no fewer than two nor more than 50 current employees on business days during the preceding calendar year and that employs at least two current employees on the first day of the plan year. If an employer has only one eligible employee who has not waived coverage, the sale of a health plan to or for that eligible employee is not a sale to a small employer and is not subject to this chapter and may be treated as the sale of an individual health plan. A small employer plan may be offered through a domiciled association to self-employed individuals and small employers who are members of the association, even if the self-employed individual or small employer has fewer than two current employees. Entities that are treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the federal Internal Revenue Code are considered a single employer for purposes of determining the number of current employees. Small employer status must be determined on an annual basis as of the renewal date of the health benefit plan. The provisions of this chapter continue to apply to an employer who no longer meets the requirements of this definition until the annual renewal date of the employer's health benefit plan. If an employer was not in existence throughout the preceding calendar year, the determination of whether the employer is a small employer is based upon the average number of current employees that it is reasonably expected that the employer will employ on business days in the current calendar year. For purposes of this definition, the term employer includes any predecessor of the employer. An employer that has more than 50 current employees but has 50 or fewer employees, as "employee" is defined under United States Code, title 29, section 1002(6), is a small employer under this subdivision.

(b) Where an association, as defined in section 62L.045, comprised of employers contracts with a health carrier to provide coverage to its members who are small employers, the association and health benefit plans it provides to small employers, are subject to section 62L.045, with respect to small employers in the association, even though the association also provides coverage to its members that do not qualify as small employers.

(c) If an employer has employees covered under a trust specified in a collective bargaining agreement under the federal Labor-Management Relations Act of 1947, United States Code, title 29, section 141, et seq., as amended, or employees whose health coverage is determined by a collective bargaining agreement and, as a result of the collective bargaining agreement, is purchased separately from the health plan provided to other employees, those employees are excluded in determining whether the employer qualifies as a small employer. Those employees are considered to be a separate small employer if they constitute a group that would qualify as a small employer in the absence of the employees who are not subject to the collective bargaining agreement.

Sec. 32. Minnesota Statutes 2008, section 62M.05, subdivision 3a, is amended to read:

Subd. 3a. **Standard review determination.** (a) Notwithstanding subdivision 3b, an initial determination on all requests for utilization review must be communicated to the provider and enrollee in accordance with this subdivision within ten business days of the request, provided that all information reasonably necessary to make a determination on the request has been made available to the utilization review organization.

(b) When an initial determination is made to certify, notification must be provided promptly by telephone to the provider. The utilization review organization shall send written notification to the provider or shall maintain an audit trail of the determination and telephone notification. For purposes of this subdivision, "audit trail" includes documentation of the telephone notification, including the date; the name of the person spoken to; the enrollee; the service, procedure, or admission certified;

and the date of the service, procedure, or admission. If the utilization review organization indicates certification by use of a number, the number must be called the "certification number." For purposes of this subdivision, notification may also be made by facsimile to a verified number or by electronic mail to a secure electronic mailbox. These electronic forms of notification satisfy the "audit trail" requirement of this paragraph.

(c) When an initial determination is made not to certify, notification must be provided by telephone, by facsimile to a verified number, or by electronic mail to a secure electronic mailbox within one working day after making the determination to the attending health care professional and hospital ~~and a written~~ as applicable. Written notification must also be sent to the hospital~~,~~ as applicable and attending health care professional~~, and enrollee~~ if notification occurred by telephone. For purposes of this subdivision, notification may be made by facsimile to a verified number or by electronic mail to a secure electronic mailbox. Written notification must be sent to the enrollee and may be sent by United States mail, facsimile to a verified number, or by electronic mail to a secure mailbox. The written notification must include the principal reason or reasons for the determination and the process for initiating an appeal of the determination. Upon request, the utilization review organization shall provide the provider or enrollee with the criteria used to determine the necessity, appropriateness, and efficacy of the health care service and identify the database, professional treatment parameter, or other basis for the criteria. Reasons for a determination not to certify may include, among other things, the lack of adequate information to certify after a reasonable attempt has been made to contact the provider or enrollee.

(d) When an initial determination is made not to certify, the written notification must inform the enrollee and the attending health care professional of the right to submit an appeal to the internal appeal process described in section 62M.06 and the procedure for initiating the internal appeal.

Sec. 33. Minnesota Statutes 2008, section 65A.27, subdivision 1, is amended to read:

Subdivision 1. **Scope.** For purposes of sections 65A.27 to ~~65A.30~~ 65A.302, the following terms have the meanings given.

Sec. 34. Minnesota Statutes 2008, section 65A.29, is amended by adding a subdivision to read:

Subd. 13. **Notice of possible cancellation.** (a) A written notice must be provided to all applicants for homeowners' insurance, at the time the application is submitted, containing the following language in bold print: "THE INSURER MAY ELECT TO CANCEL COVERAGE AT ANY TIME DURING THE FIRST 60 DAYS FOLLOWING ISSUANCE OF THE COVERAGE FOR ANY REASON WHICH IS NOT SPECIFICALLY PROHIBITED BY STATUTE."

(b) If the insurer provides the notice on the insurer's Web site, the insurer or agent may advise the applicant orally or in writing of its availability for review on the insurer's Web site in lieu of providing a written notice, if the insurer advises the applicant of the availability of a written notice upon the applicant's request. The insurer shall provide the notice in writing if requested by the applicant. An oral notice shall be presumed delivered if the agent or insurer makes a contemporaneous notation in the applicant's record of the notice having been delivered or if the insurer or agent retains an audio recording of the notification provided to the applicant.

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

Sec. 35. Minnesota Statutes 2008, section 65B.133, subdivision 2, is amended to read:

Subd. 2. **Disclosure to applicants.** Before accepting the initial premium payment, an insurer or its agent shall provide a surcharge disclosure statement to any person who applies for a policy which is effective on or after January 1, 1983. If the insurer provides the surcharge disclosure statement on the insurer's website, the insurer or agent may notify the applicant orally or in writing of its availability for review on the insurer's website prior to accepting the initial payment, in lieu of providing a disclosure statement to the applicant in writing, if the insurer so notifies the applicant of the availability of a written version of this statement upon the applicant's request. The insurer shall provide the surcharge disclosure statement in writing if requested by the applicant. An oral notice shall be presumed delivered if the agent or insurer makes a contemporaneous notation in the applicant's record of the notice having been delivered or if the insurer or agent retains an audio recording of the notification provided to the applicant.

Sec. 36. Minnesota Statutes 2008, section 65B.133, subdivision 3, is amended to read:

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement or written notice of the statement's availability on the insurer's website to the named insured either before or with the first notice to renew a policy on or after January 1, 1983. If a surcharge disclosure statement or written website notice has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

Sec. 37. Minnesota Statutes 2008, section 65B.133, subdivision 4, is amended to read:

Subd. 4. **Notification of change.** No insurer may change its surcharge plan unless a surcharge disclosure statement or written website notice is mailed or delivered to the named insured before the change is made. A surcharge disclosure statement disclosing a change applicable on the renewal of a policy, may be mailed with an offer to renew the policy. Surcharges cannot be applied to accidents or traffic violations that occurred prior to a change in a surcharge plan except to the extent provided under the prior plan.

Sec. 38. Minnesota Statutes 2008, section 65B.54, subdivision 1, is amended to read:

Subdivision 1. **Payment of basic economic loss benefits.** Basic economic loss benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as income loss, replacement services loss, survivor's economic loss, survivor's replacement services loss, or medical or funeral expense is incurred. Benefits are overdue if not paid within 30 days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding 31 days and pays them within 15 days after the period of accumulation. If reasonable proof is supplied as to only part of a claim, and the part totals $100 or more, the part is overdue if not paid within the time provided by this section. Medical or funeral expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant. Claims by a health provider defined in section 62J.03, subdivision 8, for medical expense benefits covered by this chapter shall be submitted to the reparation obligor pursuant to the uniform electronic transaction standards required by section 62J.536 and the rules promulgated under that section. Payment of benefits for such claims for medical expense benefits are not due if the claim is not received by the reparation obligor pursuant to those electronic transaction standards and rules. Notwithstanding any such submission, a reparation obligor may require additional reasonable proof regarding the fact and the amount of loss realized regarding such a claim. A health care provider cannot directly

bill an insured for the amount of any such claim not remitted pursuant to the transaction standards required by section 62J.536 if the reparation obligor is acting in compliance with these standards in receiving or paying such a claim.

Sec. 39. Minnesota Statutes 2008, section 67A.191, subdivision 2, is amended to read:

Subd. 2. **Homeowner's risks.** A township mutual fire insurance company may issue policies known as "homeowner's insurance" as defined in section 65A.27, subdivision 4, only in combination with a policy issued by an insurer authorized to sell property and casualty insurance in this state. All portions of the combination policy providing homeowner's insurance, including those issued by a township mutual insurance company, ~~shall be~~ are subject to the provisions of chapter 65A and sections 72A.20 and 72A.201.

Sec. 40. Minnesota Statutes 2008, section 72A.20, subdivision 15, is amended to read:

Subd. 15. **Practices not held to be discrimination or rebates.** Nothing in subdivision 8, 9, or 10, or in section 72A.12, subdivisions 3 and 4, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of any contract of life insurance or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) in the case of life insurance policies issued on the industrial debit plan, making allowance, to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer, in an amount which fairly represents the saving in collection expense;

(3) readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) in the case of an individual or group health insurance policy, the payment of differing amounts of reimbursement to insureds who elect to receive health care goods or services from providers designated by the insurer~~, provided that each insurer shall on or before August 1 of each year file with the commissioner summary data regarding the financial reimbursement offered to providers so designated.~~; and

~~Any insurer which proposes to offer an arrangement authorized under this clause shall disclose prior to its initial offering and on or before August 1 of each year thereafter as a supplement to its annual statement submitted to the commissioner pursuant to section 60A.13, subdivision 1, the following information:~~

~~(a) the name which the arrangement intends to use and its business address;~~

~~(b) the name, address, and nature of any separate organization which administers the arrangement on the behalf of the insurers; and~~

~~(c) the names and addresses of all providers designated by the insurer under this clause and the terms of the agreements with designated health care providers.~~

~~The commissioner shall maintain a record of arrangements proposed under this clause, including~~

~~a record of any complaints submitted relative to the arrangements.~~

(5) in the case of an individual or group health insurance policy, offering incentives to individuals for taking part in preventive health care services, medical management incentive programs, or activities designed to improve the health of the individual.

If the commissioner requests copies of contracts with a provider under ~~this~~ clause (4) and the provider requests a determination, all information contained in the contracts that the commissioner determines may place the provider or health care plan at a competitive disadvantage is nonpublic data.

Sec. 41. Minnesota Statutes 2008, section 72A.20, subdivision 26, is amended to read:

Subd. 26. **Loss experience.** An insurer shall without cost to the insured provide an insured with the loss or claims experience of that insured for the current policy period and for the two policy periods preceding the current one for which the insurer has provided coverage, within 30 days of a request for the information by the policyholder. Whenever reporting loss experience data, actual claims paid on behalf of the insured must be reported separately from claims incurred but not paid, pooling charges for catastrophic claim protection, and any other administrative fees or charges that may be charged as an incurred claim expense. Claims experience data must be provided to the insured in accordance with state and federal requirements regarding the confidentiality of medical data. The insurer shall not be responsible for providing information without cost more often than once in a 12-month period. The insurer is not required to provide the information if the policy covers the employee of more than one employer and the information is not maintained separately for each employer and not all employers request the data.

An insurer, health maintenance organization, or a third-party administrator may not request more than three years of loss or claims experience as a condition of submitting an application or providing coverage.

This subdivision only applies to group life policies and group health policies.

EFFECTIVE DATE. This section is effective for policy renewal proposals delivered on or after August 1, 2010.

Sec. 42. Minnesota Statutes 2008, section 72A.201, is amended by adding a subdivision to read:

Subd. 14. **Uniform electronic transaction standards.** Claims for medical expenses under a property and casualty insurance policy subject to the uniform electronic transaction standards required by section 62J.536 shall be submitted to an insurer by a health care provider subject to that section pursuant to the uniform electronic transaction standards and rules promulgated under that section. The exchange of information related to such claims pursuant to the electronic transaction standards by an insurer shall not be the sole basis for a finding that the insurer is not in compliance with the requirements of this section, section 72A.20, and any rules promulgated under these sections.

Sec. 43. **[72A.204] PROHIBITED USES OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS.**

Subdivision 1. **Purpose and scope.** The purpose of this section is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of

senior-specific certifications and professional designations in:

(1) the solicitation, sale, or purchase of a life insurance or annuity product; or

(2) the provision of advice in connection with the solicitation, sale, or purchase of a life insurance or annuity product.

Subd. 2. **Insurance producer.** For purposes of this section, "insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities.

Subd. 3. **Prohibited uses of senior-specific certifications and professional designations.** (a) It is an unfair and deceptive act or practice in the business of insurance for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a client or prospective client that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale, or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly, including the provision of advice through publications or writings or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

(b) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

(1) use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) use of a nonexistent or self-conferred certification or professional designation;

(3) use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the insurance producer using the certification or designation does not have; and

(4) use of a certification or professional designation that was obtained from a certifying or designating organization that:

(i) is primarily engaged in the business of instruction in sales or marketing;

(ii) does not have reasonable standards or procedures for ensuring the competency of its certificants or designees;

(iii) does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

(iv) does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(c) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for the purposes of paragraph (b), clause (4), when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

(1) the American National Standards Institute (ANSI);

(2) the National Commission for Certifying Agencies; or

(3) any organization that is on the United States Department of Education list entitled "Accrediting Agencies Recognized for Title IV Purposes."

(d) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered must include:

(1) use of one or more words such as "senior," "retirement," "elder," or like words combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(2) the manner in which those words are combined.

(e) For purposes of this section, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

(1) indicates seniority or standing within the organization; or

(2) specifies an individual's area of specialization within the organization.

(f) For purposes of paragraph (e), "financial services regulatory agency" includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

Sec. 44. Minnesota Statutes 2008, section 79A.04, subdivision 1, is amended to read:

Subdivision 1. **Annual securing of liability.** Each year every private self-insuring employer shall secure incurred liabilities for the payment of compensation and the performance of its obligations and the obligations of all self-insuring employers imposed under chapter 176 by renewing the prior year's security deposit or by making a new deposit of security. If a new deposit is made, it must be posted ~~within 60 days of the filing of the self-insured employer's annual report with the commissioner, but in no event later than July 1~~ in the following manner: within 60 days of the filing of the annual report, the security posting for all prior years plus one-third of the posting for the current year; by July 31, one-third of the posting for the current year; by October 31, the final one-third of the posting for the current year.

Sec. 45. Minnesota Statutes 2008, section 79A.04, is amended by adding a subdivision to read:

Subd. 2a. **Exceptions.** Notwithstanding the requirements of subdivisions 1 and 2, the commissioner may, until the next annual securing of liability, adjust this required security deposit for the portion attributable to the current year only, if, in the commissioner's judgment, the self-insurer will be able to meet its obligations under this chapter until the next annual securing of liability.

Sec. 46. Minnesota Statutes 2008, section 79A.06, is amended by adding a subdivision to read:

Subd. 7. **Insolvency of a self-insurance group insurer.** In the event of the insolvency of the insurer of a self-insurance group issued a policy under section 79A.06, subdivision 5, including a policy covering only a portion of the period of self-insurance, eligibility for chapter 60C coverage under the policy shall be determined by applying the requirements of section 60C.09, subdivision 2, clause (3), to each self-insurance group member, rather than to the net worth of the self-insurance group entity or the aggregate net worth of all members of the self-insurance group entity.

Sec. 47. Minnesota Statutes 2008, section 79A.24, subdivision 1, is amended to read:

Subdivision 1. **Annual securing of liability.** Each year every commercial self-insurance group shall secure its estimated future liability for the payment of compensation and the performance of the obligations of its membership imposed under chapter 176. A new deposit must be posted ~~within 30 days of the filing of the commercial self-insurance group's annual actuarial report with the commissioner~~ in the following manner: within 30 days of the filing of the annual report, the security posting for all prior years plus one-third of the posting for the current year; by July 31, one-third of the posting for the current year; by October 31, the final one-third of the posting for the current year.

Sec. 48. Minnesota Statutes 2008, section 79A.24, is amended by adding a subdivision to read:

Subd. 2a. **Exceptions.** Notwithstanding the requirements of subdivisions 1 and 2, the commissioner may, until the next annual securing of liability, adjust this required security deposit for the portion attributable to the current year only, if, in the commissioner's judgment, the self-insurer will be able to meet its obligations under this chapter until the next annual securing of liability.

Sec. 49. **[80A.91] AGENT ERRORS AND OMISSIONS INSURANCE; CHOICE OF SOURCE.**

A broker-dealer shall not require an agent to maintain insurance coverage for the agent's errors and omissions from a specific insurance company. This section does not apply if the agent is an employee of that broker-dealer, or if the broker-dealer or affiliated insurance company contributes to the premiums for the errors and omissions coverage. Nothing in this section shall prohibit a broker-dealer from requiring an agent to maintain errors and omissions coverage or requiring that the errors and omissions coverage meet certain criteria.

Sec. 50. Minnesota Statutes 2008, section 82.31, subdivision 4, is amended to read:

Subd. 4. **Corporate and partnership licenses.** (a) A corporation applying for a license shall have at least one officer individually licensed to act as broker for the corporation. The corporation broker's license shall extend no authority to act as broker to any person other than the corporate entity. Each officer who intends to act as a broker shall obtain a license.

(b) A partnership applying for a license shall have at least one partner individually licensed to act as broker for the partnership. Each partner who intends to act as a broker shall obtain a license.

(c) Applications for a license made by a corporation shall be verified by the president and one other officer. Applications made by a partnership shall be verified by at least two partners.

(d) Any partner or officer who ceases to act as broker for a partnership or corporation shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf

of a corporation or partnership, are automatically ineffective upon the revocation or suspension of the license of the partnership or corporation. The commissioner may suspend or revoke the license of an officer or partner without suspending or revoking the license of the corporation or partnership.

(e) The application of all officers of a corporation or partners in a partnership who intend to act as a broker on behalf of a corporation or partnership shall accompany the initial license application of the corporation or partnership. Officers or partners intending to act as brokers subsequent to the licensing of the corporation or partnership shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No corporate officer, or partner, who maintains a salesperson's license may exercise any authority over any trust account administered by the broker nor may they be vested with any supervisory authority over the broker.

(f) The corporation or partnership applicant shall make available upon request, such records and data required by the commissioner for enforcement of this chapter.

(g) The commissioner may require further information, as the commissioner deems appropriate, to administer the provisions and further the purposes of this chapter.

Sec. 51. **[82B.071] RECORDS.**

Subdivision 1. **Examination of records.** The commissioner may make examinations within or without this state of each real estate appraiser's records at such reasonable time and in such scope as is necessary to enforce the provisions of this chapter.

Subd. 2. **Retention.** Licensees shall keep a separate work file for each appraisal assignment, which is to include copies of all contracts engaging his or her services for the real estate appraisal, appraisal reports, and all data, information, and documentation assembled and formulated by the appraiser to support the appraiser's opinions and conclusions and to show compliance with USPAP, for a period of five years after preparation, or at least two years after final disposition of any judicial proceedings in which the appraiser provided testimony or was the subject of litigation related to the assignment, whichever period expires last. Appropriate work file access and retrieval arrangements must be made between any trainee and supervising appraiser if only one party maintains custody of the work file.

Sec. 52. Minnesota Statutes 2008, section 82B.08, is amended by adding a subdivision to read:

Subd. 3a. **Initial application.** The initial application for licensing of a trainee real property appraiser must identify the name and address of the supervisory appraiser or appraisers. Trainee real property appraisers licensed prior to the effective date of this provision must identify the name and address of their supervisory appraiser or appraisers at the time of license renewal. A trainee must notify the commissioner in writing within ten days of terminating or changing their relationship with any supervisory appraiser.

The initial application for licensing of a certified residential real property appraiser and certified general real property appraiser who intends to act in the capacity of a supervisory appraiser must identify the name and address of the trainee real property appraiser or appraisers they intend to supervise. A certified residential real property appraiser and certified general real property appraiser licensed and acting in the capacity of a supervisory appraiser prior to the effective date of this provision must, at the time of license renewal, identify the name and address of any trainee real property appraiser or appraisers under their supervision.

Sec. 53. **[82B.093] TRAINEE REAL PROPERTY APPRAISER.**

(a) A trainee real property appraiser shall be subject to direct supervision by a certified residential real property appraiser or certified general real property appraiser in good standing.

(b) A trainee real property appraiser is permitted to have more than one supervising appraiser.

(c) The scope of practice for the trainee real property appraiser classification is the appraisal of those properties which the supervising appraiser is permitted by his or her current credential and that the supervising appraiser is qualified and competent to appraise.

(d) A trainee real property appraiser must have a supervisor signature on each appraisal that he or she signs, or must be named in the appraisal as providing significant real property appraisal assistance to receive credit for experience hours on his or her experience log.

(e) The trainee real property appraiser must maintain copies of appraisal reports he or she signed or copies of appraisal reports where he or she was named as providing significant real property appraisal assistance.

(f) The trainee real property appraiser must maintain copies of work files relating to appraisal reports he or she signed.

(g) Separate appraisal logs must be maintained for each supervising appraiser.

Sec. 54. **[82B.094] SUPERVISION OF TRAINEE REAL PROPERTY APPRAISERS.**

(a) A certified residential real property appraiser or a certified general real property appraiser, in good standing, may engage a trainee real property appraiser to assist in the performance of real estate appraisals, provided that the certified residential real property appraiser or a certified general real property appraiser:

(1) has not been the subject of any license or certificate suspension or revocation or has not been prohibited from supervising activities in this state or any other state within the previous two years;

(2) has no more than three trainee real property appraisers working under supervision at any one time;

(3) actively and personally supervises the trainee real property appraiser, which includes ensuring that research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that the analysis is sound and adequately reported, and that any analyses, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading;

(4) discusses with the trainee real property appraiser any necessary and appropriate changes that are made to a report, involving any trainee appraiser, before it is transmitted to the client. Changes not discussed with the trainee real property appraiser that are made by the supervising appraiser must be provided in writing to the trainee real property appraiser upon completion of the appraisal report;

(5) accompanies the trainee real property appraiser on the inspections of the subject properties and drive-by inspections of the comparable sales on all appraisal assignments for which the trainee will perform work until the trainee appraiser is determined to be competent, in accordance with the

competency rule of USPAP for the property type;

(6) accepts full responsibility for the appraisal report by signing and certifying that the report complies with USPAP; and

(7) reviews and signs the trainee real property appraiser's appraisal report or reports or if the trainee appraiser is not signing the report, states in the appraisal the name of the trainee and scope of the trainee's significant contribution to the report.

(b) The supervising appraiser must review and sign the applicable experience log required to be kept by the trainee real property appraiser.

(c) The supervising appraiser must notify the commissioner within ten days when the supervision of a trainee real property appraiser has terminated or when the trainee appraiser is no longer under the supervision of the supervising appraiser.

(d) The supervising appraiser must maintain a separate work file for each appraisal assignment.

(e) The supervising appraiser must verify that any trainee real property appraiser that is subject to supervision is properly licensed and in good standing with the commissioner.

Sec. 55. Minnesota Statutes 2008, section 82B.20, subdivision 2, is amended to read:

Subd. 2. **Conduct prohibited.** No person may:

(1) obtain or try to obtain a license under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license, or through any form of fraud or misrepresentation;

(2) fail to meet the minimum qualifications established by this chapter;

(3) be convicted, including a conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(4) engage in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the license holder or another person or with the intent to substantially injure another person;

(5) engage in a violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter;

(6) fail or refuse without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(7) engage in negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(8) willfully disregard or violate any of the provisions of this chapter or the rules of the commissioner for the administration and enforcement of the provisions of this chapter;

(9) accept an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid is contingent

upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(10) violate the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency;

(11) offer, pay, or give, and no person shall accept, any compensation or other thing of value from a real estate appraiser by way of commission-splitting, rebate, finder's fee, or otherwise in connection with a real estate appraisal. This prohibition does not apply to transactions among persons licensed under this chapter if the transactions involve appraisals for which the license is required;

(12) engage or authorize a person, except a person licensed under this chapter, to act as a real estate appraiser on the appraiser's behalf;

(13) violate standards of professional practice;

(14) make an oral appraisal report without also making a written report within a reasonable time after the oral report is made;

(15) represent a market analysis to be an appraisal report;

(16) give an appraisal in any circumstances where the appraiser has a conflict of interest, as determined under rules adopted by the commissioner; or

(17) engage in other acts the commissioner by rule prohibits.

No person, including a mortgage originator, appraisal management company, real estate broker or salesperson, appraiser, or other licensee, registrant, or certificate holder regulated by the commissioner may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal. Prohibited acts include blacklisting, boycotting, intimidation, coercion, and any other means that impairs or may impair the independent judgment of the appraiser, including but not limited to the withholding or threatened withholding of payment for an appraisal fee, or the conditioning of the payment of any appraisal fee upon the opinion, conclusion, or valuation to be reached, or a request that the appraiser report a predetermined opinion, conclusion, or valuation, or the desired valuation of any person, or withholding or threatening to withhold future work in order to obtain a desired value on a current or proposed appraisal assignment.

Sec. 56. Minnesota Statutes 2008, section 319B.02, is amended by adding a subdivision to read:

Subd. 21a. **Surviving spouse.** "Surviving spouse" means a surviving spouse of a deceased professional as an individual, as the personal representative of the estate of the decedent, as the trustee of an inter vivos or testamentary trust created by the decedent, or as the sole heir or beneficiary of an estate or trust of which the personal representative or trustee is a bank or other institution that has trust powers.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 57. Minnesota Statutes 2008, section 319B.07, subdivision 1, is amended to read:

Subdivision 1. **Ownership of interests restricted.** Ownership interests in a professional firm

may not be owned or held, either directly or indirectly, except by any of the following:

(1) professionals who, with respect to at least one category of the pertinent professional services, are licensed and not disqualified;

(2) general partnerships, other than limited liability partnerships, authorized to furnish at least one category of the professional firm's pertinent professional services;

(3) other professional firms authorized to furnish at least one category of the professional firm's pertinent professional services;

(4) a voting trust established with respect to some or all of the ownership interests in the professional firm, if (i) the professional firm's generally applicable governing law permits the establishment of voting trusts, and (ii) all the voting trustees and all the holders of beneficial interests in the trust are professionals licensed to furnish at least one category of the pertinent professional services; ~~and~~

(5) an employee stock ownership plan as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended, if (i) all the voting trustees of the plan are professionals licensed to furnish at least one category of the pertinent professional services, and (ii) the ownership interests are not directly issued to anyone other than professionals licensed to furnish at least one category of the pertinent professional services; and

(6) sole ownership by a surviving spouse of a deceased professional who was the sole owner of the professional firm at the time of the professional's death, but only during the period of time ending one year after the death of the professional.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 58. Minnesota Statutes 2008, section 319B.08, is amended to read:

319B.08 EFFECT OF DEATH OR DISQUALIFICATION OF OWNER.

Subdivision 1. **Acquisition of interests or automatic loss of professional firm status.** (a) If an owner dies or becomes disqualified to practice all the pertinent professional services, then either:

(1) within 90 days after the death or the beginning of the disqualification, all of that owner's ownership interest must be acquired by the professional firm, by persons permitted by section 319B.07 to own the ownership interest, or by some combination; or

(2) at the end of the 90-day period, the firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded, the firm loses its status as a professional firm, and the authority created by that election and status terminates.

An acquisition satisfies clause (1) if all right and title to the deceased or disqualified owner's interest are acquired before the end of the 90-day period, even if some or all of the consideration is paid after the end of the 90-day period. However, payment cannot be secured in any way that violates sections 319B.01 to 319B.12.

(b) If automatic rescission does occur under paragraph (a), the firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign

qualification. Even without that updating, however, the rescission, loss of status, and termination of authority provided by paragraph (a) occur automatically at the end of the 90-day period.

Subd. 2. **Terms of acquisition.** (a) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect a mechanism, valid according to the professional firm's generally applicable governing law, to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1); and

(3) the professional firm does not agree with the disqualified owner or the representative of the deceased owner to set aside the mechanism,

then that mechanism applies.

(b) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect no mechanism as described in paragraph (a), or has agreed as mentioned in paragraph (a), clause (3), to set aside that mechanism; and

(3) consistent with its generally applicable governing law, the professional firm agrees with the disqualified owner or the representative of the deceased owner, before the end of the 90-day period, to an arrangement to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1),

then that arrangement applies.

(c) If:

(1) an owner of a Minnesota professional firm dies or becomes disqualified to practice all the pertinent professional services;

(2) the Minnesota professional firm does not have in effect a mechanism as described in paragraph (a);

(3) the Minnesota professional firm does not make an arrangement as described in paragraph (b); and

(4) no provision or tenet of the Minnesota professional firm's generally applicable governing law and no provision of any document or agreement authorized by the Minnesota professional firm's generally applicable governing law expressly precludes an acquisition under this paragraph,

then the firm may acquire the deceased or disqualified owner's ownership interest as stated in this paragraph. To act under this paragraph, the Minnesota professional firm must within 90 days after the death or beginning of the disqualification tender to the representative of the deceased owner's estate or to the disqualified owner the fair value of the owner's ownership interest, as determined by the Minnesota professional firm's governance authority. That price must be at least the book value, as determined in accordance with the Minnesota professional firm's regular method of accounting, as of the end of the month immediately preceding the death or loss of license. The tender must be unconditional and may not attempt to have the recipient waive any rights provided in this section.

If the Minnesota professional firm tenders a price under this paragraph within the 90-day period, the deceased or disqualified owner's ownership interest immediately transfers to the Minnesota professional firm regardless of any dispute as to the fairness of the price. A disqualified owner or representative of the deceased owner's estate who disputes the fairness of the tendered price may take the tendered price and bring suit in district court seeking additional payment. The suit must be commenced within one year after the payment is tendered. A Minnesota professional firm may agree with a disqualified owner or the representative of a deceased owner's estate to delay all or part of the payment due under this paragraph, but all right and title to the owner's ownership interests must be acquired before the end of the 90-day period and payment may not be secured in any way that violates sections 319B.01 to 319B.12.

Subd. 3. **Expiration of firm-issued option on death or disqualification of holder.** If the holder of an option issued under section 319B.07, subdivision 3, paragraph (a), clause (1), dies or becomes disqualified, the option automatically expires.

Subd. 4. **One-year period for surviving spouse of sole owner.** For purposes of this section, each mention of "90 days," "90-day period," or similar term shall be interpreted as one year after the death of a professional who was the sole owner of the professional firm if the surviving spouse of the deceased professional owns and controls the firm after the death.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 59. Minnesota Statutes 2008, section 319B.09, subdivision 1, is amended to read:

Subdivision 1. **Governance authority.** (a) Except as stated in paragraph (b), a professional firm's governance authority must rest with:

(1) one or more professionals, each of whom is licensed to furnish at least one category of the pertinent professional services; or

(2) a surviving spouse of a deceased professional who was the sole owner of the professional firm, while the surviving spouse owns and controls the firm, but only during the period of time ending one year after the death of the professional.

(b) In a Minnesota professional firm organized under chapter 317A and in a foreign professional firm organized under the nonprofit corporation statute of another state, at least one individual possessing governance authority must be a professional licensed to furnish at least one category of the pertinent professional services.

(c) Individuals who possess governance authority within a professional firm may delegate administrative and operational matters to others. No decision entailing the exercise of professional judgment may be delegated or assigned to anyone who is not a professional licensed to practice the professional services involved in the decision.

(d) An individual whose license to practice any pertinent professional services is revoked or suspended may not, during the time the revocation or suspension is in effect, possess or exercise governance authority, hold a position with governance authority, or take part in any decision or other action constituting an exercise of governance authority. Nothing in this chapter prevents a board from further terminating, restricting, limiting, qualifying, or imposing conditions on an individual's governance role as board disciplinary action.

(e) A professional firm owned and controlled by a surviving spouse must comply with all requirements of this chapter, except those clearly inapplicable to a firm owned and governed by a surviving spouse who is not a professional of the same type as the surviving spouse's decedent.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 60. Minnesota Statutes 2008, section 325E.27, is amended to read:

325E.27 USE OF PRERECORDED OR SYNTHESIZED VOICE MESSAGES.

A caller shall not use or connect to a telephone line an automatic dialing-announcing device unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or (2) the message is immediately preceded by a live operator who obtains the subscriber's consent before the message is delivered. This section and section 325E.30 do not apply to (1) messages from school districts to students, parents, or employees, (2) messages to subscribers with whom the caller has a current business or personal relationship, or (3) messages advising employees of work schedules. This section does not apply to messages from a nonprofit tax-exempt charitable organization sent solely for the purpose of soliciting voluntary donations of clothing to benefit disabled United States military veterans and containing no request for monetary donations or other solicitations of any kind.

Sec. 61. **[325E.3161] TELEPHONE SOLICITATIONS; EXPIRATION PROVISION.**

Sections 325E.311 to 325E.316 expire December 31, 2012.

Sec. 62. Minnesota Statutes 2008, section 332A.02, subdivision 13, as amended by Laws 2009, chapter 37, article 4, section 12, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" has the meaning given in section 332B.02, subdivision ~~11~~ 13.

Sec. 63. Minnesota Statutes 2008, section 332A.14, as amended by Laws 2009, chapter 37, article 4, section 17, is amended to read:

332A.14 PROHIBITIONS.

No debt management services provider shall:

(1) purchase from a creditor any obligation of a debtor;

(2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;

(3) advise, counsel, or encourage a debtor to stop paying a creditor, or imply, infer, encourage, or in any other way indicate, that it is advisable to stop paying a creditor;

(4) sanction or condone the act by a debtor of ceasing payments to a creditor or imply, infer, or in any manner indicate that the act of ceasing payments to a creditor is advisable or beneficial to the debtor;

(5) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;

(6) compromise any debts unless the prior written or contractual approval of the debtor has been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;

(7) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;

(8) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or debt management services provider;

(9) structure a debt management services agreement that would result in negative amortization of any debt in the plan;

(10) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;

(11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management services plan;

(12) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;

(13) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

(14) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

(15) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

(16) solicit, demand, collect, require, or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution to a debt management services provider or designee from the debtor.

Sec. 64. Minnesota Statutes 2008, section 332B.02, subdivision 13, as added by Laws 2009, chapter 37, article 4, section 19, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a

physical presence in the state. The term includes any person to whom debt settlement ~~duties~~ services are delegated. The term shall not include persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management services provider.

Sec. 65. Minnesota Statutes 2008, section 332B.03, as added by Laws 2009, chapter 37, article 4, section 20, is amended to read:

332B.03 REQUIREMENT OF REGISTRATION.

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a ~~debt~~ debtor on or after August 1, 2009, without complying with this chapter.

Sec. 66. Minnesota Statutes 2008, section 332B.06, as added by Laws 2009, chapter 37, article 4, section 23, is amended to read:

332B.06 WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.

Subdivision 1. **Written agreement required.** (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor, and the provider complies with all the applicable requirements of this chapter.

(b) A debt settlement services agreement must:

(1) be in writing, dated, and signed by the debt settlement services provider and the debtor;

(2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt settlement services provider advertises in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to executing a written agreement.** No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

(1) informed the debtor, in writing, that debt settlement is not appropriate for all debtors and that there are other ways to deal with debt, including using credit counseling or debt management services, or filing bankruptcy;

(2) prepared in writing and provided to the debtor, in a form the debtor may keep, an

individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:

(i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;

(ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and

(iii) based on the totality of the circumstances, there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan; and

(3) provided, on a document separate from any other document, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

Subd. 3. **Determination concerning creditor participation.** (a) Before executing a debt settlement services agreement or providing any services, a debt settlement services provider must make a determination, supported by sufficient bases, which creditors listed by the debtor are reasonably likely, and which are not reasonably likely, to participate in the debt settlement services plan set forth in the debt settlement services agreement.

(b) A debt settlement services provider has a defense against a claim that no sufficient basis existed to make a determination that a creditor was likely to participate if the debt settlement services provider can produce:

(1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settlement services provider were engaged in negotiations to settle a debt for another debtor; or

(2) evidence that the provider and the creditor had entered into a settlement of a debt for another debtor within the six months prior to the date of the determination.

(c) The debt settlement services provider must notify the debtor as soon as practicable after the provider has made a determination of the likelihood of participation or nonparticipation of all the creditors listed for inclusion in the debt settlement services agreement or debt settlement services plan. If not all creditors listed in the debt settlement services agreement are reasonably likely to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the likely participation of all listed creditors.

Subd. 4. **Disclosures.** (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

CAUTION

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

If you stop paying your creditors, there is a strong likelihood some or all of the following may happen:

• YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.

• YOU MAY STILL BE CONTACTED BY CREDITORS.

• YOU MAY STILL BE SUED BY CREDITORS for the money you owe.

• FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected.

(c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosures and notices required under this subdivision must be provided in the debtor's primary language if the debt settlement services provider advertises in that language.

Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain on the front page of the agreement, segregated by bold lines from all other information on the page and disclosed prominently and clearly in bold print, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 7. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose of writing exchange checks for no longer than 42 days. If the registrant holds debtor funds, the registrant must maintain a separate trust account, except that the registrant may commingle debtor funds with the registrant's own funds, in the form of an imprest fund, to the extent necessary to ensure maintenance of a minimum balance, if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance.

Sec. 67. Minnesota Statutes 2008, section 332B.09, as added by Laws 2009, chapter 37, article 4, section 26, is amended to read:

332B.09 FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION TO DEBTOR OF SETTLEMENT OFFER.

Subdivision 1. **Choice of fee structure.** A debt settlement services provider may calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee structure shall be clearly disclosed and explained in the debt settlement services agreement.

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) $200 on aggregate debt of less than $20,000; or

(ii) $400 on aggregate debt of $20,000 or more;

(2) charge a monthly fee of:

(i) no greater than $50 per month on aggregate debt of less than $40,000; and

(ii) no greater than $60 per month on aggregate debt of $40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

(b) ~~When a settlement offer is obtained by a debt settlement services provider from a creditor, the collection of any monthly fees shall cease beginning the month following the month in which the settlement offer was obtained by the debt settlement services provider~~ The collection of monthly fees shall cease under this subdivision when the total monthly fees and the origination fee equals 40 percent of the total fees allowable under this subdivision.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed,

demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 3. **Fees as a percentage of savings.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 30 percent of the savings actually negotiated by the debt settlement services provider. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) $300 on aggregate debt of less than $20,000; or

(ii) $500 on aggregate debt of $20,000 or more;

(2) charge a monthly fee of:

(i) no greater than $65 on aggregate debt of less than $40,000; and

(ii) no greater than $75 on aggregate debt of $40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 30 percent of the savings, as calculated under paragraph (a).

(b) The collection of monthly fees shall cease under this subdivision when the total of monthly fees and the origination fee equals 50 percent of the total fees allowable under this subdivision. For the purposes of this subdivision, 50 percent of the total fees allowable shall assume a settlement of 50 cents on the dollar.

(c) In no event may more than 50 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation may be claimed, demanded, charged, collected, or received other than the fees allowed under this section. Any fees collected in excess of those allowed under this section must be immediately returned to the debtor.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify the debt settlement

services agreement, unless at least 50 percent of the listed creditors withdraw, in which case the debt settlement services provider must notify the debtor of the debtor's right to cancel. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement offer.** A debt settlement services provider must make all reasonable efforts to notify the debtor within 24 hours of a settlement offer made by a creditor.

Sec. 68. Laws 2008, chapter 315, section 19, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, ~~2009~~ 2010.

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

Sec. 69. **REPEALER.**

Minnesota Statutes 2008, sections 60A.201, subdivision 4; 70A.07; and 79.56, subdivision 4, are repealed.

Sec. 70. **EFFECTIVE DATE.**

(a) Section 25 is effective for all policies with policy years beginning on or after May 21, 2009.

(b) Sections 26 to 30 apply to plans and certificates with an effective date for coverage on or after June 1, 2010.

(c) Sections 44 to 48 are effective the day following final enactment.

ARTICLE 2

DATA PRACTICES PROVISIONS RELATING TO COMMERCE

Section 1. Minnesota Statutes 2008, section 13.3215, is amended to read:

13.3215 UNIVERSITY OF MINNESOTA DATA.

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

(b) "Business data" is data described in section 13.591, subdivision 1, and includes the funded amount of the University of Minnesota's commitment to the investment to date, if any; the market value of the investment by the University of Minnesota; and the age of the investment in years.

(c) "Financial, business, or proprietary data" means data, as determined by the responsible authority for the University of Minnesota, that is of a financial, business, or proprietary nature, the release of which could cause competitive harm to the University of Minnesota, the legal entity in which the University of Minnesota 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.

(d) "Investment" means the investments by the University of Minnesota in the following private capital:

(1) venture capital and other private equity investment businesses through participation in limited partnerships, trusts, 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; and

(3) natural resource investments through limited partnerships, trusts, limited liability corporations, limited liability companies, limited liability partnerships, and corporations.

Subd. 2. **Claims experience data.** Claims experience and all related information received from carriers and claims administrators participating in a University of Minnesota group health, dental, life, or disability insurance plan or the University of Minnesota workers' compensation program, and survey information collected from employees or students participating in these plans and programs, except when the university determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data ~~not on individuals pursuant to~~ under section 13.02, subdivision 9.

Subd. 3. **Private equity investment data.** (a) Financial, business, or proprietary data collected, created, received, or maintained by the University of Minnesota in connection with investments are nonpublic data.

(b) The following data shall be public:

(1) the name of the general partners and the legal entity in which the University of Minnesota has invested;

(2) the amount of the University's initial commitment, and any subsequent commitments;

(3) quarterly reports which outline the aggregate investment performance achieved and the market value, and the fees and expenses paid in aggregate to general partner investment managers in each of the following specific asset classes: venture capital, private equity, distressed debt, private real estate, and natural resources;

(4) a description of all of the types of industry sectors the University of Minnesota is or has invested in, in each specific private equity asset class;

(5) the portfolio performance of University of Minnesota investments overall, including the number of investments, the total amount of the University of Minnesota commitments, the total current market value, and the return on the total investment portfolio; and

(6) the University's percentage ownership interest in a fund or investment entity in which the University is invested.

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

Sec. 2. Minnesota Statutes 2008, section 13.716, is amended by adding a subdivision to read:

Subd. 8. **Insurance filings data.** Insurance filings data received by the commissioner of commerce are classified under section 60A.08, subdivision 15."

Delete the title and insert:

"A bill for an act relating to commerce; regulating various licenses, forms, certificates, coverages, claims practices, disclosures, notices, marketing practices, and records; classifying

certain data; regulating real estate brokers and appraisers; regulating various insurance entities and products, including health, homeowners, motor vehicle insurance, and workers' compensation self-insurance; regulating security broker-dealers; regulating warranty contracts; regulating mortgage originators; sunsetting certain state regulation of telephone solicitations; regulating the use of prerecorded or synthesized voice messages; regulating debt management and debt settlement services providers; delaying regulating business screening services; permitting a deceased professional's surviving spouse to retain ownership of a professional firm under certain circumstances; amending Minnesota Statutes 2008, sections 13.3215; 13.716, by adding a subdivision; 45.011, subdivision 1; 45.0135, subdivision 7; 58.02, subdivision 17; 59B.01; 60A.08, by adding a subdivision; 60A.198, subdivisions 1, 3; 60A.201, subdivision 3; 60A.205, subdivision 1; 60A.2085, subdivisions 1, 3, 7, 8; 60A.23, subdivision 8; 60A.235; 60A.32; 60K.46, by adding a subdivision; 62A.011, subdivision 3; 62A.136; 62A.17, by adding a subdivision; 62A.3099, subdivision 18; 62A.31, subdivision 1, by adding a subdivision; 62A.315; 62A.316; 62L.02, subdivision 26; 62M.05, subdivision 3a; 65A.27, subdivision 1; 65A.29, by adding a subdivision; 65B.133, subdivisions 2, 3, 4; 65B.54, subdivision 1; 67A.191, subdivision 2; 72A.20, subdivisions 15, 26; 72A.201, by adding a subdivision; 79A.04, subdivision 1, by adding a subdivision; 79A.06, by adding a subdivision; 79A.24, subdivision 1, by adding a subdivision; 82.31, subdivision 4; 82B.08, by adding a subdivision; 82B.20, subdivision 2; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 325E.27; 332A.02, subdivision 13, as amended; 332A.14, as amended; 332B.02, subdivision 13, as added; 332B.03, as added; 332B.06, as added; 332B.09, as added; Laws 2008, chapter 315, section 19; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 72A; 80A; 82B; 325E; repealing Minnesota Statutes 2008, sections 60A.201, subdivision 4; 70A.07; 79.56, subdivision 4."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Joe Atkins, Kurt Zellers, Sheldon Johnson

Senate Conferees: (Signed) Dan Sparks, Mee Moua

Senator Sparks moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1853 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1853 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 55 and nays 9, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Hann	Michel	Rummel
Bakk	Dille	Higgins	Moua	Saltzman
Berglin	Doll	Johnson	Murphy	Saxhaug
Betzold	Erickson Ropes	Kelash	Olseen	Scheid
Bonoff	Fischbach	Kubly	Pappas	Senjem
Carlson	Fobbe	Langseth	Pogemiller	Sheran
Chaudhary	Foley	Latz	Prettner Solon	Sieben
Clark	Frederickson	Lourey	Rest	Skoe
Dahle	Gerlach	Lynch	Robling	Skogen
Day	Gimse	Metzen	Rosen	Sparks

Stumpf	Tomassoni	Torres Ray	Vickerman	Wiger

Those who voted in the negative were:

Ingebrigtsen	Koch	Limmer	Ortman	Vandeveer
Jungbauer	Koering	Olson, G.	Pariseau	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1504, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1504: A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; changing special contracts with bordering states; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4835, subdivisions 1, 2; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8, by adding a subdivision; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

Senate File No. 1504 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 927:

H.F. No. 927: A bill for an act relating to labor and industry; modifying construction codes and licensing; exempting certain municipal building ordinances; requiring rulemaking; amending Minnesota Statutes 2008, sections 326B.082, subdivision 12; 326B.084; 326B.121, by adding a subdivision; 326B.43, subdivision 1, by adding a subdivision; 326B.435, subdivisions 2, 6; 326B.475, subdivisions 1, 6; 326B.52; 326B.53; 326B.55; 326B.57; 326B.58; 326B.59; 326B.801; 326B.84; 326B.921, subdivision 1; 326B.974; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, section 326B.43, subdivision 5.

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

Mahoney, Nelson and Gunther have been appointed as such committee on the part of the House.

House File No. 927 is herewith transmitted to the Senate with the request that the Senate appoint

a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

Senator Scheid moved that H.F. No. 927 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Scheid moved that her name be stricken as a co-author to S.F. No. 164. The motion prevailed.

Senator Gerlach moved that his name be stricken as a co-author to S.F. No. 164. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 97: A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 2008, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.

Senate File No. 97 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

CONCURRENCE AND REPASSAGE

Senator Murphy moved that the Senate concur in the amendments by the House to S.F. No. 97 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 97 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 38 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Kelash	Murphy	Sheran
Bakk	Dahle	Koering	Pappas	Sieben
Berglin	Dibble	Latz	Pogemiller	Tomassoni
Betzold	Doll	Lourey	Prettner Solon	Torres Ray
Bonoff	Erickson Ropes	Marty	Rest	Vandeveer
Carlson	Foley	Metzen	Rummel	Wiger
Chaudhary	Higgins	Michel	Saltzman	
Clark	Johnson	Moua	Scheid	

Those who voted in the negative were:

Day	Gimse	Langseth	Pariseau	Skogen
Dille	Hann	Limmer	Robling	Sparks
Fischbach	Ingebrigtsen	Lynch	Rosen	Stumpf
Fobbe	Jungbauer	Olseen	Saxhaug	Vickerman
Frederickson	Koch	Olson, M.	Senjem	
Gerlach	Kubly	Ortman	Skoe	

So the bill, as amended, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Dille moved that his name be stricken as a co-author to S.F. No. 164. The motion prevailed.

Senator Dibble moved that S.F. No. 807, No. 52 on General Orders, be stricken and laid on the table. The motion prevailed.

Senator Torres Ray moved that S.F. No. 1009 and the Conference Committee Report thereon be taken from the table. The motion prevailed.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1009

A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, subdivision 12; 609.324, subdivisions 2, 3, 5.

May 18, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1009 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1009 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 609.321, is amended by adding a subdivision to read:

Subd. 13. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

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

Sec. 2. Minnesota Statutes 2008, section 609.324, subdivision 2, is amended to read:

Subd. 2. **Solicitation or acceptance of solicitation to engage in prostitution in public place; penalty.** Whoever ~~solicits or accepts a solicitation to engage for hire in sexual penetration or sexual contact~~ intentionally does any of the following while in a public place ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000 or both.~~ is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires or offers or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $1,500.

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

Sec. 3. Minnesota Statutes 2008, section 609.324, subdivision 3, is amended to read:

Subd. 3. **Engaging in, hiring, or agreeing to hire adult to engage in prostitution; penalties.** (a) Whoever intentionally does any of the following ~~may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both~~ is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or above; or

(2) hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this ~~clause or clause (1)~~ paragraph while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction ~~may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both~~ for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of ~~a gross misdemeanor violation of this subdivision~~ violating this paragraph while acting as a patron, must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least $1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

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

Sec. 4. Minnesota Statutes 2008, section 609.324, subdivision 5, is amended to read:

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.** (a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving record. Except as provided in paragraph (b), the finding is classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

EFFECTIVE DATE. This section is effective August 1, 2009."

Delete the title and insert:

"A bill for an act relating to public safety; clarifying the prostitution penalty enhancement provision for repeat offenders; broadening the prostitution in a public place crime; making driving records relating to prostitution offenses public for repeat offenders and ensuring that they are available to law enforcement for first-time offenders; amending Minnesota Statutes 2008, sections 609.321, by adding a subdivision; 609.324, subdivisions 2, 3, 5."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Patricia Torres Ray, Linda Higgins, Bill Ingebrigtsen

House Conferees: (Signed) Melissa Hortman, John Lesch, Steve Smith

CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on S.F. No. 1009. The Sergeant at Arms was instructed to bring in the absent members.

Senator Torres Ray moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1009 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1009 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 60 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olson, G.	Scheid
Bakk	Erickson Ropes	Koering	Olson, M.	Senjem
Berglin	Fischbach	Kubly	Ortman	Sheran
Betzold	Foley	Langseth	Pariseau	Sieben
Bonoff	Frederickson	Limmer	Pogemiller	Skoe
Carlson	Gerlach	Lourey	Prettner Solon	Sparks
Clark	Gimse	Lynch	Rest	Stumpf
Cohen	Hann	Marty	Robling	Tomassoni
Dahle	Higgins	Metzen	Rosen	Torres Ray
Day	Johnson	Michel	Rummel	Vandeveer
Dibble	Jungbauer	Murphy	Saltzman	Vickerman
Dille	Kelash	Olseen	Saxhaug	Wiger

Those who voted in the negative were:

Latz	Pappas

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House, Reports of Committees and Second Reading of Senate Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 878, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 878 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 878

A bill for an act relating to transportation; adding provision governing relocation of highway centerline; modifying provisions relating to county state-aid highways and municipal state-aid streets; regulating placement of advertising devices; providing procedures for plats of lands

abutting state rail bank property; amending Minnesota Statutes 2008, sections 161.16, by adding a subdivision; 162.06, subdivision 5; 162.07, subdivision 2; 162.09, subdivision 4; 162.13, subdivision 2; 173.02, by adding subdivisions; 173.16, subdivision 4; 505.03, subdivision 2.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 878 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 878 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 161.16, is amended by adding a subdivision to read:

Subd. 7. **Survey of trunk highway centerline.** (a) When the physical location of a trunk highway centerline will be changed by order of the commissioner and the commissioner is aware that a property description has been written to the centerline, the commissioner shall file with the recorder in the county where the highway is located a survey of the existing centerline prior to changing or removing the trunk highway.

(b) The survey of the trunk highway centerline must be prepared on four-mil transparent reproducible film or its equivalent. Sheet size must be 22 inches by 34 inches. A border line must be placed one-half inch inside the outer edge of the sheet on the top and bottom 34-inch sides; and the right 22-inch side; and two inches inside the outer edge of the sheet on the left 22-inch side. If a survey of the trunk highway centerline consists of more than one sheet, the sheets must be numbered consecutively. The survey of the trunk highway centerline must include:

(1) a graphic depiction of the existing trunk highway centerline;

(2) distances along the centerline, and ties to the corners of the public land survey, expressed in feet and hundredths of a foot. All straight line segments of the plat must be labeled with the length of the line and bearing or azimuth. All curved line segments of the plat must be labeled with the central angle, arc length, and radius length. If any curve is nontangential, the dimensions must include a long chord bearing or azimuth, and must be labeled nontangential;

(3) a north arrow and directional orientation note;

(4) a graphics scale along with the label "Scale In Feet";

(5) the position, description, and ties from the trunk highway centerline to corners of the public land survey;

(6) identification of the public land survey quarter section or sections, government lot or lots, and the county through which the depicted trunk highway centerline runs; and

(7) the date of the survey.

(c) The survey of the trunk highway centerline must be certified by the commissioner of transportation or the commissioner's designated assistant and by a licensed land surveyor.

(d) Upon submission to the recorder in the county where the depicted trunk highway centerline is located, and upon payment of appropriate fees, the survey of the trunk highway centerline must be filed of record.

Sec. 2. Minnesota Statutes 2008, section 162.06, subdivision 5, is amended to read:

Subd. 5. **State park road account.** After deducting for administrative costs and for the disaster account and research account from the amount available as provided in this section, the commissioner shall deduct a sum equal to the three-quarters of one percent of the remainder. The sum so deducted shall be set aside in a separate account and shall be used for (1) the establishment, location, relocation, construction, reconstruction, and improvement of those roads included in the county state-aid highway system under Minnesota Statutes 1961, section 162.02, subdivision 6, which border and provide substantial access to an outdoor recreation unit as defined in section 86A.04 or which provide access to the headquarters of or the principal parking lot located within such a unit, and (2) the reconstruction, improvement, repair, and maintenance of county roads, city streets, and town roads that provide access to public lakes, rivers, state parks, and state campgrounds. Roads described in clause (2) are not required to meet county state-aid highway standards. At the request of the commissioner of natural resources the counties wherein such roads are located shall do such work as requested in the same manner as on any county state-aid highway and shall be reimbursed for such construction, reconstruction, or improvements from the amount set aside by this subdivision. Before requesting a county to do work on a county state-aid highway as provided in this subdivision, the commissioner of natural resources must obtain approval for the project from the County State-Aid Screening Board. The screening board, before giving its approval, must obtain a written comment on the project from the county engineer of the county requested to undertake the project. Before requesting a county to do work on a county road, city street, or a town road that provides access to a public lake, a river, a state park, or a state campground, the commissioner of natural resources shall obtain a written comment on the project from the county engineer of the county requested to undertake the project. ~~Any sums paid to counties or cities in accordance with this subdivision shall reduce the money needs of said counties or cities in the amounts necessary to equalize their status with those counties or cities not receiving such payments.~~ Any balance of the amount so set aside, at the end of each year ~~shall~~ must be transferred to the county state-aid highway fund.

Sec. 3. Minnesota Statutes 2008, section 162.07, subdivision 2, is amended to read:

Subd. 2. **Money needs defined.** For the purpose of this section, money needs of each county are defined as the estimated total annual costs of constructing, over a period of 25 years, the county state-aid highway system in that county. Costs incidental to construction, or a specified portion thereof as set forth in the commissioner's rules may be included in determining money needs. To avoid variances in costs due to differences in construction policy, construction costs shall be estimated on the basis of the engineering standards developed cooperatively by the commissioner and the county engineers of the several counties. ~~Any variance granted pursuant to section 162.02, subdivision 3a shall be reflected in the estimated construction costs in determining money needs.~~

Sec. 4. Minnesota Statutes 2008, section 162.09, subdivision 4, is amended to read:

Subd. 4. **Federal census is conclusive.** (a) In determining whether any city has a population of 5,000 or more, the last federal census shall be conclusive, except as otherwise provided in this subdivision.

(b) ~~A city that has previously been classified as having a population of 5,000 or more for the purposes of chapter 162 and whose population decreases by less than 15 percent from the census figure that last qualified the city for inclusion shall receive the following percentages of its 1981 apportionment for the years indicated: 1982, 66 percent and 1983, 33 percent. Thereafter the city shall not receive any apportionment from the municipal state-aid street fund unless its population is determined to be 5,000 or over by a federal census.~~ The governing body of ~~the~~ a city may contract with the United States Bureau of the Census to take ~~one~~ a special census ~~before January 1, 1986~~. A certified copy of the results of the census shall be filed with the appropriate state authorities by the city. The result of the census shall be the population of the city for the purposes of any law providing that population is a required qualification for distribution of highway aids under chapter 162. The special census shall remain in effect until the ~~1990~~ next federal census is completed and filed. The expense of taking the special census shall be paid by the city.

(c) If an entire area not heretofore incorporated as a city is incorporated as such during the interval between federal censuses, its population shall be determined by its incorporation census. The incorporation census shall be determinative of the population of the city only until the next federal census.

(d) The population of a city created by the consolidation of two or more previously incorporated cities shall be determined by the most recent population estimate of the Metropolitan Council or state demographer, until the first federal decennial census or special census taken after the consolidation.

(e) The population of a city that is not receiving a municipal state-aid street fund apportionment shall be determined, upon request of the city, by the most recent population estimate of the Metropolitan Council or state demographer. A municipal state-aid street fund apportionment received by the city must be based on this population estimate until the next federal decennial census or special census.

Sec. 5. Minnesota Statutes 2008, section 162.13, subdivision 2, is amended to read:

Subd. 2. **Money needs defined.** For the purpose of this section money needs of each city having a population of 5,000 or more are defined as the estimated cost of constructing and maintaining over a period of 25 years the municipal state-aid street system in such city. Right-of-way costs and drainage shall be included in money needs. Lighting costs and other costs incidental to construction and maintenance, or a specified portion of such costs, as set forth in the commissioner's rules, may be included in determining money needs. When a county locates a county state-aid highway over a portion of a street in any such city and the remaining portion is designated as a municipal state-aid street only the construction and maintenance costs of the portion of the street other than the portions taken over by the county shall be included in the money needs of the city. To avoid variances in costs due to differences in construction and maintenance policy, construction and maintenance costs shall be estimated on the basis of the engineering standards developed cooperatively by the commissioner and the engineers, or a committee thereof, of the cities. ~~Any variance granted pursuant to section 162.09, subdivision 3a shall be reflected in the estimated construction and maintenance costs in determining money needs.~~

Sec. 6. Minnesota Statutes 2008, section 169.686, subdivision 1, is amended to read:

Subdivision 1. **Seat belt requirement.** (a) Except as provided in section 169.685, a properly adjusted and fastened seat belt, including both the shoulder and lap belt when the vehicle is so equipped, shall be worn by~~:~~

~~(1)~~ the driver and passengers of a passenger vehicle ~~or~~, commercial motor vehicle, type III vehicle, and type III Head Start vehicle~~;~~

~~(2) a passenger riding in the front seat of a passenger vehicle or commercial motor vehicle; and~~

~~(3) a passenger riding in any seat of a passenger vehicle who is older than three but younger than 11 years of age~~.

(b) a person who is 15 years of age or older and who violates paragraph (a)~~, clause (1) or (2),~~ is subject to a fine of $25. The driver of the ~~passenger vehicle or commercial motor~~ vehicle in which ~~the violation occurred~~ a violation occurs is subject to a $25 fine for ~~a~~ each violation of paragraph (a)~~, clause (2) or (3),~~ by the driver or by a ~~child of the driver~~ passenger under the age of 15 ~~or any child under the age of 11. A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation other than a violation involving motor vehicle equipment~~, but the court may not impose more than one surcharge under section 357.021, subdivision 6, on the driver. The Department of Public Safety shall not record a violation of this subdivision on a person's driving record.

EFFECTIVE DATE. This section is effective June 9, 2009, and applies to acts committed on or after that date.

Sec. 7. Minnesota Statutes 2008, section 169.686, subdivision 2, is amended to read:

Subd. 2. **Seat belt exemptions.** This section shall not apply to:

(1) a person driving a passenger vehicle in reverse;

(2) a person riding in a ~~seat~~ vehicle in which all the seating positions equipped with safety belts are occupied by other persons in safety belts;

(3) a person who is in possession of a written certificate from a licensed physician verifying that because of medical unfitness or physical disability the person is unable to wear a seat belt;

(4) a person who is actually engaged in work that requires the person to alight from and reenter a motor vehicle at frequent intervals and who, while engaged in that work, does not drive or travel in that vehicle at a speed exceeding 25 miles per hour;

(5) a rural mail carrier of the United States Postal Service or a newspaper delivery person while in the performance of duties;

(6) a person driving or riding in a passenger vehicle manufactured before January 1, 1965; and

(7) a person driving or riding in a pickup truck~~, as defined in section 168.002, subdivision 26,~~ while engaged in normal farming work or activity.

Sec. 8. Minnesota Statutes 2008, section 173.02, is amended by adding a subdivision to read:

Subd. 19a. **Expressway.** "Expressway" has the meaning given it in section 160.02, subdivision 18b.

Sec. 9. Minnesota Statutes 2008, section 173.02, is amended by adding a subdivision to read:

Subd. 19b. **Freeway.** "Freeway" has the meaning given it in section 160.02, subdivision 19.

Sec. 10. Minnesota Statutes 2008, section 173.16, subdivision 4, is amended to read:

Subd. 4. **Spacing.** (a) Advertising devices shall not be erected or maintained in such a place or manner as to obscure or otherwise physically interfere with an official traffic control device or a railroad safety signal or sign, or to obstruct or physically interfere with the drivers' view of approaching, merging, or intersecting traffic for a distance of 500 feet.

(b) No advertising device shall be erected closer to any other such advertising device on the same side of the same highway facing traffic proceeding in the same direction than (1) 500 feet on any interstate highway or ~~fully controlled~~ freeway in a zoned or unzoned commercial or industrial area within or outside an incorporated city, (2) 300 feet on a primary highway in a zoned commercial or industrial area outside an incorporated city, (3) 400 feet on a primary highway in an unzoned commercial or industrial area outside an incorporated city, (4) 100 feet on a primary highway inside an incorporated city; provided, however, that this provision shall not prevent the erection of double-faced, back-to-back, or V-type advertising devices with a maximum of two signs per facing; provided further, however, that such spacing requirements shall not apply as between any off-premise advertising device permitted under the provisions of Laws 1971, chapter 883.

(c) The above spacing between advertising devices does not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.

(d) On interstate highways ~~or fully controlled access freeways~~ outside of incorporated cities, no advertising device may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. On freeways and expressways where there are grade-separated interchanges outside incorporated cities, no advertising device may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured along such highway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

(e) On primary highways outside of incorporated cities, no advertising device may be located closer than 300 feet from the intersection of any primary highway at grade with another highway, or with a railroad; provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that caused by the building itself.

Sec. 11. Minnesota Statutes 2008, section 505.03, subdivision 2, is amended to read:

Subd. 2. **Plat approval; road review.** (a) Any proposed preliminary plat in a city, town, or county, which includes lands abutting upon state rail bank property or upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder shall first be presented by the city, town, or county to the commissioner of transportation for written comments and recommendations. Preliminary plats in a city or town involving state rail bank property or both a trunk highway and a highway under county jurisdiction shall be submitted by the city or town to the county highway engineer as provided in paragraphs (b) and (c) and to the commissioner of transportation. Plats shall be submitted by the

city, town, or county to the commissioner of transportation for review at least 30 days prior to the home rule charter or statutory city, town or county taking final action on the preliminary plat. The commissioner of transportation shall submit the written comments and recommendations to the city, town, or county within 30 days after receipt by the commissioner of such a plat. Final action on such plat by the city, town, or county shall not be taken until after these required comments and recommendations have been received or until the 30-day period has elapsed.

(b) If any proposed preliminary plat or initial plat filing ~~that~~ includes land located in a city or town bordering either state rail bank property or an existing or proposed county road, highway, or county state-aid highway ~~that~~, and the property, road, or highway is designated on a map or county highway plan filed in the office of the county recorder or registrar of titles, then the plat or plat filing must be submitted by the city or town to the county engineer within five business days after receipt by the city or town of the preliminary plat or initial plat filing for written comments and recommendations. The county engineer's review shall be limited to factors of county significance in conformance with adopted county guidelines developed through a public hearing or a comprehensive planning process with comment by the cities and towns. The guidelines must provide for development and redevelopment scenarios, allow for variances, and reflect consideration of city or town adopted guidelines.

(c) Within 30 days after county receipt from the city or town of the preliminary plat or initial plat filing, the county engineer shall provide to the city or town written comments stating whether the plat meets county guidelines and describing any modifications necessary to bring the plat into conformity with the county guidelines. No city or town may approve a preliminary plat until it has received the county engineer's written comments and recommendations or until the county engineer's comment period has expired, whichever occurs first. Within ten business days following a city's or town's approval of a preliminary plat, the city or town shall submit to the county board notice of its approval, along with a statement addressing the disposition of any written comments or recommendations made by the county engineer. In the event the city or town does not amend the plat to conform to the recommendations made by the county engineer, representatives from the county and city or town shall meet to discuss the differences and determine whether changes to the plat are appropriate prior to final approval. This requirement shall not extend the time deadlines for preliminary or final approval as required under this section, section 15.99 or 462.358, or any other law, nor shall this requirement prohibit final approval as required by this section.

(d) A legible preliminary drawing or print of a proposed preliminary plat shall be acceptable for purposes of review by the commissioner of transportation or the county highway engineer. To such drawing or print there shall be attached a written statement describing~~,~~:

(1) the outlet for and means of disposal of surface waters from the proposed platted area~~,~~;

(2) the land use designation or zoning category of the proposed platted area~~,~~;

(3) the locations of ingress and egress to the proposed platted area~~,~~; and

(4) a preliminary site plan for the proposed platted area, with dimensions to scale, authenticated by a registered engineer or land surveyor, showing:

(i) the state rail bank property;

(ii) the existing or proposed state highway, county road, or county highway; and

(iii) all existing and proposed rights-of-way, easements, general lot layouts, and lot dimensions.

(e) Failure to obtain the written comments and recommendations of the commissioner of transportation or the county highway engineer shall in no manner affect the title to the lands included in the plat or the platting of said lands. A city, town, or county shall file with the plat, in the office of the county recorder or registrar of titles, a certificate or other evidence showing submission of the preliminary plat to the commissioner or county highway engineer in compliance with this subdivision.

Sec. 12. **KATHRYN SWANSON SEAT BELT SAFETY ACT.**

If 2009 H.F. No. 108 is enacted, it may be cited as the Kathryn Swanson Seat Belt Safety Act.

Sec. 13. **STUDY OF MANDATORY 24-HOUR VEHICLE LIGHTING.**

(a) The commissioner of public safety, in cooperation with the commissioner of transportation, shall study the mandatory 24-hour use of vehicle lighting by vehicles on public highways. The study must examine the experience of jurisdictions in this country, Canada, and the European Union, that require 24-hour display of vehicle lighting, including but not limited to:

(1) environmental consequences;

(2) crash prevention;

(3) motorcycle, bicycle, and pedestrian safety;

(4) cost to drivers; and

(5) application to motorcycles.

(b) By January 15, 2011, the commissioners of transportation and public safety shall report their findings and recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy. The report must be made electronically and available in print only upon request.

(c) The commissioners of public safety and transportation shall study and report under this section within current appropriations.

Sec. 14. **SUPERSEDING PROVISIONS.**

The provisions amending Minnesota Statutes, section 169.686, in this act supersede any inconsistent or conflicting provisions in 2009 H.F. No. 108, if enacted, regardless of the order of enactment or effective date of the provisions contained in this act and in 2009 H.F. No. 108."

Delete the title and insert:

"A bill for an act relating to transportation; adding provision governing relocation of highway centerline; modifying provisions relating to county state-aid highways and municipal state-aid streets; modifying provisions relating to seat belts; regulating placement of advertising devices; providing procedures for plats of lands abutting state rail bank property; requiring a study and report; amending Minnesota Statutes 2008, sections 161.16, by adding a subdivision; 162.06, subdivision 5; 162.07, subdivision 2; 162.09, subdivision 4; 162.13, subdivision 2; 169.686, subdivisions 1, 2; 173.02, by adding subdivisions; 173.16, subdivision 4; 505.03, subdivision 2."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Melissa Hortman, Will Morgan, Steve Smith

Senate Conferees: (Signed) Ann H. Rest, Jim Carlson, Michael Jungbauer

Senator Rest moved that the foregoing recommendations and Conference Committee Report on H.F. No. 878 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 878 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 5, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Jungbauer	Michel	Rummel
Bakk	Doll	Koch	Olson, G.	Saltzman
Berglin	Erickson Ropes	Koering	Olson, M.	Saxhaug
Betzold	Fischbach	Kubly	Ortman	Scheid
Bonoff	Foley	Langseth	Pappas	Senjem
Carlson	Frederickson	Latz	Pariseau	Sheran
Clark	Gerlach	Limmer	Pogemiller	Sieben
Cohen	Gimse	Lourey	Prettner Solon	Torres Ray
Dahle	Hann	Lynch	Rest	Vickerman
Day	Higgins	Marty	Robling	Wiger
Dibble	Johnson	Metzen	Rosen	

Those who voted in the negative were:

Skoe	Sparks	Stumpf	Tomassoni	Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House wishes to recall for the purpose of further consideration House File No. 927.

H.F. No. 927: A bill for an act relating to labor and industry; modifying construction codes and licensing; exempting certain municipal building ordinances; requiring rulemaking; amending Minnesota Statutes 2008, sections 326B.082, subdivision 12; 326B.084; 326B.121, by adding a subdivision; 326B.43, subdivision 1, by adding a subdivision; 326B.435, subdivisions 2, 6; 326B.475, subdivisions 1, 6; 326B.52; 326B.53; 326B.55; 326B.57; 326B.58; 326B.59; 326B.801; 326B.84; 326B.921, subdivision 1; 326B.974; proposing coding for new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2008, section 326B.43, subdivision 5.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

Senator Scheid moved to accede to the request of the House to return H.F. No. 927 for further consideration. The motion prevailed.

Mr. President:

I have the honor to announce the adoption by the House of the following House Concurrent Resolution, herewith transmitted:

House Concurrent Resolution No. 2: A House concurrent resolution relating to adjournment until 2010.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

House Concurrent Resolution No. 2: A house concurrent resolution relating to adjournment until 2010.

A house concurrent resolution relating to adjournment until 2010.

BE IT RESOLVED by the House of Representatives, the Senate concurring:

(1) Upon its adjournment May 18, 2009, the House of Representatives may set its next day of meeting for February 4, 2010, at 12:00 noon, and the Senate may set its next day of meeting for February 4, 2010, at 12:00 noon.

(2) By the adoption of this resolution, each house consents to adjournment of the other house for more than three days.

Senator Pogemiller moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Pogemiller from the Committee on Rules and Administration, to which was referred

S.F. No. 2135: A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2008, section 169.865, subdivision 1.

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

Page 1, after line 17, insert:

"Sec. 2. [CORR09-01] Minnesota Statutes 2008, section 270C.445, subdivision 7, as amended by 2009 H.F. No. 1298, article 12, section 1, if enacted, is amended to read:

Subd. 7. **Enforcement; civil actions.** (a) Any violation of this section is an unfair, deceptive, and unlawful trade practice within the meaning of section 8.31. An action taken under this section ~~8.31~~ is in the public interest.

(b) A client may bring a civil action seeking redress for a violation of this section in the conciliation or the district court of the county in which unlawful action is alleged to have been committed or where the respondent resides or has a principal place of business.

(c) A court finding for the plaintiff must award:

(1) actual damages;

(2) incidental and consequential damages;

(3) statutory damages of twice the sum of: (i) the tax preparation fees; and (ii) if the plaintiff violated subdivision 3a, 4, or 5b all interest and fees for a refund anticipation loan;

(4) reasonable attorney fees;

(5) court costs; and

(6) any other equitable relief as the court considers appropriate.

Sec. 3. [CORR09-02] Minnesota Statutes 2008, section 332B.09, as added by 2009 H.F. No. 2123, article 4, section 26, if enacted, is amended to read:

[332B.09] FEES; WITHDRAWAL OF CREDITORS; NOTIFICATION TO DEBTOR OF SETTLEMENT OFFER.

Subdivision 1. **Choice of fee structure.** A debt settlement services provider may calculate fees on a percentage of debt basis or on a percentage of savings basis. The fee structure shall be clearly disclosed and explained in the debt settlement services agreement.

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) $200 on aggregate debt of less than $20,000; or

(ii) $400 on aggregate debt of $20,000 or more;

(2) charge a monthly fee of:

(i) no greater than $50 per month on aggregate debt of less than $40,000; and

(ii) no greater than $60 per month on aggregate debt of $40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

(b) When a settlement offer is obtained by a debt settlement services provider from a creditor, the collection of any monthly fees shall cease beginning the month following the month in which the settlement offer was obtained by the debt settlement services provider.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 3. **Fees as a percentage of savings.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 30 percent of the savings actually negotiated by the debt settlement services provider. The savings shall be calculated as the difference between the aggregate debt that is stated in the debt settlement services agreement at the time of its execution and total amount that the debtor actually pays to settle all the debts stated in the debt settlement services agreement, provided that only savings resulting from concessions actually negotiated by the debt settlement services provider may be counted. A debt settlement services provider that calculates fees as a percentage of ~~debt~~ savings may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) $300 on aggregate debt of less than $20,000; or

(ii) $500 on aggregate debt of $20,000 or more;

(2) charge a monthly fee of:

(i) no greater than $65 on aggregate debt of less than $40,000; and

(ii) no greater than $75 on aggregate debt of $40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 30 percent of the savings, as calculated

under paragraph (a).

(b) The collection of monthly fees shall cease under this subdivision when the total of monthly fees and the origination fee equals 50 percent of the total fees allowable under this subdivision. For the purposes of this subdivision, 50 percent of the total fees allowable shall assume a settlement of 50 cents on the dollar.

(c) In no event may more than 50 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide, final written settlement offer consistent with the terms of the debt settlement services agreement.

Subd. 4. **Fees exclusive.** No fees, charges, assessments, or any other compensation may be claimed, demanded, charged, collected, or received other than the fees allowed under this section. Any fees collected in excess of those allowed under this section must be immediately returned to the debtor.

Subd. 5. **Withdrawal of creditor.** Whenever a creditor withdraws from a debt settlement services plan, the debt settlement services provider must promptly notify the debtor of the withdrawal, identify the creditor, and inform the debtor of the right to modify the debt settlement services agreement, unless at least 50 percent of the listed creditors withdraw, in which case the debt settlement services provider must notify the debtor of the debtor's right to cancel. In no case may this notice be provided more than 15 days after the debt settlement services provider learns of the creditor's decision to withdraw from a plan.

Subd. 6. **Timely notification of settlement offer.** A debt settlement services provider must make all reasonable efforts to notify the debtor within 24 hours of a settlement offer made by a creditor.

Sec. 4. [CORR09-03] Laws 2009, chapter 37, article 2, section 3, subdivision 2, is amended to read:

Subd. 2. **Financial Institutions**	6,638,000	6,638,000
$1,000 each year is for consumer small loan regulation modifications in article ~~7~~ 3. This appropriation is added to the department's base.		

Sec. 5. [CORR09-04] 2009 H.F. No. 1476, section 16, if enacted, is amended to read:

Sec. 16. **CITY OF MINNEAPOLIS; LIQUOR LICENSE.**

Notwithstanding any law, ordinance, or charter provision to the contrary, the city of Minneapolis may issue an on-sale intoxicating liquor license to an establishment located at 2124 Como Avenue Southeast.

Sec. 6. [CORR09-05A] Minnesota Statutes 2008, section 120B.30, as amended by Laws 2009, chapter 96, article 2, section 8, is amended to read:

120B.30 STATEWIDE TESTING AND REPORTING SYSTEM.

Subdivision 1. **Statewide testing.** (a) The commissioner, with advice from experts with

appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed from and aligned with the state's required academic standards under section 120B.021, include multiple choice questions, and be administered annually to all students in grades 3 through 8. State-developed high school tests aligned with the state's required academic standards under section 120B.021 and administered to all high school students in a subject other than writing must include multiple choice questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year. For students enrolled in grade 8 before the 2005-2006 school year, Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of basic skills tests in reading and mathematics are the equivalent of 75 percent correct for students entering grade 9 based on the first uniform test administered in February 1998. Students who have not successfully passed a Minnesota basic skills test by the end of the 2011-2012 school year must pass the graduation-required assessments for diploma under paragraph ~~(b)~~ (c).

(b) The state assessment system must be aligned to the most recent revision of academic standards as described in section 120B.023 in the following manner:

(1) mathematics;

(i) grades 3 through 8 beginning in the 2010-2011 school year; and

(ii) high school level beginning in the 2013-2014 school year;

(2) science; grades 5 and 8 and at the high school level beginning in the 2011-2012 school year; and

(3) language arts and reading; grades 3 through 8 and high school level beginning in the 2012-2013 school year.

(c) For students enrolled in grade 8 in the 2005-2006 school year and later, only the following options shall fulfill students' state graduation test requirements:

(1) for reading and mathematics:

(i) obtaining an achievement level equivalent to or greater than proficient as determined through a standard setting process on the Minnesota comprehensive assessments in grade 10 for reading and grade 11 for mathematics or achieving a passing score as determined through a standard setting process on the graduation-required assessment for diploma in grade 10 for reading and grade 11 for mathematics or subsequent retests;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in reading and the mathematics test for English language learners or the graduation-required assessment for diploma equivalent of those assessments for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan;

(iv) obtaining achievement level equivalent to or greater than proficient as determined through a standard setting process on the state-identified alternate assessment or assessments in grade 10 for reading and grade 11 for mathematics for students with an individual education plan; or

(v) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan; and

(2) for writing:

(i) achieving a passing score on the graduation-required assessment for diploma;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in writing for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan; or

(iv) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan.

(d) Students enrolled in grade 8 in any school year from the 2005-2006 school year to the 2009-2010 school year who do not pass the mathematics graduation-required assessment for diploma under paragraph ~~(b)~~ (c) are eligible to receive a high school diploma ~~with a passing state notation~~ if they:

(1) complete with a passing score or grade all state and local coursework and credits required for graduation by the school board granting the students their diploma;

(2) participate in district-prescribed academic remediation in mathematics; and

(3) fully participate in at least two retests of the mathematics GRAD test or until they pass the mathematics GRAD test, whichever comes first. A school, district, or charter school must place a student's highest assessment score for each of the following assessments on the student's high school transcript: the mathematics Minnesota Comprehensive Assessment, reading Minnesota Comprehensive Assessment, and writing Graduation-Required Assessment for Diploma, and when applicable, the mathematics Graduation-Required Assessment for Diploma and reading Graduation-Required Assessment for Diploma.

In addition, the school board granting the students their diplomas may formally decide to include a notation of high achievement on the high school diplomas of those graduating seniors who, according to established school board criteria, demonstrate exemplary academic achievement during high school.

(e) The 3rd through 8th grade and high school test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the high school test results upon receiving those results.

(f) The 3rd through 8th grade and high school tests must be aligned with state academic standards. The commissioner shall determine the testing process and the order of administration. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

(g) In addition to the testing and reporting requirements under this section, the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all students in grades 3 through 8 and at the high school level that provides appropriate, technically sound accommodations or alternate assessments;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) state results on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

Subd. 1a. **Statewide and local assessments; results.** (a) For purposes of conforming with existing federal educational accountability requirements, the commissioner must develop reading and mathematics assessments for grades 3 through 8, state-developed high school reading and mathematics tests aligned with state academic standards, and science assessments under clause (2) that districts and sites must use to monitor student growth toward achieving those standards. The commissioner must not develop statewide assessments for academic standards in social studies, health and physical education, and the arts. The commissioner must require:

(1) annual reading and mathematics assessments in grades 3 through 8, and high school reading and mathematics tests; and

(2) annual science assessments in one grade in the grades 3 through 5 span, the grades 6 through 8 span, and a life sciences assessment in the grades 9 through 12 span, and the commissioner must not require students to achieve a passing score on high school science assessments as a condition of receiving a high school diploma.

(b) The commissioner must ensure that all statewide tests administered to elementary and secondary students measure students' academic knowledge and skills and not students' values, attitudes, and beliefs.

(c) Reporting of assessment results must:

(1) provide timely, useful, and understandable information on the performance of individual students, schools, school districts, and the state;

(2) include a value-added growth indicator of student achievement under section 120B.35, subdivision 3, paragraph (b); and

(3)(i) for students enrolled in grade 8 before the 2005-2006 school year, determine whether students have met the state's basic skills requirements; and

(ii) for students enrolled in grade 8 in the 2005-2006 school year and later, determine whether students have met the state's academic standards.

(d) Consistent with applicable federal law and subdivision 1, paragraph (d), clause (1), the commissioner must include appropriate, technically sound accommodations or alternative assessments for the very few students with disabilities for whom statewide assessments are inappropriate and for students with limited English proficiency.

(e) A school, school district, and charter school must administer statewide assessments under this section, as the assessments become available, to evaluate student proficiency in the context of the state's grade level academic standards. If a state assessment is not available, a school, school district, and charter school must determine locally if a student has met the required academic standards. A school, school district, or charter school may use a student's performance on a statewide assessment as one of multiple criteria to determine grade promotion or retention. A school, school district, or charter school may use a high school student's performance on a statewide assessment as a percentage of the student's final grade in a course, or place a student's assessment score on the student's transcript.

Subd. 2. **Department of Education assistance.** The Department of Education shall contract for professional and technical services according to competitive bidding procedures under chapter 16C for purposes of this section.

Subd. 3. **Reporting.** The commissioner shall report test data publicly and to stakeholders, including the performance achievement levels developed from students' unweighted test scores in each tested subject and a listing of demographic factors that strongly correlate with student performance. The commissioner shall also report data that compares performance results among school sites, school districts, Minnesota and other states, and Minnesota and other nations. The commissioner shall disseminate to schools and school districts a more comprehensive report containing testing information that meets local needs for evaluating instruction and curriculum.

Subd. 4. **Access to tests.** The commissioner must adopt and publish a policy to provide public and parental access for review of basic skills tests, Minnesota Comprehensive Assessments, or any other such statewide test and assessment. Upon receiving a written request, the commissioner must make available to parents or guardians a copy of their student's actual responses to the test questions for their review.

Sec. 7. [CORR09-05B] Minnesota Statutes 2008, section 125B.26, as amended by Laws 2009, chapter 96, article 4, section 11, is amended to read:

125B.26 TELECOMMUNICATIONS/INTERNET ACCESS EQUITY AID.

Subdivision 1. **Costs to be submitted.** (a) A district~~,~~ or charter school~~, or intermediate school district~~ shall submit its actual telecommunications/Internet access costs for the previous fiscal year, adjusted for any e-rate revenue received, to the department by August 15 of each year as prescribed by the commissioner. A school district may include in its reported data a proportionate share of the costs and e-rate revenues of an intermediate school district of which it is a member. Costs eligible for reimbursement under this program are limited to the following:

(1) ongoing or recurring telecommunications/Internet access costs associated with Internet access, data lines, and video links providing:

(i) the equivalent of one data line, video link, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each elementary school, middle school, or high school under section 120A.05, subdivisions 9, 11, and 13, including the recurring telecommunications line lease costs and ongoing Internet access service fees; or

(ii) the equivalent of one data line or video circuit, or integrated data/video link that relies on a transport medium that operates at a minimum speed of 1.544 megabytes per second (T1) for each district, including recurring telecommunications line lease costs and ongoing Internet access service fees;

(2) recurring costs of contractual or vendor-provided maintenance on the school district's wide area network to the point of presence at the school building up to the router, codec, or other service delivery equipment located at the point of presence termination at the school or school district;

(3) recurring costs of cooperative, shared arrangements for regional delivery of telecommunications/Internet access between school districts, postsecondary institutions, and public libraries including network gateways, peering points, regional network infrastructure, Internet2 access, and network support, maintenance, and coordination; and

(4) service provider installation fees for installation of new telecommunications lines or increased bandwidth.

(b) Costs not eligible for reimbursement under this program include:

(1) recurring costs of school district staff providing network infrastructure support;

(2) recurring costs associated with voice and standard telephone service;

(3) costs associated with purchase of network hardware, telephones, computers, or other peripheral equipment needed to deliver telecommunications access to the school or school district;

(4) costs associated with laying fiber for telecommunications access;

(5) costs associated with wiring school or school district buildings;

(6) costs associated with purchase, installation, or purchase and installation of Internet filtering; and

(7) costs associated with digital content, including online learning or distance learning programming, and information databases.

Subd. 2. **E-rates.** To be eligible for aid under this section, a district~~,~~ or charter school~~, or intermediate school district~~ is required to file an e-rate application either separately or through its telecommunications access cluster and have a current technology plan on file with the department. An intermediate school district shall file an e-rate application and member districts shall report a proportional share of e-rate revenues received by the intermediate district. Discounts received on telecommunications expenditures shall be reflected in the costs submitted to the department for aid under this section.

Subd. 3. **Reimbursement criteria.** The commissioner shall develop criteria for approving costs submitted by organized school districts~~,~~ and charter schools~~, and intermediate school districts~~ under

subdivision 1.

Subd. 4. **District aid.** For fiscal year 2006 and later, a district~~,~~ or charter ~~school, or intermediate school district's~~ school's Internet access equity aid equals the district~~,~~ or charter ~~school, or intermediate school district's~~ school's approved cost for the previous fiscal year according to subdivision 1 exceeding $15 times the district's adjusted marginal cost pupil units for the previous fiscal year or no reduction if the district is part of an organized telecommunications access cluster. Equity aid must be distributed to the telecommunications access cluster for districts~~,~~ or charter schools~~, or intermediate school districts~~ that are members of the cluster or to individual districts~~,~~ or charter schools~~, or intermediate school districts~~ not part of a telecommunications access cluster.

Subd. 5. **Telecommunications/Internet access services for nonpublic schools.** (a) Districts shall provide each year upon formal request by or on behalf of a nonpublic school, not including home schools, located in that district or area, ongoing or recurring telecommunications access services to the nonpublic school either through existing district providers or through separate providers.

(b) The amount of district aid for telecommunications access services for each nonpublic school under this subdivision equals the lesser of:

(1) 90 percent of the nonpublic school's approved cost for the previous fiscal year according to subdivision 1 exceeding $10 for fiscal year 2006 and later times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year; or

(2) the product of the district's aid per pupil unit according to subdivision 4 times the number of weighted pupils enrolled at the nonpublic school as of October 1 of the previous school year.

(c) For purposes of this subdivision, nonpublic school pupils shall be weighted by grade level using the weighting factors defined in section 126C.05, subdivision 1.

(d) Each year, a district providing services under paragraph (a) may claim up to five percent of the aid determined in paragraph (b) for costs of administering this subdivision. No district may expend an amount for these telecommunications access services which exceeds the amount allocated under this subdivision. The nonpublic school is responsible for the Internet access costs not covered by this section.

(e) At the request of a nonpublic school, districts may allocate the amount determined in paragraph (b) directly to the nonpublic school to pay for or offset the nonpublic school's costs for telecommunications access services; however, the amount allocated directly to the nonpublic school may not exceed the actual amount of the school's ongoing or recurring telecommunications access costs.

Subd. 6. **Severability.** If any portion of this section is found by a court to be unconstitutional, the remaining portions of the section shall remain in effect.

Sec. 8. [CORR09-05C] Minnesota Statutes 2008, section 126C.41, subdivision 2, as amended by Laws 2009, chapter 96, article 1, section 16, is amended to read:

Subd. 2. **Retired employee health benefits.** (a) A district may levy an amount up to the amount the district is required by the collective bargaining agreement in effect on March 30, 1992, to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who

have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable, either (1) before July 1, 1992, ~~and to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable~~ or (2) before July 1, 1998, but for employees retiring after June 30, 1992, and before July 1, 1998, only if a sunset clause is in effect for the current collective bargaining agreement. The total amount of the levy each year may not exceed $600,000.

(b) In addition to the levy authority granted under paragraph (a), a school district may levy for other postemployment benefits expenses actually paid during the previous fiscal year. For purposes of this subdivision "postemployment benefits" means benefits giving rise to a liability under Statement No. 45 of the Government Accounting Standards Board. A district seeking levy authority under this subdivision must:

(1) create or have created an actuarial liability to pay postemployment benefits to employees or officers after their termination of service;

(2) have a sunset clause in effect for the current collective bargaining agreement as required by paragraph (a); and

(3) apply for the authority in the form and manner required by the commissioner of education.

If the total levy authority requested under this paragraph exceeds the amount established in paragraph (c), the commissioner must proportionately reduce each district's maximum levy authority under this subdivision. The commissioner may subsequently adjust each district's levy authority under this subdivision so long as the total levy authority does not exceed the maximum levy authority for that year.

(c) The maximum levy authority under paragraph (b) must not exceed the following amounts:

(1) $9,242,000 for taxes payable in 2010;

(2) $29,863,000 for taxes payable in 2011; and

(3) for taxes payable in 2012 and later, the maximum levy authority must not exceed the sum of the previous year's authority and $14,000,000.

Sec. 9. [CORR09-06A] Minnesota Statutes 2008, section 297I.35, subdivision 2, as amended by Laws 2009, chapter 88, article 9, section 14, is amended to read:

Subd. 2. **Electronic payments.** If the aggregate amount of tax and surcharges due under this chapter during a ~~calendar~~ fiscal year ending June 30 is equal to or exceeds $10,000, or if the taxpayer is required to make payment of any other tax to the commissioner by electronic means, then all tax and surcharge payments in the subsequent calendar year must be paid by electronic means.

Sec. 10. [CORR09-06B] Laws 2009, chapter 88, article 12, section 21, is amended to read:

Sec. 21. **SPECIAL ACCOUNT; TIMING DIFFERENCES.**

(a) Notwithstanding the provisions of Minnesota Statutes, section 290.62, the commissioner of revenue shall deposit the additional income tax and corporate franchise tax revenues collected as a result of the combination of: (1) the additions under Minnesota Statutes, section 290.01, subdivision

19a, clauses (7) and (8), and subdivision 19c, clauses (15) and (16); and (2) adopting the provisions of American Recovery and Reinvestment Act of 2009, in a special timing account in the general fund, but not to exceed $10,149,000. On July 11, 2011, the commissioner of revenue shall transfer the money in the account to the general fund to offset the reduction in revenues resulting from the subtractions under Minnesota Statutes, section 290.01, subdivision 19b, clauses (9) and (14), and subdivision 19d, clauses (18) and (19).

(b) If the commissioner determines it is impractical to determine the amount to be deposited under paragraph (a) based on actual collections, the commissioner of finance may, in lieu of paragraph (a), transfer $10,149,000 on January 15, 2011, from the general fund to the special timing account. This amount is based on the revenue estimate for H.F. No. 2323, dated April 17, 2009.

Sec. 11. [CORR09-07] Laws 2009, chapter 78, article 8, section 22, subdivision 3, is amended to read:

Subd. 3. **Definitions.** For purposes of this section:

(1) "applicant" means a local government unit;

(2) "commissioner" means the commissioner of the Department of Employment and Economic Development;

(3) "eligible transportation project entirely or partially funded by state or federal funds" means a project that will affect one or more small businesses as a result of transportation work because the work is anticipated to impair road access for a minimum period of one month;

(4) "local government unit" means a county, statutory or home rule charter city, town, special district, or other political subdivision;

(5) "project" has the meaning given it in Minnesota Statutes, section ~~161.2415~~ 161.165; and

(6) "small business" means a business that employs ten or fewer employees and is located in an area that is adjacent to an eligible project.

Sec. 12. [CORR09-08] Minnesota Statutes 2008, section 168.33, subdivision 7, as amended by 2009 H.F. No. 1849, section 2, if enacted, is amended to read:

Subd. 7. **Filing fees; allocations.** (a) In addition to all other statutory fees and taxes, a filing fee of:

(1) $4.50 is imposed on every vehicle registration renewal, excluding pro rate transactions; and

(2) $8.50 is imposed on every other type of vehicle transaction, including pro rate transactions;

except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the Department of Public Safety, a dealer, or a deputy registrar. The filing fee must be shown as a separate item on all registration renewal notices sent out by the commissioner. No filing fee or other fee may be charged for the permanent surrender of a title for a vehicle.

(b) ~~The fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the fee not to exceed the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public~~

~~safety.~~ The statutory fees and taxes, and the filing fees imposed under paragraph (a) may be paid by credit card or debit card. The deputy registrar may collect a surcharge on the statutory fees, taxes, and filing fee not greater than the cost of processing a credit card or debit card transaction, in accordance with emergency rules established by the commissioner of public safety. The surcharge must be used to pay the cost of processing credit and debit card transactions.

(c) All of the fees collected under paragraph (a), clause (1), by the department, must be paid into the vehicle services operating account in the special revenue fund under section 299A.705. Of the fee collected under paragraph (a), clause (2), by the department, $3.50 must be paid into the general fund with the remainder deposited into the vehicle services operating account in the special revenue fund under section 299A.705.

Sec. 13. [CORR09-09] Minnesota Statutes 2008, section 275.065, subdivision 3, as amended by Laws 2009, chapter 88, article 3, section 3, is amended to read:

Subd. 3. **Notice of proposed property taxes.** (a) The county auditor shall prepare and the county treasurer shall deliver after November 10 and on or before November 24 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes. Upon written request by the taxpayer, the treasurer may send the notice in electronic form or by electronic mail instead of on paper or by ordinary mail.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority proposes to collect for taxes payable the following year. In the case of a town, or in the case of the state general tax, the final tax amount will be its proposed tax. The notice must clearly state for each city, county, school district, regional library authority established under section 134.201, and metropolitan taxing districts as defined in paragraph (i), the time and place of ~~the~~ each taxing ~~authorities' regularly scheduled meetings~~ authority's meeting in which the budget and levy will be discussed and public input allowed, prior to the final budget and levy ~~determined, which must occur after November 24~~ determination. The taxing authorities must provide the county auditor with the information to be included in the notice on or before the time it certifies its proposed levy under subdivision 1. The public must be allowed to speak at least at one of the meetings and ~~the meetings~~ that meeting, which must occur after November 24, shall not be held before 6:00 p.m. It must provide a telephone number for the taxing authority that taxpayers may call if they have questions related to the notice and an address where comments will be received by mail.

(d) The notice must state for each parcel:

(1) the market value of the property as determined under section 273.11, and used for computing property taxes payable in the following year and for taxes payable in the current year as each appears in the records of the county assessor on November 1 of the current year; and, in the case of residential property, whether the property is classified as homestead or nonhomestead. The notice must clearly inform taxpayers of the years to which the market values apply and that the values are final values;

(2) the items listed below, shown separately by county, city or town, and state general tax, net of the residential and agricultural homestead credit under section 273.1384, voter approved school levy, other local school levy, and the sum of the special taxing districts, and as a total of all taxing authorities:

(i) the actual tax for taxes payable in the current year; and

(ii) the proposed tax amount.

If the county levy under clause (2) includes an amount for a lake improvement district as defined under sections 103B.501 to 103B.581, the amount attributable for that purpose must be separately stated from the remaining county levy amount.

In the case of a town or the state general tax, the final tax shall also be its proposed tax unless the town changes its levy at a special town meeting under section 365.52. If a school district has certified under section 126C.17, subdivision 9, that a referendum will be held in the school district at the November general election, the county auditor must note next to the school district's proposed amount that a referendum is pending and that, if approved by the voters, the tax amount may be higher than shown on the notice. In the case of the city of Minneapolis, the levy for Minneapolis Park and Recreation shall be listed separately from the remaining amount of the city's levy. In the case of the city of St. Paul, the levy for the St. Paul Library Agency must be listed separately from the remaining amount of the city's levy. In the case of Ramsey County, any amount levied under section 134.07 may be listed separately from the remaining amount of the county's levy. In the case of a parcel where tax increment or the fiscal disparities areawide tax under chapter 276A or 473F applies, the proposed tax levy on the captured value or the proposed tax levy on the tax capacity subject to the areawide tax must each be stated separately and not included in the sum of the special taxing districts; and

(3) the increase or decrease between the total taxes payable in the current year and the total proposed taxes, expressed as a percentage.

For purposes of this section, the amount of the tax on homesteads qualifying under the senior citizens' property tax deferral program under chapter 290B is the total amount of property tax before subtraction of the deferred property tax amount.

(e) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda and school district levy referenda;

(3) a levy limit increase approved by the voters by the first Tuesday after the first Monday in November of the levy year as provided under section 275.73;

(4) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified;

(5) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified; and

(6) the contamination tax imposed on properties which received market value reductions for contamination.

(f) Except as provided in subdivision 7, failure of the county auditor to prepare or the county treasurer to deliver the notice as required in this section does not invalidate the proposed or final tax levy or the taxes payable pursuant to the tax levy.

(g) If the notice the taxpayer receives under this section lists the property as nonhomestead, and satisfactory documentation is provided to the county assessor by the applicable deadline, and the property qualifies for the homestead classification in that assessment year, the assessor shall reclassify the property to homestead for taxes payable in the following year.

(h) In the case of class 4 residential property used as a residence for lease or rental periods of 30 days or more, the taxpayer must either:

(1) mail or deliver a copy of the notice of proposed property taxes to each tenant, renter, or lessee; or

(2) post a copy of the notice in a conspicuous place on the premises of the property.

The notice must be mailed or posted by the taxpayer by November 27 or within three days of receipt of the notice, whichever is later. A taxpayer may notify the county treasurer of the address of the taxpayer, agent, caretaker, or manager of the premises to which the notice must be mailed in order to fulfill the requirements of this paragraph.

(i) For purposes of this subdivision, subdivisions 5a and 6, "metropolitan special taxing districts" means the following taxing districts in the seven-county metropolitan area that levy a property tax for any of the specified purposes listed below:

(1) Metropolitan Council under section 473.132, 473.167, 473.249, 473.325, 473.446, 473.521, 473.547, or 473.834;

(2) Metropolitan Airports Commission under section 473.667, 473.671, or 473.672; and

(3) Metropolitan Mosquito Control Commission under section 473.711.

For purposes of this section, any levies made by the regional rail authorities in the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington under chapter 398A shall be included with the appropriate county's levy.

(j) The governing body of a county, city, or school district may, with the consent of the county board, include supplemental information with the statement of proposed property taxes about the impact of state aid increases or decreases on property tax increases or decreases and on the level of services provided in the affected jurisdiction. This supplemental information may include information for the following year, the current year, and for as many consecutive preceding years as deemed appropriate by the governing body of the county, city, or school district. It may include only information regarding:

(1) the impact of inflation as measured by the implicit price deflator for state and local government purchases;

(2) population growth and decline;

(3) state or federal government action; and

(4) other financial factors that affect the level of property taxation and local services that the governing body of the county, city, or school district may deem appropriate to include.

The information may be presented using tables, written narrative, and graphic representations

and may contain instruction toward further sources of information or opportunity for comment.

Sec. 14. [CORR09-10] Minnesota Statutes 2008, section 123B.75, subdivision 5, is amended to read:

Subd. 5. **Levy recognition.** (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

(b) For fiscal year 2004 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; and

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6.

Sec. 15. [CORR09-11] Minnesota Statutes 2008, section 103C.305, subdivision 1, is amended to read:

Subdivision 1. **Time for election.** Elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary ~~may not~~ must be held if there are more than two candidates for any available supervisor position.

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 16. [CORR09-12A] **EMERALD ASH BORER FUNDS.**

All funds appropriated in H.F. No. 1231, if enacted, for Emerald Ash Borer must be in accordance with the same criteria for all other projects funded in article 1 of that bill.

Sec. 17. [CORR09-12B] 2009 H.F. No. 1231, article 1, section 2, subdivision 5, if enacted, is amended to read:

Subd. 5. **Fish, Game, and Wildlife Habitat**	13,903,000	-0-
(a) **Outdoor Heritage Conservation Partners Grant Program**		
$4,000,000 in fiscal year 2010 is to the commissioner of natural resources for a ~~pilot~~ program to provide competitive, matching grants of up to $400,000 to local, regional,		

state, and national organizations, including government, for enhancement, restoration, or protection of forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. Up to 6-1/2 percent of this appropriation may be used for administering the grant. The funds may be advanced in three equal sums, on or after November 1, 2009, February 1, 2010, and April 1, 2010. Grantees may protect land through acquisition of 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 commissioner of natural resources must agree to each proposed acquisition of land or interest in land. The program shall require a match of at least $1 nonstate funds to $10 state funds. The nonstate dollars match may be in-kind. The criteria for evaluating grant applications must include amount of habitat restored, enhanced, or protected; local support; degree of collaboration; urgency; multiple benefits; habitat benefits provided; consistency with sound conservation science; adjacency to protected lands; full funding of the project; supplementing existing funding; public access for hunting and fishing during the open season; sustainability; and use of native plant materials. All projects must conform to the Minnesota statewide conservation and preservation plan. Wildlife habitat projects must also conform to the state wildlife action plan. Priority may be given to projects acquiring land or easements associated with existing wildlife management areas. All restoration or enhancement projects must be on land permanently protected by conservation easement or public ownership. To the extent possible, a person conducting prairie restorations with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic

contamination. Subdivision 10 applies to grants awarded under this paragraph. This appropriation is available until June 30, 2013, at which time all grant projects must be completed and final products delivered, unless an earlier date is specified in the grant agreement. No less than 15 percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report in the form prescribed by and satisfactory to the Lessard Outdoor Heritage Council.

As a condition of proceeding with this appropriation, the commissioner shall report on the feasibility, process, and timeline for creation of a Minnesota fish and wildlife foundation, to be modeled after the National Fish and Wildlife Foundation, and on the possibility of allowing for the administration by this entity of the conservation partners grant program.

The legislative guide created in this act shall consider whether this program should be administered by the National Fish and Wildlife Foundation, the commissioner of natural resources, or some neutral third party.

(b) **Aquatic Management Area Acquisition**

$5,748,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land in fee title and easement to be added to the state aquatic management area system. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan.

(c) **Cold Water River and Stream Restoration, Protection, and Enhancement**

$2,050,000 in fiscal year 2010 is to the commissioner of natural resources for an

agreement with Trout Unlimited or successor to restore, enhance, and protect cold water river and stream habitats in Minnesota. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition, restoration, and enhancement.

(d) **Dakota County Habitat Protection**

$1,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Dakota County for acquisition of permanent easements. A list of proposed acquisitions must be provided as part of the required accomplishment plan.

(e) **Lake Rebecca Water Quality Improvement Project**

$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Three Rivers Park District to improve the water quality in Lake Rebecca in Lake Rebecca Park Reserve in Hennepin County. A description of the activities to enhance fish habitat in Lake Rebecca must be provided as part of the required accomplishment plan.

(f) **Fountain Lake Fish Barriers**

$655,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Shell Rock River Watershed District to construct fish barriers at three locations on Fountain Lake. Land acquisition necessary for fish barrier construction is permitted. A list of proposed projects, describing the types and locations of barriers, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed barrier."

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. No. 2135 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1231, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1231 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1231

A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 3.971, by adding a subdivision; 17.117, subdivision 11a; 18G.11, by adding a subdivision; 84.02, by adding subdivisions; 85.53; 97A.056, subdivisions 2, 3, 6, 7, by adding subdivisions; 103F.515, subdivisions 2, 4; 114D.50; 116G.15; 116P.05, subdivision 2; 129D.17; 477A.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 84C; 85; 116; 129D; 138; 477A.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1231 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1231 be further amended as follows:

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 "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. The appropriations in this article are onetime.

	APPROPRIATIONS Available for the Year Ending June 30	
	2010	**2011**
Sec. 2. **OUTDOOR HERITAGE**		
Subdivision 1. **Total Appropriation**	**$ 69,532,000**	**$ 18,000,000**
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. **Prairies**	14,213,000	-0-
(a) **Accelerated Prairie and Grassland Management**		
$1,700,000 in fiscal year 2010 is to the commissioner of natural resources to accelerate the restoration and enhancement of native prairie vegetation on public		

lands, including roadsides. A list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan. To the extent possible, prairie restorations conducted with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

(b) **Green Corridor Legacy Program**

$1,617,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Southwest Initiative Foundation or successor to acquire land for purposes allowed under the Minnesota Constitution, article XI, section 15, in Redwood County to be added to the state outdoor recreation system as defined in Minnesota Statutes, chapter 86A. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition. No more than five percent of this appropriation may be spent on professional services directly related to this appropriation's purposes.

(c) **Prairie Heritage Fund – Acquisition and Restoration**

$3,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever or successor to acquire and restore land to be added to the state wildlife management area system. A list of proposed fee title acquisitions and a list of proposed restoration projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan. The

commissioner of natural resources must agree to each proposed acquisition. To the extent possible, prairie restorations conducted with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

(d) **Accelerated Prairie Grassland Wildlife Management Area Acquisition**

$3,913,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas with native prairie or grassland habitats. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

(e) **Northern Tall Grass Prairie National Wildlife Refuge Protection**

$1,583,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the United States Fish and Wildlife Service to acquire land or permanent easements within the Northern Tall Grass Prairie Habitat Preservation Area in western Minnesota. The commissioner may advance funds to the United States Fish and Wildlife Service. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan. Land removed from this program shall transfer to the state.

(f) **Bluffland Prairie Protection Initiative**

$500,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Minnesota Land Trust or successor to acquire permanent easements protecting critical prairie and grassland habitats in the blufflands in

southeastern Minnesota. A list of proposed fee title and permanent easement acquisitions must be provided as part of the required accomplishment plan.

(g) **Rum River – Cedar Creek Initiative**

$1,900,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Anoka County to acquire land at the confluence of the Rum River and Cedar Creek in Anoka County. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. This is the first of two planned appropriations for this acquisition.

Subd. 3. **Forests**	18,000,000	18,000,000

$18,000,000 in fiscal year 2010 and $18,000,000 in fiscal year 2011 are to the commissioner of natural resources to acquire land or permanent working forest easements on private forests in areas identified through the Minnesota forests for the future program under Minnesota Statutes, section 84.66. Priority must be given to acquiring land or interests in private lands within existing Minnesota state forest boundaries. Any easements acquired must have a forest management plan as defined in Minnesota Statutes, section 290C.02, subdivision 7. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan. The fiscal year 2011 appropriation is available only for acquisitions that, by August 15, 2009, are:

(1) subject to a binding agreement with the commissioner; and

(2) matched by at least $9,000,000 in private donations.

Subd. 4. **Wetlands**	20,536,000	-0-

(a) **Accelerated Wildlife Management Area Acquisition**

$2,900,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land for wildlife management areas. A list of proposed fee title acquisitions must be provided as part of the required accomplishment plan.

(b) **Accelerated Shallow Lake Restorations and Enhancements**

$2,528,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. or successor to restore and enhance shallow lake habitats. Up to $400,000 of this appropriation may be used for permanent easements related to shallow lake restorations and enhancements. A list of proposed easements and projects, describing the types and locations of easements, restorations, and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each easement, restoration, and enhancement.

(c) **Accelerate the Waterfowl Production Area Program in Minnesota**

$5,600,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Pheasants Forever or successor to acquire and restore wetland and related upland habitats, in cooperation with the United States Fish and Wildlife Service and Ducks Unlimited, Inc. or successor to be managed as waterfowl production areas. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

(d) **Reinvest in Minnesota Wetlands Reserve Program Acquisition and Restoration**

$9,058,000 in fiscal year 2010 is to the Board of Water and Soil Resources to acquire permanent easements and restore wetlands and associated uplands in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations, must be provided as part of the required accomplishment plan.

(e) **Shallow Lake Critical Shoreland**

$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc. or successor to protect habitat by acquiring land associated with shallow lakes. A list of proposed acquisitions must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition.

Subd. 5. **Fish, Game, and Wildlife Habitat** 13,903,000 -0-

(a) **Outdoor Heritage Conservation Partners Grant Program**

$4,000,000 in fiscal year 2010 is to the commissioner of natural resources for a pilot program to provide competitive, matching grants of up to $400,000 to local, regional, state, and national organizations, including government, for enhancement, restoration, or protection of forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. Up to 6-1/2 percent of this appropriation may be used for administering the grant. The funds may be advanced in three equal sums, on or after November 1, 2009, February 1, 2010, and April 1, 2010. Grantees may protect land through acquisition of 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 commissioner of natural resources must agree to each proposed acquisition of

land or interest in land. The program shall require a match of at least $1 nonstate funds to $10 state funds. The nonstate dollars match may be in-kind. The criteria for evaluating grant applications must include amount of habitat restored, enhanced, or protected; local support; degree of collaboration; urgency; multiple benefits; habitat benefits provided; consistency with sound conservation science; adjacency to protected lands; full funding of the project; supplementing existing funding; public access for hunting and fishing during the open season; sustainability; and use of native plant materials. All projects must conform to the Minnesota statewide conservation and preservation plan. Wildlife habitat projects must also conform to the state wildlife action plan. Priority may be given to projects acquiring land or easements associated with existing wildlife management areas. All restoration or enhancement projects must be on land permanently protected by conservation easement or public ownership. To the extent possible, a person conducting prairie restorations with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination. Subdivision 10 applies to grants awarded under this paragraph. This appropriation is available until June 30, 2013, at which time all grant projects must be completed and final products delivered, unless an earlier date is specified in the grant agreement. No less than 15 percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report in the form prescribed by and satisfactory to the Lessard Outdoor Heritage Council.

As a condition of proceeding with this appropriation, the commissioner shall report on the feasibility, process, and timeline for

creation of a Minnesota fish and wildlife foundation, to be modeled after the National Fish and Wildlife Foundation, and on the possibility of allowing for the administration by this entity of the conservation partners grant program.

The legislative guide created in this act shall consider whether this program should be administered by the National Fish and Wildlife Foundation, the commissioner of natural resources, or some neutral third party.

(b) **Aquatic Management Area Acquisition**

$5,748,000 in fiscal year 2010 is to the commissioner of natural resources to acquire land in fee title and easement to be added to the state aquatic management area system. Acquired land must remain open to hunting and fishing, consistent with the capacity of the land, during the open season, as determined by the commissioner of natural resources. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan.

(c) **Cold Water River and Stream Restoration, Protection, and Enhancement**

$2,050,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Trout Unlimited or successor to restore, enhance, and protect cold water river and stream habitats in Minnesota. A list of proposed acquisitions and a list of proposed projects, describing the types and locations of restorations and enhancements, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed acquisition, restoration, and enhancement.

(d) **Dakota County Habitat Protection**

$1,000,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with Dakota County for

acquisition of permanent easements. A list of proposed acquisitions must be provided as part of the required accomplishment plan.

(e) **Lake Rebecca Water Quality Improvement Project**

$450,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Three Rivers Park District to improve the water quality in Lake Rebecca in Lake Rebecca Park Reserve in Hennepin County. A description of the activities to enhance fish habitat in Lake Rebecca must be provided as part of the required accomplishment plan.

(f) **Fountain Lake Fish Barriers**

$655,000 in fiscal year 2010 is to the commissioner of natural resources for an agreement with the Shell Rock River Watershed District to construct fish barriers at three locations on Fountain Lake. Land acquisition necessary for fish barrier construction is permitted. A list of proposed projects, describing the types and locations of barriers, must be provided as part of the required accomplishment plan. The commissioner of natural resources must agree to each proposed barrier.

Subd. 6. **Administration and Other**	880,000	-0-

(a) **Contract Management**

$175,000 in fiscal year 2010 is to the commissioner of natural resources for contract management, in fiscal years 2010 and 2011, for duties assigned in this section.

(b) **Legislative Coordinating Commission**

$705,000 in fiscal year 2010 is to the Legislative Coordinating Commission for administrative expenses of the Lessard Outdoor Heritage Council and for compensation and expense reimbursement

of council members. Up to $100,000 may be transferred to the game and fish fund as reimbursement for advances to the Lessard Outdoor Heritage Council made in fiscal year 2009. Of this amount, $10,000 is for the costs of developing and implementing a Web site to contain information on projects receiving appropriations.

(c) **Lessard Outdoor Heritage Council Site Visit Exception**

Travel to and from site visits by council members paid for under paragraph (b) are not meetings of the council for the purpose of receiving information under Minnesota Statutes, section 97A.056, subdivision 5.

Subd. 7. **Availability of Appropriation**

Unless otherwise provided, the amounts in this section are available until June 30, 2011, when projects must be completed and final accomplishments reported. For acquisition of an interest in real property, the amounts in this section are available until June 30, 2012. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

Subd. 8. **Cash Advances**

When the operations of the outdoor heritage fund would be impeded by projected cash deficiencies resulting from delays in the receipt of dedicated income, and when the deficiencies would be corrected within fiscal year 2010, the commissioner of finance may use fund-level cash reserves to meet cash demands of the outdoor heritage fund. If funds are transferred from the general fund to meet cash flow needs, the cash flow transfers must be returned to the general fund as soon as sufficient cash balances are available in the outdoor heritage fund. Any interest earned on general fund cash flow transfers accrues to the general fund and not to the outdoor heritage fund.

Subd. 9. **Accomplishment Plans**

It is a condition of acceptance of the appropriations made by this section that the agency or entity using the appropriation shall submit to the council an accomplishment plan and periodic accomplishment reports in the form determined by the Lessard Outdoor Heritage Council. 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 evaluation of results. None of the money provided in this section may be expended unless the council has approved the pertinent accomplishment plan.

Subd. 10. **Project Requirements**

As a condition of accepting an appropriation in this section, any agency or entity receiving an appropriation must, for any project funded in whole or in part with funds from the appropriation:

(1) plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination, to the extent possible if conducting prairie restorations is a component of the accomplishment plan;

(2) provide that all easements:

(i) are permanent;

(ii) specify the parties to an easement in the easement;

(iii) specify all of the provisions of an agreement that are permanent;

(iv) are sent to the office of the Lessard Outdoor Heritage Council; and

(v) include a long-term stewardship plan and funding for monitoring and enforcing the easement agreement;

(3) for all restorations, prepare an ecological restoration and management plan that, to the degree practicable, is consistent with the highest quality conservation 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 of the restoration projects. The plan shall 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 the best available science to achieve the best restoration;

(4) for new lands acquired, prepare a restoration and management plan in compliance with clause (3), including identification of sufficient funding for implementation;

(5) to ensure public accountability for the use of public funds, provide to the Lessard Outdoor Heritage Council documentation of the selection process used to identify parcels acquired and provide 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 shall also report to the Lessard Outdoor Heritage Council any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to

Minnesota Statutes, chapter 13;

(6) provide that all restoration and enhancement projects are on land permanently protected by conservation easement or public ownership;

(7) to the extent the appropriation is used to acquire an interest in real property, provide to the Lessard Outdoor Heritage Council and the commissioner of finance 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 may be paid for; and

(8) give consideration to and make timely written contact with the Minnesota Conservation Corps for consideration of possible use of their services to contract for restoration and enhancement services.

Subd. 11. **Payment Conditions and Capital Equipment Expenditures**

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Payments for reimbursement may not be made before November 1, 2009. Notwithstanding Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2009, are eligible for reimbursement unless otherwise provided in this section. Periodic payment must be made upon receiving documentation that the deliverable items articulated in the approved accomplishment plan have been achieved, including partial achievements as evidenced by approved progress reports. Reasonable amounts may be advanced to projects to accommodate cash flow needs or to match federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures in excess of $10,000 must be approved as part of the accomplishment plan.

Subd. 12. **Purchase of Recycled and Recyclable Materials**

A political subdivision, public or private corporation, or other entity that receives an appropriation in this section must use the appropriation in compliance with Minnesota Statutes, sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

Subd. 13. **Accessibility**

Structural and nonstructural facilities must meet the design standards in the Americans with Disabilities Act (ADA) accessibility guidelines.

Subd. 14. **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 under this section must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made.

(b) A recipient of funding who 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 Outdoor Heritage Council or its successor. 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 is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced.

(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 Outdoor Heritage Council or its successor. If the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan, ownership of the interest in real property shall transfer to the state."

Subd. 15. **Real Property Interest Report**

By December 1 each year, a recipient of money appropriated under this section 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 Outdoor Heritage Council or its successor in a form determined by the council. The responsibility for reporting

under this section 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 14; 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. Before the transfer, the entity receiving the transfer of property must certify to the Lessard Outdoor Heritage Council, or its successor, acceptance of all obligations and responsibilities held by the prior owner.

After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.

Subd. 16. **Protect; Definition**

For purposes of appropriations in this article, "protect" means to preserve ecological systems and prevent future degradation of ecological systems by actions including, but not limited to, purchase in fee or easement.

Sec. 3. Minnesota Statutes 2008, section 97A.056, subdivision 2, is amended to read:

Subd. 2. **Lessard Outdoor Heritage Council.** (a) The Lessard Outdoor Heritage Council of 12 members is created in the legislative branch, consisting of:

(1) two public members appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration;

(2) two public members appointed by the speaker of the house;

(3) four public members appointed by the governor;

(4) two members of the senate appointed by the senate Subcommittee on Committees of the

Committee on Rules and Administration; and

(5) two members of the house of representatives appointed by the speaker of the house.

(b) Members appointed under paragraph (a) must not be registered lobbyists. In making appointments, the governor, senate Subcommittee on Committees of the Committee on Rules and Administration, and the speaker of the house shall consider geographic balance, gender, age, ethnicity, and varying interests including hunting and fishing. The governor's appointments to the council are subject to the advice and consent of the senate.

(c) Public members appointed under paragraph (a) shall have practical experience or expertise or demonstrated knowledge in the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife.

(d) Legislative members appointed under paragraph (a) shall include the chairs of the legislative committees with jurisdiction over environment and natural resources finance or their designee, one member from the minority party of the senate, and one member from the minority party of the house of representatives.

(e) Members serve four-year terms and shall be initially appointed according to the following schedule of terms:

(1) two public members appointed by the governor for a term ending the first Monday in January 2011;

(2) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2011;

(3) one public member appointed by the speaker of the house for a term ending the first Monday in January 2011;

(4) two public members appointed by the governor for a term ending the first Monday in January 2013;

(5) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013;

(6) one public member appointed by the speaker of the house for a term ending the first Monday in January 2013; and

(7) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013, and two members of the house of representatives appointed by the speaker of the house for a term ending the first Monday in January 2013.

(f) Compensation and removal of public members are as provided in section 15.0575. A vacancy on the council may be filled by the appointing authority for the remainder of the unexpired term.

(g) The first meeting of the council shall be convened by the chair of the Legislative Coordinating Commission no later than December 1, 2008. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the council. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

(h) Upon coordination with and approval by the Legislative Coordinating Commission, the ~~Department of Natural Resources shall provide administrative support for~~ council may appoint nonpartisan staff and contract with consultants as necessary to carry out the functions of the council. Up to one percent of the money appropriated from the fund may be used to ~~cover the staffing and related administrative expenses of the department and to cover the compensation and travel expenses~~ pay for administrative expenses of the council and for compensation and expense reimbursement of council members.

Sec. 4. Minnesota Statutes 2008, section 97A.056, subdivision 3, is amended to read:

Subd. 3. **Council recommendations.** (a) The council shall make recommendations to the legislature on appropriations of money from the outdoor heritage fund that are consistent with the Constitution and state law and that ~~take into consideration~~ will achieve the outcomes of existing natural resource plans, including, but not limited to, the Minnesota Statewide Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. The council shall submit its initial recommendations to the legislature no later than April 1, 2009. Subsequent recommendations shall be submitted no later than January 15 each year. The council shall present its recommendations to the senate and house of representatives committees with jurisdiction over the environment and natural resources budget by February 15 in odd-numbered years, and within the first four weeks of the legislative session in even-numbered years. The council's budget recommendations to the legislature shall be separate from the Department of Natural Resource's budget recommendations.

(b) To encourage and support local conservation efforts, the council shall establish a conservation partners program. Local, regional, state, or national organizations may apply for matching grants for restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, prevention of forest fragmentation, encouragement of forest consolidation, and expansion of restored native prairie.

(c) The council may work with the Clean Water Council to identify projects that are consistent with both the purpose of the outdoor heritage fund and the purpose of the clean water fund.

(d) The council may make recommendations to the Legislative-Citizen Commission on Minnesota Resources on scientific research that will assist in restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife, preventing forest fragmentation, encouraging forest consolidation, and expanding restored native prairie.

(e) Recommendations of the council, including approval of recommendations for the outdoor heritage fund, require an affirmative vote of at least nine members of the council.

(f) The council may work with the Clean Water Council, the Legislative-Citizen Commission on Minnesota Resources, the Board of Water and Soil Resources, soil and water conservation districts, and experts from Minnesota State Colleges and Universities and the University of Minnesota in developing the council's recommendations.

(g) The council shall develop and implement a process that ensures that citizens and potential recipients of funds are included throughout the process, including the development and finalization of the council's recommendations. The process must include a fair, equitable, and thorough process for reviewing requests for funding and a clear and easily understood process for ranking projects.

(h) The council shall use the regions of the state based upon the ecological regions and subregions developed by the Department of Natural Resources and establish objectives for each region and subregion to achieve the purposes of the fund outlined in the state constitution.

(i) The council shall develop and submit to the Legislative Coordinating Commission plans for the first ten years of funding, and a framework for 25 years of funding, consistent with statutory and constitutional requirements. The council may use existing plans from other legislative, state, and federal sources, as applicable.

Sec. 5. Minnesota Statutes 2008, section 97A.056, subdivision 6, is amended to read:

Subd. 6. **Audit.** The ~~council shall select an independent auditor to~~ legislative auditor shall audit the outdoor heritage fund expenditures, including administrative and staffing expenditures, every two years to ensure that the money is spent to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

Sec. 6. Minnesota Statutes 2008, section 97A.056, subdivision 7, is amended to read:

Subd. 7. **Legislative oversight.** ~~(a)~~ The senate and house of representatives chairs of the committees with jurisdiction over the environment and natural resources budget shall convene a joint hearing to review the activities and evaluate the effectiveness of the council and ~~evaluate the effectiveness and efficiency of the department's administration and staffing of the council after five years but~~ to receive reports on the council from the legislative auditor no later than June 30, 2014.

~~(b) By January 15, 2013, a professional outside review authority shall be chosen by the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources to evaluate the effectiveness and efficiency of the department's administration and staffing of the council. A report shall be submitted to the chairs by January 15, 2014.~~

Sec. 7. **APPROPRIATION; FOREST PROTECTION RESERVE.**

$2,000,000 is appropriated in fiscal year 2010 from the outdoor heritage fund to the commissioner of agriculture to identify, prevent, and in consultation with the Forest Resources Council, protect Minnesota forests by rapidly and effectively responding to the threat or presence of plant pests. The commissioner may access this appropriation if sufficient resources are not available from state, federal, or other sources or if the commissioner determines that sufficient state, federal, or other resources will not be available to the commissioner in time to effectively prevent the introduction or spread of tree pests and avert environmental or economic harm. Up to $125,000 is available immediately to the commissioner of agriculture to update the state's invasive and exotic tree pest plans by addressing the role of all stakeholders in preventing the introduction or spread of invasive pests, responding to and containing outbreaks, and remediation. The commissioner shall work in consultation with the commissioner of natural resources, the Forest Resources Council, and the Forest Protection Task Force and provide quarterly reports on findings and recommendations to the governor and the appropriate legislative committees. The reports must include recommendations to ensure that a coordinated and effective response network is in place to protect our forests. The commissioner of agriculture may transfer all or part of this appropriation to the commissioner of natural resources and shall award grants to local units of government or other entities.

Sec. 8. **REVISOR'S INSTRUCTION.**

The revisor shall remove all references to the "Lessard Outdoor Heritage Council" in Minnesota Statutes, and replace those references with "Lessard-Sams Outdoor Heritage Council."

ARTICLE 2

CLEAN WATER FUND

Section 1. **CLEAN WATER FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the clean water fund, and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. The figures "2010" and "2011" used in this act mean that the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. The appropriations in this act are onetime.

	APPROPRIATIONS Available for the Year Ending June 30	
	2010	**2011**
Sec. 2. **DEPARTMENT OF AGRICULTURE**	**$ 3,790,000**	**$ 5,170,000**

(a) $395,000 the first year is to intensively monitor and analyze three sub-watersheds for changes in agricultural runoff related to land management practices and evaluate best management practices in sub-watersheds within the Root River Watershed in southeastern Minnesota. The commissioner shall submit a report on the use of this appropriation to the chairs of the house of representatives and senate committees with jurisdiction over agriculture, agriculture finance, environment and natural resources, and environment and natural resources finance by January 15, 2012. This appropriation is available until spent.

(b) $325,000 the first year and $350,000 the second year are to increase monitoring for pesticides and pesticide degradates in surface water and groundwater and to use data collected to assess pesticide use practices.

(c) $375,000 the first year and $750,000 the second year are to increase groundwater and

drinking water protection from agricultural chemicals, primarily nutrients.

(d) $695,000 the first year and $1,570,000 the second year are for research, pilot projects, and technical assistance related to ways agricultural practices contribute to restoring impaired waters and assist with the development of TMDL plans. Of this amount, $150,000 each year is for grants to the livestock environmental quality assurance program to develop resource management plans, provide resource management analysis and assistance, provide an implementation plan, and provide for annual reporting on water quality assessment and reasonable assurance of the water quality effects for the purposes of TMDL plans, including an assurance walk-through for farms enrolled in the program. By December 15, 2010, the commissioner of agriculture shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture and environment policy and finance on the activities of the livestock environmental quality assurance program. The report shall include:

(1) the number of farms enrolled;

(2) an analysis of the estimated water quality improvements to enrolled farms; and

(3) an analysis of the ability to provide reasonable assurance of the water quality effects.

(e) $2,000,000 the first year and $2,500,000 the second year are for the agricultural best management practices loan program. At least $1,800,000 the first year and at least $2,200,000 the second year are for transfer to a new clean water agricultural best management practices loan account and are available for pass-through to local governments and lenders for low-interest loans. Any unencumbered balance that is not used for pass-through to local governments

does not cancel at the end of the first year and is available for the second year.

Sec. 3. **PUBLIC FACILITIES AUTHORITY** **$ 13,441,000 $ 19,259,000**

(a) $8,816,000 the first year and $12,834,000 the second year are for the total maximum daily load grant program under Minnesota Statutes, section 446A.073. This appropriation is available until spent.

(b) $4,125,000 the first year and $4,425,000 the second year are for the clean water legacy phosphorus reduction grant program under Minnesota Statutes, section 446A.074. This appropriation is available until spent.

(c) $500,000 the first year and $2,000,000 the second year are for small community wastewater treatment grants and loans under Minnesota Statutes, section 446A.075. This appropriation is available until spent.

Sec. 4. **POLLUTION CONTROL AGENCY** **$ 24,076,000 $ 27,285,000**

(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 treated municipal wastewater instead of groundwater from drinking water aquifers, in order to demonstrate the beneficial use of wastewater, including the conservation and protection of

water resources. 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 reuse greater than 300,000 gallons of wastewater per day.

(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. $345,000 the second

year is to develop a model ordinance for the restricted use of undiluted coal tar sealants and 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.

(h) $350,000 the first year and $400,000 the second year are for a restoration project in the lower St. Louis River and Duluth harbor. This appropriation must be matched by nonstate money at a rate of $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.

(n) $100,000 the first year and $100,000 the second year are for grants to the Star Lake Board established under Minnesota Statutes, section 103B.702. The appropriation is a

pilot program to focus on engaging citizen participation and fostering local partnerships by increasing citizen involvement in water quality enhancement by designating star lakes and rivers. The board shall include information on the results of this pilot program in its next biennial report under Minnesota Statutes, section 103B.702. The second year grants are available only if the Board of Water and Soil Resources determines that the money granted in the first year furthered the water quality goals in the star lakes program in Minnesota Statutes, section 103B.701.

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. 5. **DEPARTMENT OF NATURAL RESOURCES** **$ 6,690,000 $ 7,835,000**

(a) $1,240,000 the first year and $2,460,000 the second year are for assisting in water quality assessments in supporting the identification of impaired waters.

(b) $600,000 the first year and $525,000 the second year are for drinking water planning and protection activities.

(c) $1,050,000 the first year and $1,050,000 the second year are for TMDL development 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.

(d) $2,800,000 the first year and $2,800,000 the second year are to acquire and distribute high-resolution digital elevation data using light detection and ranging to aid with impaired waters modeling and total maximum daily load implementation under Minnesota Statutes, chapter 114D. The data will be collected for areas of the state that have not acquired such data prior to January

1, 2007, or to complete acquisition and distribution of the data for those areas of the state that have not previously received state funds for acquiring and distributing the data. The distribution of data acquired under this paragraph must be conducted under the auspices of the Land Management Information Center or its successor, which shall receive 2.5 percent of the appropriation in this paragraph to support coordination of data acquisition and distribution. Mapping and data set distribution under this paragraph must be completed within three years of funds availability. The commissioner shall utilize department staff whenever possible. The commissioner may contract for services only if they cannot otherwise be provided by the department. If the commissioner contracts for services with this appropriation and any of the work done under the contract will be done outside of the United States, the commissioner must report to the chairs of the house of representatives and senate finance committees on the proposed contract at least 30 days before entering into the contract. The report must include an analysis of why the contract with the selected contractor provides the state with "best value," as defined in Minnesota Statutes, section 16C.02; any alternatives to the selected contractor that were considered; what data will be provided to the contractor, including the data that will be transmitted outside of the United States; what security measures will be taken to ensure that the data is treated in accordance with the Minnesota Government Data Practices Act; and what remedies will be available to the state if the data is not treated in accordance with the Minnesota Government Data Practices Act.

(e) $250,000 the first year and $250,000 the second year are to adopt rules for the Mississippi River corridor critical area under Minnesota Statutes, section 116G.15. The commissioner shall begin rulemaking under chapter 14 no later than January 15,

2010. At least 30 days prior to beginning the rulemaking, the commissioner shall notify local units of government within the Mississippi River corridor critical area of the intent to adopt rules. The local units of government shall make reasonable efforts to notify the public of the contact information for the appropriate department staff. The commissioner shall maintain an e-mail list of interested parties to provide timely information about the proposed schedule for rulemaking, opportunities for public comment, and contact information for the appropriate department staff.

(f) $500,000 the first year and $500,000 the second year are to investigate physical and recharge characteristics as part of the collection and interpretation of subsurface geological information and acceleration of the county geologic atlas program. This appropriation represents a continuing effort to complete the county geologic atlases throughout the state in order to provide information and assist in planning for the sustainable use of groundwater and surface water that does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs. This appropriation is available until December 31, 2014.

(g) $250,000 the first year and $250,000 the second year are for nonpoint source restoration and protection activities.

Sec. 6. **BOARD OF WATER AND SOIL RESOURCES** **$ 18,705,000 $ 19,519,000**

(a) $3,250,000 the first year and $3,250,000 the second year are to purchase and restore permanent conservation easements on riparian buffers of up to 100 feet 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. Up to five percent may be used for administration of this program.

(b) $2,800,000 the first year and $3,124,000 the second year are for grants to watershed districts and watershed management organizations for: (i) structural or vegetative management practices that reduce storm water runoff from developed or disturbed lands to reduce the movement of sediment, nutrients, and pollutants or to leverage federal funds for restoration, protection, or enhancement of water quality in lakes, rivers, and streams and to protect groundwater and drinking water; and (ii) the 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. Watershed district and watershed management organization staff and administration may be used for local match. Priority may be given to school projects that can be used to demonstrate water retention practices. Up to five percent may be used for administering the grants.

(c) $3,000,000 the first year and $3,000,000 the second year are for nonpoint source pollution reduction and restoration grants to watershed districts, watershed management organizations, counties, and soil and water conservation districts for grants in addition to grants available under paragraphs (a) and (b) to keep water on the land and to protect, enhance, and restore water quality

in lakes, rivers, and streams, and to protect groundwater and drinking water. 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. Up to five percent may be used for administering the grants.

(d) $400,000 the first year and $600,000 the second year are to the Anoka Conservation District for the metropolitan landscape restoration program for water quality and improvement projects.

(e) $1,000,000 the first year and $1,000,000 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 management area, as defined under Minnesota Rules, part 4720.5100, subpart 13, is designated as high or very high by the commissioner of health.

(f) $2,000,000 the first year and $2,000,000 the second year are for feedlot water quality improvement grants for feedlots under 300 animal units on riparian land, to include water quality assessment to determine the effectiveness of the grants in protecting, enhancing, and restoring water quality in lakes, rivers, and streams, and in protecting groundwater from degradation.

(g) $2,330,000 the first year and $1,830,000 the second year are for grants to implement stream bank, stream channel, and shoreline protection, and restoration projects to protect water quality. Of this amount, $330,000 the first year and $330,000 the second year may be used for technical assistance and grants to establish a conservation drainage program in consultation with the Board of Water and Soil Resources and the Drainage Work Group that consists of pilot projects to retrofit existing drainage systems with water quality

improvement practices, evaluate outcomes, and provide outreach to landowners, public drainage authorities, drainage engineers and contractors, and others. Of this amount, $500,000 the first year is for a grant to Hennepin County for riparian restoration and stream bank stabilization in the ten primary stream systems in Hennepin County in order to protect, enhance, and help restore the water quality of the streams and downstream receiving waters. The county shall work with watershed districts and water management organizations to identify and prioritize projects. To the extent possible, the county shall employ youth through the Minnesota Conservation Corps and Tree Trust to plant trees and shrubs to reduce erosion and stabilize stream banks. This appropriation must be matched by nonstate sources, including in-kind contributions.

(h) $275,000 the first year and $315,000 the second year are for state oversight, support, and accountability reporting of local government implementation, including an annual report prepared jointly by the board, the commissioner of natural resources and the commissioner of the Pollution Control Agency to the legislature detailing the recipients and projects funded under this section; the anticipated water quality benefits of projects funded; the relationship of restoration projects to TMDL load allocations; the relationship of protection projects to monitored water quality trends; and individual county and aggregated statewide progress in: (1) identifying noncompliant SSTS, establishing maintenance oversight systems, and SSTS upgrades funded under this section; and (2) identifying and upgrading open lot feedlots under 300 animal units in shoreland. Organizations receiving grants under this section shall provide information to the agencies listed in this paragraph or the information required in the report. The board shall require grantees to specify the outcomes

that will be achieved by the grants prior to any grant awards.

(i) $1,250,000 the first year and $1,500,000 the second year are for targeted nonpoint restoration technical assistance and engineering. At least 93 percent of this amount must be made available for grants.

(j) $1,600,000 the first year and $1,900,000 the second year are for grants to implement county subsurface sewage treatment system (SSTS) programs, including inventories, enforcement, development of databases, and systems to insure SSTS maintenance reporting program results to the Board of Water and Soil Resources and the Pollution Control Agency, and base grants. Priority must be given to the protection of lakes, rivers, and streams. Grants are limited to counties with ordinances adopted pursuant to Minnesota Statutes, section 115.55, subdivision 2, that can demonstrate enforcement of the ordinances.

(k) $800,000 the first year and $1,000,000 the second year are for grants to address imminent threat and failing subsurface sewage treatment systems.

The board shall contract for services with the Minnesota Conservation Corps for restoration, maintenance, and other activities under this section for at least $500,000 the first year and $500,000 the second year.

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.

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.

To the extent possible, a person conducting a restoration with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

The board shall submit a report on the expenditure and use of money appropriated under this section to the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources and environment and natural resources finance by March 1 of each year. The report must provide detail on: the expenditure of funds, including maps; the effectiveness of the expenditures in protecting, enhancing, and restoring water quality in lakes, rivers, and streams and protecting groundwater from degradation; and the effectiveness of the expenditures in keeping water on the land.

Sec. 7. **DEPARTMENT OF HEALTH** **$ 1,645,000** **$ 2,105,000**

(a) $1,200,000 the first year and $1,215,000 the second year are for protection of drinking water sources, including assisting 30 or more communities in fiscal year 2010 and 60 or more communities in fiscal year 2011 with the development and implementation of community source water protection plans before new community wells are installed, and awarding ten or more communities in fiscal year 2010 and 20 or more communities in fiscal year 2011 with source water protection implementation grants.

(b) $445,000 the first year and $890,000 the second year are for addressing public health concerns related to contaminants found in Minnesota drinking water for which no health-based drinking water standard exists.

The commissioner shall characterize and issue health-based guidance for three or more additional unregulated drinking water contaminants in fiscal year 2010, and seven or more additional unregulated drinking water contaminants in fiscal year 2011.

Sec. 8. **UNIVERSITY OF MINNESOTA** **$ 750,000 $ 305,000**

(a) $305,000 the second year is for the geological survey to continue and to initiate the production of county geologic atlases. This appropriation represents a continuing effort to complete the county geologic atlases throughout the state in order to provide information and assist in planning for the sustainable use of groundwater and surface water that does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs. This appropriation is available until December 31, 2014.

(b) $750,000 the first year is to develop the comprehensive statewide sustainable water resources ten-year plan and 25-year detailed framework in this article.

(c) 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. 9. **LEGISLATURE** **$ 25,000 $ 0**

$25,000 the first year is for the Legislative Coordinating Commission for the costs of developing and implementing a Web site to contain information on projects receiving appropriations from the outdoor heritage fund, the clean water fund, and the parks and trails fund.

Sec. 10. **METROPOLITAN COUNCIL** **$ 400,000 $ 0**

$400,000 the first year is for implementation of the master water supply plan developed under Minnesota Statutes, section 473.1565.

Sec. 11. Minnesota Statutes 2008, section 84.66, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For the purpose of this section, the following terms have the meanings given:

(1) "forest land" has the meaning given under section 89.001, subdivision 4;

(2) "forest resources" has the meaning given under section 89.001, subdivision 8;

(3) "guidelines" has the meaning given under section 89A.01, subdivision 8;

(4) "riparian land" has the meaning given under section 103F.511, subdivision ~~8a~~ 8b; and

(5) "working forest land" means land that provides a broad range of goods and services, including forest products, recreation, fish and wildlife habitat, clean air and water, and carbon sequestration.

Sec. 12. Minnesota Statutes 2008, section 103F.505, is amended to read:

103F.505 PURPOSE AND POLICY.

It is the purpose of sections 103F.505 to 103F.531 to ~~keep~~ restore certain marginal agricultural land ~~out of crop production~~ and protect environmentally sensitive areas to ~~protect~~ enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife ~~habitat~~ habitats. It is state policy to encourage the restoration of wetlands and riparian lands and promote the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters~~, from crop production and to reestablish a cover of perennial vegetation~~.

Sec. 13. Minnesota Statutes 2008, section 103F.511, subdivision 5, is amended to read:

Subd. 5. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. ~~The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.~~

Sec. 14. Minnesota Statutes 2008, section 103F.511, is amended by adding a subdivision to read:

Subd. 8a. **Reinvest in Minnesota reserve program.** "Reinvest in Minnesota reserve program" means the program established under section 103F.515.

Sec. 15. Minnesota Statutes 2008, section 103F.511, subdivision 8a, is amended to read:

Subd. ~~8a~~ 8b. **Riparian land.** "Riparian land" means lands adjacent to public waters, drainage systems, wetlands, or locally designated priority waters ~~identified in a comprehensive local water plan, as defined in section 103B.3363, subdivision 3~~.

Sec. 16. Minnesota Statutes 2008, section 103F.515, subdivision 1, is amended to read:

Subdivision 1. **Establishment of program.** The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer ~~a conservation~~ the reinvest in Minnesota reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the ~~conservation~~ reinvest in Minnesota reserve program must be based on its enhancement potential for fish ~~and~~, wildlife ~~production~~, and native plant

habitats, reducing erosion, and protecting water quality.

Sec. 17. Minnesota Statutes 2008, section 103F.515, subdivision 2, is amended to read:

Subd. 2. **Eligible land.** (a) Land may be placed in the ~~conservation~~ reinvest in Minnesota reserve program if the land meets the requirements of paragraphs (b) and (c) or paragraph (d).

(b) Land is eligible if the land:

(1) is marginal agricultural land;

(2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description;

(3) consists of a drained wetland;

(4) is land that with a windbreak or water quality improvement practice would be beneficial to resource protection;

(5) is land in a sensitive groundwater area;

(6) is riparian land;

(7) is cropland or noncropland adjacent to restored wetlands to the extent of up to ~~four~~ eight acres of cropland or one acre of noncropland for each acre of wetland restored;

(8) is a woodlot on agricultural land;

(9) is abandoned building site on agricultural land, provided that funds are not used for compensation of the value of the buildings; or

(10) is land ~~on a hillside~~ used for pasture.

(c) Eligible land under paragraph (a) must:

(1) be owned by the landowner, or a parent or other blood relative of the landowner, for at least one year before the date of application;

(2) be at least five acres in size, except for a drained wetland area, riparian area, windbreak, woodlot, wellhead protection area, or abandoned building site, or be a whole field ~~as defined by the United States Agricultural Stabilization and Conservation Services~~;

(3) not be set aside, enrolled or diverted under another federal or state government program unless enrollment in the ~~conservation~~ reinvest in Minnesota reserve program would provide additional conservation benefits or a longer term of enrollment than under the current federal or state program; and

(4) have been in agricultural crop production for at least two of the last five years before the date of application except drained wetlands, riparian lands, woodlots, abandoned building sites, environmentally sensitive areas, wellhead protection areas, or land ~~on a hillside~~ used for pasture.

(d) ~~In selecting drained wetlands for enrollment in the program, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.~~ Land is eligible if the land is a wellhead protection area as defined under section 103I.005, subdivision 24, and has a wellhead

protection plan approved by the commissioner of health.

(e) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 103F.505.

Sec. 18. Minnesota Statutes 2008, section 103F.515, subdivision 4, is amended to read:

Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production and livestock grazing, unless specifically approved by the board for ~~wildlife~~ conservation management purposes or extreme drought; and

~~(3) grazing of livestock except, for agreements entered before the effective date of Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the board after consultation with the commissioner of natural resources, in the case of severe drought, or a local emergency declared under section 12.29; and~~

~~(4)~~ (3) spraying with chemicals or mowing, except:

(i) as necessary to comply with noxious weed control laws ~~or;~~

(ii) for emergency control of pests necessary to protect public health; or

(iii) as approved by the board for conservation management purposes.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

(d) Notwithstanding paragraph (a), the board must permit the harvest of native grasses for use in seed production or bioenergy on wellhead protection lands eligible under subdivision 2, paragraph (d).

Sec. 19. Minnesota Statutes 2008, section 103F.515, subdivision 5, is amended to read:

Subd. 5. **Agreements by landowner.** The board may enroll eligible land in the ~~conservation~~ reinvest in Minnesota reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration;

(4) that other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if it supports natural vegetation ~~or~~ and has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; and

(5) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

Sec. 20. Minnesota Statutes 2008, section 103F.515, subdivision 6, is amended to read:

Subd. 6. **Payments for conservation easements and establishment of ~~cover~~ conservation practices.** (a) The board ~~must make the following~~ shall establish rates for payments to the landowner for the conservation easement and ~~agreement:~~ related practices. The board shall consider market factors, including the township average equalized estimated market value of property as established by the commissioner of revenue at the time of easement application.

~~(1) to establish the perennial cover or other improvements required by the agreement:~~

~~(i) except as provided in items (ii) and (iii), up to 75 percent of the total eligible cost not to exceed $125 per acre for limited duration easements and 100 percent of the total eligible cost not to exceed $150 per acre for perpetual easements;~~

~~(ii) for native species restoration, 75 percent of the total eligible cost not to exceed $200 per acre for limited duration easements and 100 percent of the total eligible cost not to exceed $300 per acre for perpetual easements; and~~

~~(iii) 100 percent of the total eligible cost of wetland restoration not to exceed $600 per acre;~~

~~(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed $250 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $400 per acre for perpetual easements;~~

~~(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;~~

~~(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or~~

~~(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the board.~~

~~(b) For hillside pasture conservation easements, the payments to the landowner in paragraph (a) for the conservation easement and agreement must be reduced to reflect the value of similar property.~~

~~(c)~~ (b) The board may establish a payment system for flowage easements acquired under this section.

~~(d)~~ (c) For wetland restoration projects involving more than one conservation easement, state payments for restoration costs may exceed the limits set ~~forth in this section~~ by the board for an individual easement provided the total payment for the restoration project does not exceed the

amount payable for the total number of acres involved.

~~(e)~~ (d) The board may use available nonstate funds to exceed the payment limits in this section.

Sec. 21. Minnesota Statutes 2008, section 103F.521, subdivision 1, is amended to read:

Subdivision 1. **Cooperation.** In implementing sections 103F.505 to 103F.531, the board must share information and cooperate with the Department of Agriculture, the Department of Natural Resources, the Pollution Control Agency, the United States Fish and Wildlife Service, ~~the Agricultural Stabilization and Conservation Service and Soil Conservation Service of~~ the United States Department of Agriculture, the Minnesota Extension Service, the University of Minnesota, county boards, soil and water conservation districts, watershed districts, and interested private organizations and individuals.

Sec. 22. Minnesota Statutes 2008, section 103F.525, is amended to read:

103F.525 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE CONSERVATION PROGRAMS.

The board may supplement payments made under federal land retirement programs to the extent of available appropriations ~~other than bond proceeds~~. The supplemental payments must be used to establish perennial cover on land enrolled or increase payments for land enrollment in programs approved by the board~~, including the federal conservation reserve program and federal and state water bank program~~.

Sec. 23. Minnesota Statutes 2008, section 103F.526, is amended to read:

103F.526 FOOD PLOTS ~~IN WINDBREAKS.~~

The board~~, in cooperation with the commissioner of natural resources,~~ may authorize wildlife food plots on land ~~with windbreaks~~ enrolled in a conservation easement under section 103F.515.

Sec. 24. Minnesota Statutes 2008, section 103F.531, is amended to read:

103F.531 RULEMAKING.

The board may adopt rules or policy to implement sections 103F.505 to 103F.531. ~~The rules must include standards for tree planting so that planting does not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage ditches.~~

Sec. 25. Minnesota Statutes 2008, section 103F.535, subdivision 5, is amended to read:

Subd. 5. **Release and alteration of conservation easements.** Conservation easements ~~existing under this section, as of April 30, 1992,~~ may be altered, released, or terminated by the board ~~of Water and Soil Resources~~ after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate a conservation easement only if the board determines that the public interest and general welfare are better served by the alteration, release, or termination.

Sec. 26. **[116.201] COAL TAR.**

A state agency may not purchase undiluted coal tar sealant. For the purposes of this section, "undiluted coal tar sealant" means a sealant material containing coal tar that has not been mixed with asphalt and is for use on asphalt surfaces, including driveways and parking lots.

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

Sec. 27. Minnesota Statutes 2008, section 116G.15, is amended to read:

116G.15 MISSISSIPPI RIVER CORRIDOR CRITICAL AREA.

Subdivision 1. **Establishment; purpose.** ~~(a)~~ The federal Mississippi National River and Recreation Area established pursuant to United States Code, title 16, section 460zz-2(k), is designated an area of critical concern in accordance with this chapter. ~~The governor shall review the existing Mississippi River critical area plan and specify any additional standards and guidelines to affected communities in accordance with section 116G.06, subdivision 2, paragraph (b), clauses (3) and (4), needed to insure preservation of the area pending the completion of the federal plan.~~ The purpose of the designation is to:

(1) protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique and valuable state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation;

(2) prevent and mitigate irreversible damages to these state, regional, and natural resources;

(3) preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit;

(4) protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and

(5) protect and preserve the biological and ecological functions of the Mississippi River corridor.

~~The results of an environmental impact statement prepared under chapter 116D begun before and completed after July 1, 1994, for a proposed project that is located in the Mississippi River critical area north of the United States Army Corps of Engineers Lock and Dam Number One must be submitted in a report to the chairs of the environment and natural resources policy and finance committees of the house of representatives and the senate prior to the issuance of any state or local permits and the authorization for an issuance of any bonds for the project. A report made under this paragraph shall be submitted by the responsible governmental unit that prepared the environmental impact statement, and must list alternatives to the project that are determined by the environmental impact statement to be economically less expensive and environmentally superior to the proposed project and identify any legislative actions that may assist in the implementation of environmentally superior alternatives. This paragraph does not apply to a proposed project to be carried out by the Metropolitan Council or a metropolitan agency as defined in section 473.121.~~

~~(b) If the results of an environmental impact statement required to be submitted by paragraph (a) indicate that there is an economically less expensive and environmentally superior alternative, then no member agency of the Environmental Quality Board shall issue a permit for the facility that is the subject of the environmental impact statement, other than an economically less expensive and environmentally superior alternative, nor shall any government bonds be issued for the facility, other than an economically less expensive and environmentally superior alternative, until after the legislature has adjourned its regular session sine die in 1996.~~

Subd. 2. **Administration; duties.** (a) The commissioner of natural resources may adopt rules under chapter 14 as are necessary for the administration of the Mississippi River corridor

critical area program. Duties of the Environmental Quality Council or the Environmental Quality Board referenced in this chapter, related rules, and the governor's executive order number 79-19, published in the State Register on March 12, 1979, that are related to the Mississippi River corridor critical area shall be the duties of the commissioner. All rules adopted by the board pursuant to these duties remain in effect and shall be enforced until amended or repealed by the commissioner in accordance with law. The commissioner shall work in consultation with the United States Army Corps of Engineers, the National Park Service, the Metropolitan Council, other agencies, and local units of government to ensure that the Mississippi River corridor critical area is managed as a multipurpose resource in a way that:

(1) conserves the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor;

(2) maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront;

(3) provides for the continuation and development of a variety of urban uses, including industrial and commercial uses, and residential uses, where appropriate, within the Mississippi River corridor;

(4) utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, stormwater, and industrial waste effluents; and

(5) protects and preserves the biological and ecological functions of the corridor.

(b) The Metropolitan Council shall incorporate the standards developed under this section into its planning and shall work with local units of government and the commissioner to ensure the standards are being adopted and implemented appropriately.

(c) The rules must be consistent with residential nonconformity provisions under sections 394.36 and 462.357.

Subd. 3. **Districts.** The commissioner shall establish, by rule, districts within the Mississippi River corridor critical area. The commissioner must seek to determine an appropriate number of districts within any one municipality and take into account municipal plans and policies, and existing ordinances and conditions. The commissioner shall consider the following when establishing the districts:

(1) the protection of the major features of the river in existence as of March 12, 1979;

(2) the protection of improvements such as parks, trails, natural areas, recreational areas, and interpretive centers;

(3) the use of the Mississippi River as a source of drinking water;

(4) the protection of resources identified in the Mississippi National River and Recreation Area Comprehensive Management Plan;

(5) the protection of resources identified in comprehensive plans developed by counties, cities, and towns within the Mississippi River corridor critical area;

(6) the intent of the Mississippi River corridor critical area land use districts from the governor's

executive order number 79-19, published in the State Register on March 12, 1979; and

(7) identified scenic, geologic, and ecological resources.

Subd. 4. **Standards.** (a) The commissioner shall establish, by rule, minimum guidelines and standards for the districts established in subdivision 3. The guidelines and standards for each district shall include the intent of each district and key resources and features to be protected or enhanced based upon paragraph (b). The commissioner must take into account municipal plans and policies, and existing ordinances and conditions when developing the guidelines in this section. The commissioner may provide certain exceptions and criteria for standards, including, but not limited to, exceptions for river access facilities, water supply facilities, stormwater facilities, and wastewater treatment facilities, and hydropower facilities.

(b) The guidelines and standards must protect or enhance the following key resources and features:

(1) floodplains;

(2) wetlands;

(3) gorges;

(4) areas of confluence with key tributaries;

(5) natural drainage routes;

(6) shorelines and riverbanks;

(7) bluffs;

(8) steep slopes and very steep slopes;

(9) unstable soils and bedrock;

(10) significant existing vegetative stands, tree canopies, and native plant communities;

(11) scenic views and vistas;

(12) publicly owned parks, trails, and open spaces;

(13) cultural and historic sites and structures; and

(14) water quality.

(c) The commissioner shall establish a map to define bluffs and bluff-related features within the Mississippi River corridor critical area. At the outset of the rulemaking process, the commissioner shall create a preliminary map of all the bluffs and bluff lines within the Mississippi River corridor critical area, based on the guidelines in paragraph (d). The rulemaking process shall provide an opportunity to refine the preliminary bluff map. The commissioner may add to or remove areas of demonstrably unique or atypical conditions that warrant special protection or exemption. At the end of the rulemaking process, the commissioner shall adopt a final bluff map that contains associated features, including bluff lines, bases of bluffs, steep slopes, and very steep slopes.

(d) The following guidelines shall be used by the commissioner to create a preliminary bluff

map as part of the rulemaking process:

(1) "bluff face" or "bluff" means the area between the bluff line and the bluff base. A high, steep, natural topographic feature such as a broad hill, cliff, or embankment with a slope of 18 percent or greater and a vertical rise of at least ten feet between the bluff base and the bluff line;

(2) "bluff line" means a line delineating the top of a slope connecting the points at which the slope becomes less than 18 percent. More than one bluff line may be encountered proceeding upslope from the river valley;

(3) "base of the bluff" means a line delineating the bottom of a slope connecting the points at which the slope becomes 18 percent or greater. More than one bluff base may be encountered proceeding landward from the water;

(4) "steep slopes" means 12 percent to 18 percent slopes. Steep slopes are natural topographic features with an average slope of 12 to 18 percent measured over a horizontal distance of 50 feet or more; and

(5) "very steep slopes" means slopes 18 percent or greater. Very steep slopes are natural topographic features with an average slope of 18 percent or greater, measured over a horizontal distance of 50 feet or more.

Subd. 5. **Application.** The standards established under this section shall be used:

(1) by local units of government when preparing or updating plans or modifying regulations;

(2) by state and regional agencies for permit regulation and in developing plans within their jurisdiction;

(3) by the Metropolitan Council for reviewing plans and regulations; and

(4) by the commissioner when approving plans and regulations, and reviewing development permit applications.

Subd. 6. **Notification; fees.** A local unit of government or a regional or state agency shall notify the commissioner of natural resources of all developments in the corridor that require discretionary actions under their rules at least ten days before taking final action on the application. The commissioner may establish exemptions from the notification requirement for certain types of applications. For purposes of this section, a discretionary action includes all actions that require a public hearing, including variances, conditional use permits, and zoning amendments.

Subd. 7. **Rules.** The commissioner shall adopt rules to ensure compliance with this section. By January 15, 2010, the commissioner shall begin the rulemaking required by this section under chapter 14.

Sec. 28. **PREVENTION OF WATER POLLUTION FROM POLYCYCLIC AROMATIC HYDROCARBONS.**

(a) By January 15, 2010, the commissioner of the Pollution Control Agency shall notify state agencies and local units of government of the potential for contamination of constructed storm water ponds and wetlands or natural ponds used for the collection of storm water via constructed conveyances with polycyclic aromatic hydrocarbons from the use of coal tar sealant products. For

the purpose of this section, a storm water pond is a treatment pond constructed and operated for water quality treatment, storm water detention, and flood control. Storm water ponds do not include areas of temporary ponding, such as ponds that exist only during a construction project or short-term accumulations of water in road ditches.

(b) By January 15, 2010, the commissioner of the Pollution Control Agency shall establish a schedule and information requirements for state agencies and local units of government regulated under a national pollutant discharge elimination system or state disposal system permit for municipal separate storm sewer systems to report to the commissioner of the Pollution Control Agency on all storm water ponds and other waters defined in paragraph (a) located within their jurisdiction.

(c) The commissioner of the Pollution Control Agency shall develop best management practices for state agencies and local units of government regulated under a national pollutant discharge elimination system or state disposal system permit for municipal separate storm sewer systems treating or cleaning up contaminated sediments in storm water ponds and other waters defined under paragraph (a) and make the best management practices available on the agency's Web site. As part of the development of the best management practices, the commissioner shall:

(1) sample a set of storm water pond sediments in residential, commercial, and industrial areas for polycyclic aromatic hydrocarbons and other contaminants of potential concern;

(2) investigate the feasibility of screening methods to provide more cost-effective analytical results and to identify which kinds of ponds are likely to have the highest concentrations of polycyclic aromatic hydrocarbons; and

(3) develop guidance on testing, treatment, removal, and disposal of polycyclic aromatic hydrocarbon contaminated sediments.

(d) The commissioner of the Pollution Control Agency shall incorporate the requirements for inventory and best management practices specified in paragraphs (b) and (c) into the next permitting cycle for the national pollutant discharge elimination system or state disposal system permit for municipal separate storm sewer systems.

Sec. 29. **ENDOCRINE-DISRUPTOR MONITORING.**

(a) The commissioner of the Pollution Control Agency shall establish a network of water monitoring sites in public waters adjacent to wastewater treatment facilities across the state to assess levels of endocrine disrupting compounds, antibiotic compounds, and pharmaceuticals.

(b) Each of the monitoring sites must provide enhanced monitoring of the effluent at the discharge point of the wastewater treatment facility and monitoring of the public waters above and below the discharge point.

(c) The monitoring sites must be located throughout the state, represent a variety of wastewater treatment facility sizes based on the number of gallons of water discharged per day, and represent a variety of waste treatment systems used for primary, secondary, and tertiary disinfecting treatment and management of biosolids.

(d) In establishing the monitoring network, the commissioner of the Pollution Control Agency must consult with the commissioners of health and natural resources, the United States Geological Survey, the Metropolitan Council, local wastewater treatment facility operators, and the Water

Resources Center at the University of Minnesota. Consideration may be given to monitoring sites at facilities identified as part of a total maximum daily load study and facilities located on a water body identified for enhanced protection. The initial monitoring network must include at least ten sites.

(e) Monitoring must include, but is not limited to, endocrine-disrupting compounds from natural and synthetic hormones, pharmaceuticals, personal care products, and a range of industrial products and by-products. At a minimum, concentrations of estrone, nonylphenol, bisphenol-A, 17-beta-estradiol, 17-alpha-ethynylestradiol, estriol, and antibacterial triclosan must be monitored. Additional compounds, antibacterial compounds, and pharmaceuticals potentially impacting human health and aquatic communities may be considered for identification and monitoring including, but not limited to, nonylphenol ethoxylates, octylphenol, and octylphenol ethoxylates; the hormones androstenedione, trenbelone, and diethylphthalate; antidepressant medications, including fluoxetine and fluvoxamine; carbamazepine; and triclocarban.

(f) The commissioner of the Pollution Control Agency shall begin the monitoring and testing required under this section no later than November 1, 2009. Information about requirements under this section and the results from the monitoring and testing must be available on the agency's Web site by June 1, 2010. The commissioner shall submit a preliminary report on the results of the monitoring and testing to the chairs of the legislative committees with jurisdiction over environment and natural resources policy and finance by April 15, 2010, and a final report no later than January 15, 2011.

Sec. 30. **COMPREHENSIVE STATEWIDE SUSTAINABLE WATER RESOURCES DETAILED FRAMEWORK.**

(a) The University of Minnesota shall develop a comprehensive statewide sustainable water resources detailed framework to protect, conserve, and enhance the quantity and quality of the state's groundwater and surface water. The detailed framework shall be a long-range, 25-year detailed framework, with an implementation schedule and associated benchmarks, for policy, research, monitoring, and evaluation in order to achieve sustainable groundwater and surface water use, including the ecological benefits provided by water resources to humans and fish and wildlife habitat. For the purposes of the detailed framework, water use is sustainable when the use does not harm ecosystems, degrade water quality, or compromise the ability of future generations to meet their own needs.

(b) The detailed framework shall be developed by the University of Minnesota Water Resources Center in cooperation with the Departments of Natural Resources and Agriculture, the Environmental Quality Board, the Pollution Control Agency, the Board of Water and Soil Resources, watershed management districts, watershed management organizations, soil and water conservation districts, and other federal, state, and local government and private nonprofits with expertise in water resources. In developing the detailed framework, the water resources plans of organizations with water resources expertise shall be considered. The detailed framework must include, but is not limited to, identification of infrastructure needs, drinking water, groundwater and surface water, storm water, agricultural and industrial needs, the interfaces of climate change, development and land use, and demographics. The detailed framework must identify best practices and methods for determining the effectiveness of those practices for wastewater treatment, drinking water source protection, pollution prevention, conservation, and water valuation.

(c) The University of Minnesota shall also develop a ten-year plan for sustainable water resources. In developing this plan, the University of Minnesota Water Resources Center shall examine existing plans, as available and appropriate, from the Environmental Quality Board and Clean Water Council.

(d) The University of Minnesota shall submit the detailed framework to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance, environment and natural resources policy and finance, and cultural and outdoor resources policy and finance by January 15, 2011.

(e) It is a condition of acceptance of this appropriation that the University of Minnesota must submit a work plan, a timeline, a budget, and periodic progress reports to the Legislative Coordinating Commission. After review, the work plan, progress reports, and any comments on the plan must be submitted to the house of representatives and senate environment finance and policy and cultural and outdoor resources finance committees, and to the Legislative Coordinating Commission.

Sec. 31. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change the term "conservation reserve program" to "reinvest in Minnesota reserve program" where it appears in Minnesota Statutes, sections 84.95, subdivision 2; 92.70, subdivision 1; and 103H.105.

Sec. 32. **REPEALER.**

(a) Minnesota Statutes 2008, sections 103B.101, subdivision 11; 103F.511, subdivision 4; and 103F.521, subdivision 2, are repealed.

(b) Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530; and 8400.3560, are repealed.

ARTICLE 3

PARKS AND TRAILS FUND

Section 1. **PARKS AND TRAILS FUND APPROPRIATIONS.**

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

APPROPRIATIONS
Available for the Year
Ending June 30

	2010	2011
Sec. 2. **DEPARTMENT OF NATURAL RESOURCES**	**$ 16,861,000**	**$ 20,040,000**

(a) $250,000 the first year is for a collaborative project to develop a 25-year, long-term plan for parks and trails. This appropriation is available until June 30, 2011.

(b) $12,641,000 the first year and $15,140,000 the second year are for state parks, recreation areas, and trails to:

(1) connect people to the outdoors by providing access, conservation education and interpretive services, including the Minnesota Naturalist Corps under new Minnesota Statutes, section 84.992, enhanced marketing and technology, opening or reopening visitor centers advancing new conservation education, enhanced cross-country skiing, and producing a new parks and trails map integrating state parks, recreation areas, forest campgrounds, trails, and regional park and trail facilities that is available in print and on the Web;

(2) accelerate natural resource management, restoration, and protection activities at state parks, including:

(i) restoring at least 500 additional acres of state park land;

(ii) conducting invasive species detection, prevention, and response activities on at least 4,000 acres of state park lands and waters and reestablishing native plants, shrubs, and trees after invasive species removal;

(iii) providing rapid response to terrestrial and aquatic new invasive species detections and infestations on state park lands and waters and state trails;

(iv) conducting prescribed burns on an additional 6,000 acres; and

(v) restoring and managing native prairies

and woodlands along at least six percent of the developed miles of state trails, including removing invasive species;

(3) accelerate facility maintenance and rehabilitation, including energy-efficiency improvements and the use of renewable sources of energy, such as solar energy.

(c) The commissioner shall contract for services with the Minnesota Conservation Corps for restoration, maintenance, and other activities under this section for at least $600,000 the first year and $1,000,000 the second year.

(d) $3,970,000 the first year and $4,900,000 the second year are for grants under new Minnesota Statutes, section 85.535, to parks and trails recognized as meeting the constitutional requirement of being a park or trail of regional or statewide significance. Grants under this section must be used only for acquisition, development, restoration, and maintenance. Of this amount, $500,000 the first year and $600,000 the second year are for grants for solar energy projects. Up to 2.5 percent of this appropriation may be used for administering the grants.

(e) The commissioner shall develop a ten-year strategic state parks and trails plan considering traditional funding and the funding available under the Minnesota Constitution, article XI, section 15. The plan shall incorporate the 25-year framework developed by the University of Minnesota Center for Changing Landscapes.

The commissioner shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. The report must relate the expenditure of funds by the categories established and detail the outcomes in terms of additional use of

parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

To the extent possible, a person conducting restoration with money appropriated in this section must plant vegetation or sow seed only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the restoration site as possible, and protect existing native prairies from genetic contamination.

Sec. 3. **METROPOLITAN COUNCIL** **$ 12,641,000 $ 15,140,000**

(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.

(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.

Sec. 4. **UNIVERSITY OF MINNESOTA** **$ 400,000 $ -0-**

To the Board of Regents of the University of Minnesota for the Center for Changing Landscapes to create a comprehensive statewide parks and trails framework and system inventory. This appropriation is available until June 30, 2011.

Sec. 5. **LEGISLATURE** **$ 15,000** **$ -0-**

$15,000 the first year is for the Legislative Coordinating Commission for the Web site required under this act.

Sec. 6. **CREATION OF A PARKS AND TRAILS INVENTORY, FRAMEWORK, AND PLAN.**

Subdivision 1. **Inventory and framework development.** (a) The University of Minnesota Center for Changing Landscapes is directed to create a long-range framework for an integrated statewide parks and trails system that provides information on the natural resource-based recreational opportunities available throughout the state. The detailed framework must include an inventory of existing regionally and statewide significant parks and trails, respond to recreational trends and demographic changes, and identify underserved areas, overused facilities, and gaps in the current parks and trails system. The framework must identify opportunities for enhancing existing assets, developing new assets, and linking those assets together effectively within realistic financial resources. In developing the framework and creating the inventory, the Center for Changing Landscapes shall use geographic information system technology, aerial photographs, and other pertinent data from government agencies.

(b) As part of the inventory, the Center for Changing Landscapes shall develop a user-friendly Web-based guide for information on state and regional parks in the state. The Department of Natural Resources, the Office of Explore Minnesota Tourism, and the Metropolitan Council shall work with the Center for Changing Landscapes to ensure that all the information currently available on their Web sites is incorporated into the newly developed statewide Web system. The statewide parks and trails Web guide shall be incorporated into the Department of Natural Resources Web site.

(c) In developing the framework and inventory, the Center for Changing Landscapes shall consult with the Department of Natural Resources, the Office of Explore Minnesota Tourism, the Metropolitan Council, local units of government, park and trail groups, the public, and other stakeholder groups. The Center for Changing Landscapes shall participate and be actively involved in the collaborative under subdivision 2.

(d) The Center for Changing Landscapes shall submit the framework and a summary of the inventory in a report to the commissioner of natural resources and to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over natural resources policy and finance by January 15, 2011.

Subd. 2. **State and regional parks and trails plan.** (a) The commissioner of natural resources shall participate in a collaborative project to develop a 25-year, long-range plan for the use of the money available in the parks and trails fund under the Minnesota Constitution, article XI, section 15, and other traditional sources of funding. The collaborative project shall consist of a joint effort

between representatives of the commissioner of natural resources, the Office of Explore Minnesota Tourism, the Metropolitan Council and its implementing agencies, the Central Minnesota Regional Parks and Trails Coordinating Board, and regional parks and trails organizations outside the metropolitan area. The members shall prepare a ten-year strategic parks and trails coordination plan and develop a 25-year, long-range plan for use of the funding that includes goals and measurable outcomes and includes a vision for Minnesotans of what the state and regional parks will look like in 25 years.

(b) In developing the plans, the members shall utilize a process, including Web site survey tools and regional listening sessions, to be staffed by the commissioner, that ensures that citizens are included in development and finalization of the final plans. The commissioner, office, council, and board shall provide for input from user groups and local and regional park and trail organizations.

(c) The plans must consider the framework and inventory developed by the University of Minnesota Center for Changing Landscapes and must include, but is not limited to:

(1) a proposed definition of "parks and trails of regional significance";

(2) a plan to increase the number of visitors to state and regional parks;

(3) assessment of the need for new or expanded regional outdoor recreation systems to preserve and connect high-quality, diverse natural resources in areas with concentrated and increasing populations;

(4) budgeting for ongoing maintenance;

(5) decommissions;

(6) a plan for trails that takes into account connectivity and the potential for use by commuters;

(7) requirements for local contribution; and

(8) benchmarks.

(d) The commissioner shall submit the ten-year strategic plan and 25-year long-range plan to the legislature as provided in Minnesota Statutes, section 3.195, by February 15, 2011.

Subd. 3. **Parks and trails budget analysis.** The commissioner of natural resources, in consultation with the commissioner of finance, shall estimate the total amount of funding available from all sources, including the parks and trails fund, for parks and trails over the next ten and 25 years. The commissioner shall develop a range of estimates to reflect different funding scenarios based on economic and other factors. The commissioner and others shall use these estimates in preparing the ten-year strategic parks and trails plan and the 25-year long-range plan required under this section, including, but not limited to, evaluating the range of estimated funds available to determine:

(1) the amount necessary to operate existing parks and trails for the next ten and 25 years;

(2) the amount necessary to provide maintenance for existing parks and trails for the next ten and 25 years;

(3) the adequacy of funding to support expansion of the existing park system; and

(4) the adequacy of funding to support expansion of the existing trail system

The commissioner shall submit the estimates to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over the environment and natural resources finance and the parks and trails fund by August 1, 2009.

Sec. 7. **AVAILABILITY OF APPROPRIATIONS.**

Unless otherwise provided, the amounts in this article are available until June 30, 2011, when projects must be completed and final accomplishments reported. Appropriations for 2011 are available for use until June 30, 2012. For acquisition of an interest in real property, the amounts in this section appropriated in fiscal year 2010 are available until June 30, 2012, and the amounts in this section appropriated in fiscal year 2011 are available until June 30, 2013. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

Sec. 8. **[84.992] MINNESOTA NATURALIST CORPS.**

Subdivision 1. **Establishment.** The Minnesota Naturalist Corps is established under the direct control and supervision of the commissioner of natural resources.

Subd. 2. **Program.** The commissioner of natural resources shall develop a program for the Minnesota Naturalist Corps that supports state parks in providing interpretation of the natural and cultural features of state parks in order to enhance visitors' awareness, understanding, and appreciation of those features and encourages the wise and sustainable use of the environment.

Subd. 3. **Training and mentoring.** The commissioner must develop and implement a training program that adequately prepares Minnesota Naturalist Corps members for the tasks assigned. Each corps member shall be assigned a state park naturalist as a mentor.

Subd. 4. **Uniform patch.** Uniforms worn by members of the Minnesota Naturalist Corps must have a patch that includes the name of the Minnesota Naturalist Corps and information that the program is funded by the clean water, land, and legacy amendment to the Minnesota Constitution adopted by the voters in November 2008.

Subd. 5. **Eligibility.** A person is eligible to enroll in the Minnesota Naturalist Corps if the person:

(1) is a permanent resident of the state;

(2) is a participant in an approved college internship program or has a postsecondary degree in a natural resource or conservation related field; and

(3) has completed at least one year of postsecondary education.

Subd. 6. **Corps member status.** Minnesota Naturalist Corps members are not eligible for unemployment benefits if their services are excluded under section 268.035, subdivision 20, and are not eligible for other benefits except workers' compensation. The corps members are not employees of the state within the meaning of section 43A.02, subdivision 21.

Subd. 7. **Employee displacement.** The commissioner must certify that the assignment of Minnesota Naturalist Corps members will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including

partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. The department may not terminate, lay off, reduce the seasonal hours of, or reduce the working hours of any employee for the purpose of using a corps member with available funds.

Sec. 9. **[85.535] PARKS AND TRAILS GRANT PROGRAM.**

Subdivision 1. **Establishment.** The commissioner of natural resources shall administer a program to provide grants from the parks and trails fund to support parks and trails of regional or statewide significance. Grants shall not be made under this section for state parks, state recreational areas, or state trails.

Subd. 2. **Priorities.** In awarding trails grants under this section, the commissioner shall give priority to trail projects that provide:

(1) connectivity;

(2) enhanced opportunities for commuters; and

(3) enhanced safety.

Subd. 3. **Match.** Recipients must provide a nonstate cash match of at least 25 percent of the total eligible project costs.

Subd. 4. **Rule exemption.** The commissioner is not subject to the rulemaking provisions of chapter 14 in implementing this section, and section 14.386 does not apply.

ARTICLE 4

ARTS AND CULTURAL HERITAGE FUND

Section 1. **ARTS AND CULTURAL HERITAGE FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the arts and cultural heritage fund, and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment. All appropriations in this article are onetime.

	APPROPRIATIONS Available for the Year Ending June 30	
	2010	**2011**
Sec. 2. **ARTS AND CULTURAL HERITAGE**		
Subdivision 1. **Total Appropriation**	**$ 44,470,000**	**$ 48,750,000**

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

Subd. 2. **Board of the Arts** 21,650,000 21,650,000

(a) The appropriations in this subdivision are to the Minnesota Board of the Arts from the arts and cultural heritage fund. Grants agreements entered into by the Board of the Arts and other recipients of appropriations in this section shall ensure that these funds are used to supplement and not supplant traditional sources of funding. Appropriations made directly to the Board of the Arts shall supplement, and shall not substitute for traditional sources of funding. Funds appropriated in the first year may be carried over to the second. Each grant program established within this appropriation shall be separately administered from other state appropriations for program planning and outcome measurements, but may take into consideration other state resources awarded in the selection of applicants and grant award size.

(b) Of the amounts in this subdivision:

(1) up to 78 percent of the money to support Minnesota artists and arts organizations in creating, producing, and presenting high-quality arts activities; to overcome barriers to accessing high-quality arts activities; and to instill the arts into the community and public life in this state.

A portion of these funds may be used to:

(i) pay attendance fees and travel costs for youth to visit art museums, arts performances, or other arts activities; or

(ii) bring artists to schools, libraries, or other community centers or organizations for teaching, training, or performance purposes;

(2) up to 15 percent of the money for high-quality, age-appropriate arts education for Minnesotans of all ages to develop

knowledge, skills, and understanding of the arts.

A portion of this appropriation may be used for grants to school districts to provide materials or resources to teachers, students, and parents to promote achievement of K-12 academic standards in the arts;

(3) up to five percent of the money for events and activities that represent the diverse ethnic and cultural arts traditions, including folk and traditional artists and art organizations, represented in this state; and

(4) up to three percent of the money to administer grant programs, deliver technical services, provide fiscal oversight for the statewide system, and to ensure accountability for these state resources.

The Board of the Arts, in partnership with regional arts councils, shall conduct a census of Minnesota artists and artistic organizations.

Thirty percent of the total appropriated to each of the categories established in this subdivision is for grants to the regional arts councils. This percentage does not apply to administrative costs.

Any unexpended balance under this subdivision is available in either year.

(c) **Reporting**

The executive director shall submit an annual report on the expenditure and use of money appropriated under this subdivision to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. The report must relate the expenditure of funds by the categories established in this subdivision. Distinctive goals and measurable outcomes shall be established and reported on.

Subd. 3. **Department of Education**	4,250,000	4,250,000

These appropriations are for grants allocated using existing formulas under Minnesota Statutes, section 134.355, to the 12 Minnesota Regional Library Systems, to provide educational opportunities in the arts, history, literary arts, and cultural heritage of Minnesota. No more than 2.5 percent of funds may be used for administration by regional library systems. These funds may be used to sponsor programs provided by regional libraries, or to provide grants to local arts and cultural heritage programs for programs in partnership with regional libraries.

Subd. 4. **Minnesota Historical Society**	9,750,000	12,250,000

(a) The appropriations in this subdivision are to the Minnesota Historical Society from the arts and cultural heritage fund to preserve and enhance access to Minnesota's history and its cultural and historical resources. Grants agreements entered into by the Minnesota Historical Society and other recipients of appropriations in this section 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. Funds appropriated in the first year may be carried over to the second. No more than 2.5 percent of each appropriation may be used for administration by the Minnesota Historical Society. The Minnesota Historical Society, with the assistance of recipients funded under this section, shall report on all expenditures made from these funds to the legislature and governor by January 15 of each year.

(b) **Statewide Historic and Cultural Grants.** (i) $2,250,000 in 2010 and $4,500,000 in 2011 are appropriated 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, and with assistance from the advisory committee created herein. The Preston grain elevator restoration and recreation project shall be eligible for grants under this program.

Also eligible for a grant under this section are projects previously approved by the Minnesota Historical Society that have had this approved funding refused by a public board or governing body, provided that these projects are now administered by a nonprofit organization.

Ironworld is eligible for a grant under this program.

(ii) The Minnesota Historical Society shall appoint a historic resources advisory committee, with balanced statewide membership and representatives of local, county, and statewide historical and cultural organizations and programs, to provide policy and grant making guidance on expenditures of funds from this paragraph. This membership shall include, but is not limited to, members representing the interests of historic preservation, local history, archaeology, archival programs, and other cultural programs related to the history of Minnesota. This committee shall seek input from all interested parties, and shall make recommendations for expenditures from these funds to the executive council of the Minnesota Historical Society; all expenditures must meet the requirements of Minnesota Statutes, section 138.01.

(c) **Programs.** $3,000,000 in 2010 and $4,750,000 in 2011 are for programs and purposes related to the historical and cultural heritage of the state of Minnesota, conducted by the Minnesota Historical Society.

(d) **History Partnerships.** $1,250,000 in 2010 and $2,750,000 in 2011 are for partnerships between and with the Minnesota Historical

Society and partnering organizations to enhance access to Minnesota's history and cultural heritage in all regions of the state.

(e) $2,500,000 in 2010 is appropriated to the Minnesota Historical Society for an exhibit on the regional, local, and cultural diversity of Minnesota's history and cultural heritage. These funds are available until expended. These funds are for the creation of both traveling exhibits to be made available to local historical and cultural organizations and an exhibit to be housed at the Minnesota History Center. The Minnesota Historical Society shall raise funds from private sources to augment this appropriation, with a goal of $1,500,000 in private funds to be raised. This is not a match requirement, but the Minnesota Historical Society shall certify that a good faith effort has been made.

(f) **Statewide Survey of Historical and Archaeological Sites.** $250,000 in 2010 and $250,000 in 2011 are appropriated to the Minnesota Historical Society for a contract or contracts to be let on a competitive basis to conduct a general statewide survey 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 Board of Indian Affairs shall each appoint a representative to an oversight board, to select a contractor and direct the conduct of this survey. The oversight board shall consult with the Minnesota Departments of Transportation and Natural Resources. Funds appropriated for this purpose do not cancel and may be carried over from one year to the next.

(g) **Digital Library.** $500,000 in 2010 is appropriated for a digital library project to preserve, digitize, and share Minnesota images, documents, and historic materials. The Minnesota Historical Society shall

cooperate with the MINITEX system and shall jointly share this appropriation for these purposes.

Subd. 5. **Department of Administration**		6,500,000	7,900,000

(a) Funds in this subdivision are appropriated to the commissioner of the Department of Administration for grants to the named organizations for the purposes specified in this subdivision. Up to one percent of funds may be used by the Department of Administration for grants administration. Grants made to public television or radio organizations are subject to Minnesota Statutes, sections 129D.18 and 129D.19.

(b) Grant agreements entered into by the commissioner and recipients of appropriations in this subdivision must ensure that money appropriated in this subdivision is used to supplement and not substitute for traditional sources of funding. No more than 2.5 percent of any grant may be used by the recipient for administration. A cultural grants advisory board may be established by the Department of Administration to provide advice and assistance in the making of grants under this subdivision. The board, if appointed, shall consist of seven members, to be appointed by the commissioner. One member shall represent public radio and television, one shall represent Minnesota zoos, one shall represent the Minnesota Center for the Humanities, and the remaining four shall be appointed by the commissioner to represent a diverse set of cultural interests. All recipients of funds under this subdivision shall report to the legislature by January 15 of each year on uses of those funds.

(c) **Public Television.** $2,800,000 the first year and $3,500,000 the second year are appropriated for a grant to the Minnesota Public Television Association for production and acquisition grants in accordance with new Minnesota Statutes, section 129D.18.

(d) **Minnesota Public Radio.** $1,150,000 the first year and $1,500,000 the second year are appropriated for a grant to Minnesota Public Radio to create new programming and events, expand regional news service, amplify Minnesota culture to a regional and national audience, and document Minnesota's history through the Minnesota Audio Archives.

(e) **Association of Minnesota Public Educational Radio Stations.** $1,150,000 the first year and $1,500,000 the second year are appropriated for a grant to the Association of Minnesota Public Radio Stations for production and acquisition grants in accordance with new Minnesota Statutes, section 129D.19.

(f) **Zoos.** $450,000 in 2010 and $450,000 in 2011 are appropriated for the programmatic development of Minnesota's zoos. Three-quarters of this fund in any year shall be reserved in equal portions each for the Minnesota Zoo, the Como Zoo, and the Lake Superior Zoo. The remainder may be apportioned through a competitive grants process or may be allocated by the commissioner to zoos that are accredited by the Association of Zoos and Aquariums or that demonstrate to the commissioner a plan for working toward that accreditation during the biennium ending June 30, 2011.

(g) **Minnesota State Capitol.** The Department of Administration, the Capitol Area Architecture and Planning Board, and the Minnesota Historical Society shall consider and report to the legislature on possible uses of funds created under the Minnesota Constitution, article XI, section 15, for the restoration, renovation, and repair of the State Capitol.

(h) **Minnesota Children's Museum**

$250,000 in 2010 and $250,000 in 2011 are appropriated for the Minnesota Children's Museum. These amounts are for arts, arts

education, and arts access and to preserve Minnesota's history and cultural heritage. The director shall submit an annual report on the expenditure and use of money appropriated under this paragraph to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this paragraph are available until June 30, 2013.

(i) **Duluth Children's Museum**

$250,000 in 2010 and $250,000 in 2011 are appropriated for the Duluth Children's Museum. These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage. The director shall submit an annual report on the expenditure and use of money appropriated under this paragraph to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this paragraph are available until June 30, 2013.

(j) **Science Museum of Minnesota**

$450,000 in 2010 and $450,000 in 2011 are appropriated for the Science Museum of Minnesota. These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage. The director shall submit an annual report on the expenditure and use of money appropriated under this paragraph to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the

report shall be submitted by January 15. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this paragraph are available until June 30, 2013.

Subd. 6. **Minnesota Center for the Humanities**	1,050,000	1,050,000

(a) $300,000 in 2010 and $300,000 in 2011 are appropriated to the Minnesota Center for the Humanities for its programs and purposes.

The Minnesota Center for the Humanities may consider museums and organizations celebrating the ethnic identities of Minnesotans for grants from these funds. The Minnesota Center for the Humanities may develop a written plan for the competitive issuance of these grants, and, if developed, shall submit that plan for review and approval by the Department of Administration.

(b) **Councils of Color.** $125,000 in 2010 and $125,000 in 2011 are for programs and cooperation between the Minnesota Center for the Humanities and the Council on Asian-Pacific Minnesotans. $125,000 in 2010 and $125,000 in 2011 are for programs and cooperation between the Minnesota Center for the Humanities and the Council on Black Minnesotans. $125,000 in 2010 and $125,000 in 2011 are for programs and cooperation between the Minnesota Center for the Humanities and the Indian Affairs Council. $125,000 in 2010 and $125,000 in 2011 are for programs and cooperation between the Minnesota Center for the Humanities and the Council on Affairs of Chicano/Latino people. These programs are for community events and programs to celebrate and preserve the artistic, historical, and cultural heritage of these peoples.

(c) **Civics Education.** $250,000 in 2010 and $250,000 in 2011 are appropriated to the Minnesota Center for the Humanities for grants to Kids Voting Minnesota, Learning

Law and Democracy Foundation, and YMCA Youth in Government to conduct civics education programs for the civic and cultural development of Minnesota youth.

Subd. 7. **Legislature** 20,000

This appropriation is for the Legislative Coordinating Commission to operate a Web site for dedicated funds.

Subd. 8. **Perpich Center For Arts Education** 300,000 700,000

(a) These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

(b) The director shall submit an annual report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195. The first year report must be submitted by March 1, 2010. In subsequent years the report shall be submitted by January 15.

(c) 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. **INDIAN LANGUAGE PRESERVATION.**

(a) $150,000 is appropriated in fiscal year 2010 from the arts and cultural heritage fund to the Indian Affairs Council for the working group on Dakota and Ojibwe Language Revitalization and Preservation created under article 4, section 5. Any balance in fiscal year 2010 is available in fiscal year 2011.

(b) $550,000 in 2010 and $700,000 in 2011 are appropriated to the Indian Affairs Council to issue grants for programs to preserve Dakota and Ojibwe Indian languages and to foster educational programs in Dakota and Ojibwe languages.

Sec. 4. **APPROPRIATIONS.**

Subdivision 1. **Director.** The sums indicated in this section are appropriated from the arts and cultural heritage fund to the Indian Affairs Council for the fiscal years designated.

Subd. 2. **Dakota and Ojibwe immersion programs.** For a grant to the Niigaane Ojibwe Immersion School and the Wicoie Nandagikendan Urban Immersion Project:

$	250,000	.....	2010
$	250,000	.....	2011

Of this amount, $125,000 each year is available for Niigaane Ojibwe Immersion School and $125,000 each year is available for Wicoie Nandagikendan Urban Immersion Project to:

(1) develop and expand K-12 curriculum;

(2) provide fluent speakers in the classroom;

(3) develop appropriate testing and evaluation procedures; and

(4) develop community-based training and engagement.

Sec. 5. Minnesota Statutes 2008, section 129D.17, is amended to read:

129D.17 ARTS AND CULTURAL HERITAGE FUND.

Subdivision 1. **Establishment.** The arts and cultural heritage fund is established in the Minnesota Constitution, article XI, section 15. All money earned by the fund must be credited to the fund.

Subd. 2. **Expenditures; accountability.** (a) Funding from the arts and cultural heritage fund may be spent only for arts, arts education, and arts access, and to preserve Minnesota's history and cultural heritage. A project or program receiving funding from the arts and cultural heritage fund must include measurable outcomes, and a plan for measuring and evaluating the results. A project or program must be consistent with current scholarship, or best practices, when appropriate and incorporate state-of-the-art technology when appropriate.

(b) Funding from the arts and cultural heritage fund may be granted for an entire project or for part of a project so long as the recipient provides a description and cost for the entire project and can demonstrate that it has adequate resources to ensure that the entire project will be completed.

(c) Money from the arts and cultural heritage fund shall be expended for benefits across all regions and residents of the state.

(d) All information for funded projects, including the proposed measurable outcomes, must be made available on the Legislative Coordinating Commission Web site, as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available.

(e) Grants funded by the arts and cultural heritage fund must be implemented according to section 16B.98 and must account for all expenditures of funds. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(f) A recipient of money from the arts and cultural heritage fund must display a sign on capital projects during construction and an acknowledgment in a printed program or other material funded with money from the arts and cultural heritage fund that identifies it as a project funded with money from the vote of the people of Minnesota on November 4, 2008.

(g) All money from the arts and cultural heritage fund must be for projects located in Minnesota.

Subd. 3. **Special review.** For a project receiving an appropriation or appropriations from the arts

and cultural heritage fund totaling $10,000,000 or more in a biennium, the attorney general must review and approve all contracts and real estate transactions and must exercise due diligence in the best interests of the state.

Sec. 6. **[129D.18] PUBLIC TELEVISION CULTURAL AND HERITAGE PRODUCTION AND ACQUISITION GRANTS.**

Subdivision 1. **Use of grant funds.** Money appropriated from the Minnesota arts and cultural heritage fund may be designated to make grants to public stations, as defined in section 129D.12, subdivision 2. Grants received under this section must be used to create, produce, acquire, or distribute programs that educate, enhance, or promote local, regional, or statewide items of artistic, cultural, or historic significance. Grant funds may be used to cover any expenses associated with the creation, production, acquisition, or distribution of public television programs through broadcast or online, including the creation and distribution of educational materials.

Subd. 2. **Administration.** Money appropriated under this section must be used by the commissioner of administration to make grants based upon the recommendations of the Minnesota Public Television Association.

Subd. 3. **Conditions.** (a) A public station receiving funds appropriated under this section must:

(1) make programs produced with these funds available for broadcast to all other public stations eligible to receive grants under this section;

(2) offer free public performance rights for public educational institutions;

(3) archive programs produced with these funds and make the programs available for future use through encore broadcast or other distribution, including online; and

(4) ensure that underwriting credit is given to the Minnesota arts and cultural heritage fund.

(b) Programs produced in partnership with other mission-centered nonprofit organizations may be used by the partnering organization for their own educational or promotional purposes.

Subd. 4. **Reporting.** A public station receiving funds appropriated under this section must report annually by January 15 to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and finance regarding how the previous year's grant funds were expended. This report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated viewership, the number of Web site downloads, and other related measures. If the programs produced include educational material, the public station must report on these efforts.

Sec. 7. **[129D.19] ASSOCIATION OF MINNESOTA PUBLIC EDUCATIONAL RADIO STATIONS CULTURAL AND HERITAGE PRODUCTION AND ACQUISITION GRANTS.**

Subdivision 1. **Applicability.** This section applies only to noncommercial radio stations that are members of the Association of Minnesota Public Educational Radio Stations.

Subd. 2. **Use of grant funds.** Money appropriated from the Minnesota arts and cultural heritage fund may be designated to make grants to noncommercial radio stations, as defined in section 129D.14, subdivision 2. Grants received under this section must be used to create, produce,

acquire, or distribute programs that educate, enhance, or promote local, regional, or statewide items of artistic, cultural, or historic significance. Grant funds may be used to cover any expenses associated with the creation, production, acquisition, or distribution of noncommercial radio programs through broadcast.

Subd. 3. **Administration.** Money appropriated under this section must be used by the commissioner of administration to make grants based upon the recommendations of the Association of Minnesota Public Educational Radio Stations.

Subd. 4. **Conditions.** (a) A noncommercial radio station receiving funds appropriated under this section must:

(1) make programs produced with these funds available for broadcast to all other noncommercial radio stations eligible to receive grants under this section;

(2) offer free public performance rights for public educational institutions;

(3) archive programs produced with these funds and make the programs available for future use through encore broadcast or other distribution, including online; and

(4) ensure that underwriting credit is given to the Minnesota arts and cultural heritage fund.

(b) Programs produced in partnership with other mission-centered nonprofit organizations may be used by the partnering organization for their own educational or promotional purposes.

Subd. 5. **Reporting.** A noncommercial radio station receiving funds appropriated under this section must report annually by January 15 to the commissioner and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and finance regarding how the previous year's grant funds were expended. This report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated number of listeners, and other related measures. If the programs produced include educational material, the noncommercial radio station must report on these efforts.

Sec. 8. **ARTS AND CULTURAL HERITAGE FRAMEWORK.**

Programs and organizations funded through the arts and cultural heritage fund shall conduct a collaborative project to develop a ten-year plan and a 25-year framework for the use of the money available in the arts and cultural heritage fund under the Minnesota Constitution, article XI, section 15, and other traditional sources of funding. The collaborative project shall consist of a joint effort between representatives nominated by various listed organizations as follows: an arts education organization serving youth, an arts education organization serving adults, a civics education organization, the Minnesota Historical Society, local and regional historical organizations, Minnesota Board of the Arts, selected Minnesota zoos, children's museums, and libraries, Minnesota public television and radio, the Minnesota Center for the Humanities, and the Science Museum of Minnesota. The organizations shall ensure that public hearings are conducted by those creating plans and frameworks under this section. The members shall prepare a ten-year plan and a 25-year framework for use of the funding that includes goals and measurable outcomes and includes a vision for Minnesotans of what arts, history, and cultural heritage will look like in 25 years. The Minnesota Historical Society, the Minnesota Board of the Arts, and the Minnesota Center for the Humanities shall report to the legislature by January 15, 2010, on the results of the

collaborative project.

Sec. 9. **VOLUNTEER WORKING GROUP ON DAKOTA AND OJIBWE LANGUAGE REVITALIZATION AND PRESERVATION.**

Subdivision 1. **Establishment.** A volunteer working group is established to develop a unified strategy to revitalize and preserve indigenous languages of the 11 federally recognized American Indian tribes in Minnesota. As the federal government recognized through passage of the Esther Martinez Native American Languages Preservation Act of 2006, the revitalization and preservation of American Indian languages is of vital importance to preserving the American Indian culture. There have been recent efforts in Minnesota to develop programs to teach the Dakota and Ojibwe languages to students and to create fluent speakers at both the kindergarten through grade 12 level and at the postsecondary level. The volunteer working group shall, among other duties, inventory these efforts and make recommendations regarding how to further revitalize and preserve Dakota and Ojibwe languages.

Subd. 2. **Membership.** The executive director of the Minnesota Indian Affairs Council shall invite each of the 11 federally recognized tribes under Minnesota Statutes, section 3.922, subdivision 1, clause (1), to participate by appointing one member of each tribe to the working group. Three additional members shall be appointed by the Indian Affairs Council. Two of these members must represent the American Indian population in the Minneapolis-St. Paul area and one member must represent the American Indian population in Duluth. Other working group members may include, at their discretion, the commissioner of education or the commissioner's appointee, the director of the Office of Higher Education or the director's appointee, one member of the Board of Teaching, and the director of the Minnesota Historical Society or the director's appointee. The working group may add other members as deemed appropriate by a majority vote of the existing members. The executive director of the Indian Affairs Council must convene the first meeting no later than September 1, 2009. At the first meeting, the members shall elect from amongst themselves a chair and vice chair of the working group.

Subd. 3. **Duties.** The working group must develop strategies for the 11 federally recognized American Indian tribes and the state to work together to revitalize and preserve the Dakota and Ojibwe languages in Minnesota. The duties of the working group include, but are not limited to:

(1) creating an inventory of existing programs designed to preserve Dakota and Ojibwe languages in the state, including postsecondary programs, programs in tribal schools, and other schools throughout the state;

(2) creating an inventory of available resources for Dakota and Ojibwe language revitalization and immersion programs, including curriculum, educational materials, and trained teachers;

(3) identifying curriculum needs to train teachers to teach the Dakota and Ojibwe languages in immersion programs and barriers to training teachers to teach the Dakota and Ojibwe language;

(4) identifying classroom curriculum needs for teaching students in Dakota and Ojibwe languages;

(5) determining how the identified curriculum needs should be met;

(6) determining if there is a need for a central repository of resources, and if there is a need, where the repository should be located, how it should be structured, and who should have responsibility

for maintaining the repository;

(7) determining what technical assistance the state could offer to further Dakota and Ojibwe language immersion programs;

(8) identifying private, state, and national financial resources available to further Dakota and Ojibwe language revitalization and preservation efforts;

(9) identifying current state and federal law, rules, regulations, and policy that should be repealed, modified, or waived, in order to further Dakota and Ojibwe language immersion programs; and

(10) assessing the level of interest in the community for Dakota and Ojibwe language immersion programs.

Subd. 4. **Expenses.** Members of the group are not eligible for compensation but may receive reimbursement for their expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.

Subd. 5. **Report.** The working group must report its findings and recommendations, including draft legislation, if necessary, to the Indian Affairs Council and the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over early childhood through grade 12 education and higher education by February 15, 2011. The committee expires on February 16, 2011.

ARTICLE 5

GOVERNANCE; GENERAL PROVISIONS

Section 1. **[3.3006] APPLICATION.**

The definitions of "enhance," "protect," and "restore" in section 84.02 apply to all funds appropriated and purposes authorized under the clean water fund, parks and trails fund, and outdoor heritage fund.

Sec. 2. Minnesota Statutes 2008, section 3.303, is amended by adding a subdivision to read:

Subd. 10. **Constitutionally dedicated funding accountability.** (a) The Legislative Coordinating Commission shall develop and maintain a user-friendly, public-oriented Web site that informs, educates, and demonstrates to the public how the constitutionally dedicated funds in the arts and cultural heritage fund, outdoor heritage fund, clean water fund, parks and trails fund, and environment and natural resources trust fund are being expended to meet the requirements established for each fund in the state constitution. Information provided on the Web site must include, but is not limited to:

(1) information on all project proposals received by the Outdoor Heritage Council and the Legislative-Citizen Commission on Minnesota Resources;

(2) information on all projects receiving funding, including proposed measurable outcomes and the plan for measuring and evaluating the results;

(3) measured outcomes and evaluation of projects as required under sections 85.53, subdivision 2; 97A.056, subdivision 9; 114D.50, subdivision 2; and 129D.17, subdivision 2;

(4) education about the areas and issues the projects address, including, when feasible, maps of where projects have been undertaken;

(5) all frameworks developed for future uses of each fund; and

(6) methods by which members of the public may apply for project funds under any of the constitutionally dedicated funds.

(b) All information for proposed and funded projects, including the proposed measurable outcomes, must be made available on the Web site as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available. The costs of these activities shall be paid out of the arts and cultural heritage fund, outdoor heritage fund, clean water fund, parks and trails fund, and the environment and natural resources trust fund proportionately. For purposes of this section, "measurable outcomes" means outcomes, indicators, or other performance measures that may be quantified or otherwise measured in order to measure the effectiveness of a project or program in meeting its intended goal or purpose.

(c) The Legislative Coordinating Commission shall be responsible for receiving all ten-year plans and 25-year frameworks for each of the constitutionally dedicated funds. To the extent practicable, staff for the commission shall provide assistance and oversight to these planning efforts and shall coordinate public access to hearings and public meetings for all planning efforts.

Sec. 3. Minnesota Statutes 2008, section 84.02, is amended by adding a subdivision to read:

Subd. 4a. **Enhance.** "Enhance" means to improve in value, quality, and desirability in order to increase the ecological value of the land or water.

Sec. 4. Minnesota Statutes 2008, section 84.02, is amended by adding a subdivision to read:

Subd. 6a. **Protect.** "Protect" means protect or preserve ecological systems to maintain active and healthy ecosystems and prevent future degradation including, but not limited to, purchase in fee or easement.

Sec. 5. Minnesota Statutes 2008, section 84.02, is amended by adding a subdivision to read:

Subd. 6b. **Restore.** "Restore" means renewing degraded, damaged, or destroyed ecosystems through active human intervention to achieve high-quality ecosystems.

Sec. 6. Minnesota Statutes 2008, section 85.53, is amended to read:

85.53 PARKS AND TRAILS FUND.

Subdivision 1. **Establishment.** The parks and trails fund is established in the Minnesota Constitution, article XI, section 15. All money earned by the parks and trails fund must be credited to the fund.

Subd. 2. **Expenditures; accountability.** (a) A project or program receiving funding from the parks and trails fund must meet or exceed the constitutional requirement to support parks and trails of regional or statewide significance. A project or program receiving funding from the parks and trails fund must include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A project or program must be consistent with current science and incorporate state-of-the-art technology, except when the project or program is a portrayal

or restoration of historical significance.

(b) Money from the parks and trails fund shall be expended to balance the benefits across all regions and residents of the state.

(c) All information for funded projects, including the proposed measurable outcomes, must be made available on the Web site required under section 3.303, subdivision 10, as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available.

(d) Grants funded by the parks and trails fund must be implemented according to section 16B.98 and must account for all expenditures. Proposals must specify a process for any regranting envisioned. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(e) A recipient of money from the parks and trails fund must display a sign on lands and capital improvements purchased, restored, or protected with money from the parks and trails fund that includes the logo developed by the commissioner of natural resources to identify it as a project funded with money from the vote of the people of Minnesota on November 4, 2008.

(f) Money from the parks and trails fund may only be spent on projects located in Minnesota.

Subd. 3. **Metropolitan area distribution formula.** Money appropriated from the parks and trails fund to the Metropolitan Council shall be distributed to implementing agencies, as defined in section 473.351, subdivision 1, paragraph (a), as grants according to the following formula:

(1) 45 percent of the money must be disbursed according to the allocation formula in section 473.351, subdivision 3, to each implementing agency;

(2) 31.5 percent of the money must be distributed based on each implementing agency's relative share of the most recent estimate of the population of the metropolitan area;

(3) 13.5 percent of the money must be distributed based on each implementing agency's relative share of nonlocal visits based on the most recent user visitation survey conducted by the Metropolitan Council; and

(4) ten percent of the money must be distributed as grants to implementing agencies for land acquisition within Metropolitan Council approved regional parks and trails master plan boundaries under the council's park acquisition opportunity grant program. The Metropolitan Council must provide a match of $2 of the council's park bonds for every $3 of state funds for the park acquisition opportunity grant program.

Subd. 4. **Data availability.** Data collected by the projects funded with money from the parks and trails fund that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the Office of Enterprise Technology. Spatial data must conform to geographic information system guidelines and standards outlined in that architecture and adopted by the Minnesota Geographic Data Clearinghouse at the Land Management Information Center. A description of these data that adheres to the Office of Enterprise Technology geographic metadata standards must be submitted to the Land Management Information Center to be made available online through the clearinghouse and the data must be accessible and free to the public unless

made private under chapter 13. To the extent practicable, summary data and results of projects and programs funded with money from the parks and trails fund should be readily accessible on the Internet and identified as a parks and trails fund project.

Sec. 7. Minnesota Statutes 2008, section 114D.50, is amended to read:

114D.50 CLEAN WATER FUND.

Subdivision 1. **Establishment.** The clean water fund is established in the Minnesota Constitution, article XI, section 15. All money earned by the fund must be credited to the fund.

Subd. 2. **Sustainable drinking water account.** The sustainable drinking water account is established as an account in the clean water fund.

Subd. 3. **Purpose.** (a) The clean water fund may be spent only to protect, enhance, and restore water quality in lakes, rivers, and streams, to protect groundwater from degradation, and to protect drinking water sources by:

(1) providing grants, loans, and technical assistance to public agencies and others testing waters, identifying impaired waters, developing total maximum daily loads, implementing restoration plans for impaired waters, and evaluating the effectiveness of restoration;

(2) supporting measures to prevent surface waters from becoming impaired and to improve the quality of waters that are listed as impaired, but do not have an approved total maximum daily load addressing the impairment;

(3) providing grants and loans for wastewater and storm water treatment projects through the Public Facilities Authority;

(4) supporting measures to prevent the degradation of groundwater in accordance with the groundwater degradation prevention goal under section 103H.001; and

(5) providing funds to state agencies to carry out their responsibilities, including enhanced compliance and enforcement.

(b) Funds from the clean water fund must supplement traditional sources of funding for these purposes and may not be used as a substitute.

Subd. 4. **Expenditures; accountability.** (a) A project receiving funding from the clean water fund must meet or exceed the constitutional requirements to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater and drinking water from degradation. Priority may be given to projects that meet more than one of these requirements. A project receiving funding from the clean water fund shall include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A project must be consistent with current science and incorporate state-of-the-art technology.

(b) Money from the clean water fund shall be expended to balance the benefits across all regions and residents of the state.

(c) All information for proposed and funded projects, including the proposed measurable outcomes, must be made available on the Web site required under section 3.303, subdivision 10, as soon as practicable. Information on the measured outcomes and evaluation must be posted as

it becomes available. Information classified as not public under section 13D.05, subdivision 3, paragraph (d), is not required to be placed on the Web site.

(d) Grants funded by the clean water fund must be implemented according to section 16B.98 and must account for all expenditures. Proposals must specify a process for any regranting envisioned. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(e) Money from the clean water fund may only be spent on projects that benefit Minnesota waters.

Subd. 5. **Data availability.** Data collected by the projects funded with money from the clean water fund that have value for planning and management of natural resources, emergency preparedness, and infrastructure investments must conform to the enterprise information architecture developed by the Office of Enterprise Technology. Spatial data must conform to geographic information system guidelines and standards outlined in that architecture and adopted by the Minnesota Geographic Data Clearinghouse at the Land Management Information Center. A description of these data that adheres to the Office of Enterprise Technology geographic metadata standards must be submitted to the Land Management Information Center to be made available online through the clearinghouse and the data must be accessible and free to the public unless made private under chapter 13. To the extent practicable, summary data and results of projects funded with money from the clean water fund should be readily accessible on the Internet and identified as a clean water fund project.

Sec. 8. **LEGISLATIVE GUIDE.**

A legislative guide shall be recommended stating principles for the use and expected outcomes of all funds from dedicated sales taxes pursuant to the Minnesota Constitution, article XI, section 15. The guide shall include principles for managing future state obligations, including payment in lieu of taxes and land management and monitoring necessary for lands acquired in fee or easement. This guide shall be recommended jointly by the Cultural and Outdoor Resources Division of the house of representatives, the appropriate senate committees as designated by the majority leader of the senate, and the Lessard Outdoor Heritage Council. The recommendations must be presented to the legislature by January 15, 2010, and acted on by the legislature.

The legislative guide required by this section shall be for the years 2010 to 2015 and shall include the following provisions:

(1) principles by which to guide future expenditures for each fund;

(2) desired outcomes for the expenditures;

(3) a general statement applicable to later years for these funds; and

(4) consideration of financial methods such as revolving loan funds that may be used in future appropriations.

Sec. 9. **25-YEAR STRATEGIC PLAN.**

By January 15, 2011, the legislative committees, divisions, or councils responsible for

recommending expenditures to the full legislature from the outdoor heritage fund, the clean water fund, the parks and trails fund, and the arts and cultural heritage fund must develop, with broad public input, and adopt a 25-year strategic plan for the expenditures that will be recommended from the funds. The plan must include applicable outcomes for restoring, protecting, and enhancing wetlands, prairies, forests, habitat for fish and game, lakes, rivers, streams, groundwater, arts, arts education, arts access, preservation of Minnesota's history and cultural heritage, and supporting parks and trails. The strategic plan shall be updated on a regular basis, but no longer than every five years. The Web site established under section 2 must include a link to the plans developed under this section. The plan for restoring, protecting, and enhancing wetlands, prairies, forests, habitat for fish and game must be based on ecological sections and subsections established by the Department of Natural Resources and be based on current science and achieve benefits across all ecological sections within the state. The plan for restoring, protecting, and enhancing lakes, rivers, streams, and groundwater must be based on watersheds and aquifers, and shall take into account existing plans, be based on current science, and achieve benefits across all ecological sections within the state. Any recommendations for appropriations may be prioritized based on science and urgency.

Sec. 10. **LOGO.**

The Minnesota Board of the Arts shall sponsor a contest for selecting the design of a logo to use on signage for projects receiving money from the outdoor heritage fund, clean water fund, parks and trails fund, and the arts and cultural heritage fund. A recipient of funds from the outdoor heritage fund, parks and trails fund, clean water fund, or arts and cultural heritage fund shall display, where practicable, a sign with the logo developed under this section on construction projects and at access points to any land or water resources acquired in fee or an interest in less than fee title, or that were restored, protected, or enhanced, and incorporate the logo, where practicable, into printed and other materials funded with money from one or more of the funds."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 84.02, by adding subdivisions; 84.66, subdivision 2; 85.53; 97A.056, subdivisions 2, 3, 6, 7; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 114D.50; 116G.15; 129D.17; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 85; 116; 129D; repealing Minnesota Statutes 2008, sections 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530; 8400.3560."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Mary Murphy, Jean Wagenius, Will Morgan, Leon Lillie, Gregory Davids

Senate Conferees: (Signed) Richard Cohen, Ellen Anderson, Tom Saxhaug, Satveer Chaudhary, Dennis Frederickson

Senator Cohen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1231 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1231 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandeveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 2135 and that the rules of the Senate be so far suspended as to give S.F. No. 2135, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

S.F. No. 2135: A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2008, sections 103C.305, subdivision 1; 120B.30, as amended; 123B.75, subdivision 5; 125B.26, as amended; 126C.41, subdivision 2, as amended; 168.33, subdivision 7, as amended if enacted; 169.865, subdivision 1; 270C.445, subdivision 7, as amended if enacted; 275.065, subdivision 3, as amended; 297I.35, subdivision 2, as amended; 332B.09, as added if enacted; Laws 2009, chapter 37, article 2, section 3, subdivision 2; Laws 2009, chapter 78, article 8, section 22, subdivision 3; Laws 2009, chapter 88, article 12, section 21; 2009 H.F. No. 1231, article 1, section 2, subdivision 5, if enacted; 2009 H.F. No. 1476, section 16, if enacted.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olseen	Scheid
Bakk	Erickson Ropes	Koering	Olson, M.	Sheran
Berglin	Fischbach	Kubly	Ortman	Sieben
Betzold	Fobbe	Langseth	Pappas	Skoe
Bonoff	Foley	Latz	Pariseau	Skogen
Carlson	Frederickson	Limmer	Pogemiller	Sparks
Chaudhary	Gerlach	Lourey	Prettner Solon	Stumpf
Clark	Gimse	Lynch	Rest	Tomassoni
Cohen	Hann	Marty	Robling	Torres Ray
Dahle	Higgins	Metzen	Rosen	Vandeveer
Day	Johnson	Michel	Rummel	Vickerman
Dibble	Jungbauer	Moua	Saltzman	Wiger
Dille	Kelash	Murphy	Saxhaug	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned:

S.F. No. 1623: A resolution memorializing the President and Congress to repeal the federal legislation of 1863 ordering the removal of Dakota people from Minnesota.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 191, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 191: A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the

Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding

a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 471.61, subdivision 1; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

Senate File No. 191 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1009, and repassed said bill in accordance with the report of the Committee, so adopted.

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

Senate File No. 1009 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 18, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1988, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1988 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1988

A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1988 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. 1988 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

HEALTH AND HUMAN SERVICES TECHNICAL

Section 1. Minnesota Statutes 2008, section 62J.497, subdivision 5, as added by Laws 2009, chapter 79, article 4, section 6, is amended to read:

Subd. 5. **Electronic drug prior authorization standardization and transmission.** (a) The commissioner of health, in consultation with the Minnesota e-Health Advisory Committee and the Minnesota Administrative Uniformity Committee, shall, by February 15, 2010, identify an outline on how best to standardize drug prior authorization request transactions between providers and group purchasers with the goal of maximizing administrative simplification and efficiency in preparation for electronic transmissions.

(b) No later than January 1, 2011, drug prior authorization requests must be accessible and submitted by health care providers, and accepted ~~and processed~~ by group purchasers, electronically through secure electronic transmissions. Facsimile shall not be considered electronic transmission.

Sec. 2. Minnesota Statutes 2008, section 144.0724, subdivision 11, as added by Laws 2009, chapter 79, article 8, section 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2008, section 245A.11, subdivision 7a, as added by Laws 2009, chapter 79, article 1, section 4, is amended to read:

Subd. 7a. **Alternate overnight supervision technology; adult foster care license.** (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring technology to alert the license holder

when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that the facility is under electronic monitoring; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the host county and lead county contract agency and the host county licensing agency. The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (d) through (f).

(d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home, and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a foster care recipient requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on-site;

(3) describe the types of events to which the program will respond with a physical presence when those events occur in the home during time when staff are not on-site, and how the license holder's response plan meets the requirements in paragraph (e), clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under paragraph (e), clause (1) or (2). The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill be to conducted for which the effectiveness of the response protocol under paragraph (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of people receiving foster care services in the home:

(1) response alternative (1) requires only the technology to provide an electronic notification or alert to the license holder that an event is underway that requires a response. Under this alternative, no more than ten minutes will pass before the license holder will be physically present on-site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under alternative (1), but more than ten minutes may pass before the license holder is present on-site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications that will assist the ~~licenser~~ license holder in communicating with and assessing the needs related to care, health, and safety of the foster care recipients. This interactive technology must permit the license holder to remotely assess the well being of the foster care recipient without requiring the initiation of the foster care recipient. Requiring the foster care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs under item (i) during the absence of the license holder on-site;

(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each foster care recipient's individualized plan of care, individual service plan under section 256B.092, subdivision 1b, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on-site for that foster care recipient.

(f) All placement agreements, individual service agreements, and plans applicable to the foster care recipient must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to health, safety, or rights of foster care recipients under paragraph (e), clause (1) or (2); and a signed informed consent from each foster care recipient or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the license holder is trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (e);

(5) how the license holder protects the foster care recipient's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. A foster care recipient may not be removed from a program under this subdivision for failure to consent to electronic monitoring. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative polices, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.

(i) For the purposes of paragraphs (d) through (h), license holder has the meaning under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

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

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** The commissioner shall conduct background studies on any individual required under section 256B.4912 to have a background study completed under this chapter.

Sec. 5. Minnesota Statutes 2008, section 245C.04, subdivision 1, as amended by Laws 2009, chapter 79, article 1, section 8, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for family child care.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

(1) registered under chapter 144D; or

(2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and

(3) the following conditions are met:

(i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(iii) the last study of the individual was conducted on or after October 1, 1995.

(d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall conduct a study of an individual required to be studied under section 245C.03, at the time of reapplication for a child foster care license. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), clauses (1) to (5), 3, and 4.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) From January 1, 2010, to December 31, 2012, unless otherwise specified in paragraph (c), the commissioner shall conduct a study of an individual required to be studied under section 245C.03 at the time of reapplication for an adult foster care or family adult day services license: (1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for all family adult day services and for adult foster care ~~and family adult day services~~ when the adult foster care license holder resides in the adult foster care or family adult day services residence; (2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

(g) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services license holder: (1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for all family adult day services and for adult foster care ~~and family adult day services~~ when the adult foster care license holder resides in the adult foster care ~~or family adult day services~~ residence; (2) the

license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(h) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(i) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

Sec. 6. Minnesota Statutes 2008, section 245C.04, is amended by adding a subdivision 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 a background study annually of an individual required to be studied under section 245C.03, subdivision 6.

Sec. 7. Minnesota Statutes 2008, section 245C.05, subdivision 2b, as added by Laws 2009, chapter 79, article 1, section 9, is amended to read:

Subd. 2b. **County agency to collect and forward information to the commissioner.** For background studies related to all family adult day services and to adult foster care ~~and family adult day services~~ when the adult foster care license holder resides in the adult foster care ~~or family adult day services~~ residence, the county agency must collect the information required under subdivision 1 and forward it to the commissioner.

Sec. 8. Minnesota Statutes 2008, section 245C.10, subdivision 5, as added by Laws 2009, chapter 79, article 1, section 12, is amended to read:

Subd. 5. **Adult foster care and family adult day services.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for the purposes of adult foster care and family adult day services licensing, through a fee of no more than $20 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 9. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** The commissioner shall recover the cost of background studies initiated by unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities under section 256B.4912 through a fee of no more than $20 per study.

Sec. 10. Minnesota Statutes 2008, section 245C.21, subdivision 1a, as amended by Laws 2009,

chapter 79, article 1, section 16, is amended to read:

Subd. 1a. **Submission of reconsideration request.** (a) For disqualifications related to studies conducted by county agencies for family child care, and for disqualifications related to studies conducted by the commissioner for child foster care, adult foster care, and family adult day services, the individual shall submit the request for reconsideration to the county agency that initiated the background study.

(b) For disqualifications related to studies conducted by the commissioner for child foster care providers monitored by private licensing agencies under section 245A.16, the individual shall submit the request for reconsideration to the private agency that initiated the background study.

(c) A reconsideration request shall be submitted within 30 days of the individual's receipt of the disqualification notice or the time frames specified in subdivision 2, whichever time frame is shorter.

(d) The county or private agency shall forward the individual's request for reconsideration and provide the commissioner with a recommendation whether to set aside the individual's disqualification.

Sec. 11. Minnesota Statutes 2008, section 246.50, subdivision 3, is amended to read:

Subd. 3. **State facility.** "State facility" means any state facility owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner, except the Minnesota sex offender program under chapter 246B. State facility includes regional treatment centers; the state nursing homes; state-operated, community-based programs; and other facilities owned or operated by the state and under the commissioner's control.

Sec. 12. Minnesota Statutes 2008, section 256.01, subdivision 18b, as added by Laws 2009, chapter 79, article 5, section 7, is amended to read:

Subd. 18b. **Protections for American Indians.** Effective ~~February 18~~ July 1, 2009, the commissioner shall comply with the federal requirements in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, section 5006, regarding American Indians.

Sec. 13. Minnesota Statutes 2008, section 256.969, subdivision 2b, as amended by Laws 2009, chapter 79, article 5, section 11, is amended to read:

Subd. 2b. **Operating payment rates.** In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. Rates under the general assistance medical care, medical assistance, and MinnesotaCare programs shall not be rebased to more current data on January 1, 1997, January 1, 2005, for the first 24 months of the rebased period beginning January 1, 2009~~, and~~. For the first three months of the rebased period beginning January 1, 2011, rates shall be rebased at 74.25 percent of the full value of the rebasing percentage change. From April 1, 2011, to March 31, 2012, rates shall be rebased at 39.2 percent of the full value of the rebasing percentage change. Effective April 1, 2012, rates shall be rebased at full value. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by

medical assistance and shall not include property cost information and costs recognized in outlier payments.

Sec. 14. Minnesota Statutes 2008, section 256.969, is amended by adding a subdivision to read:

Subd. 28. **Payment rates for births.** (a) For admissions occurring on or after October 1, 2009, the total operating and property payment rate, excluding disproportionate population adjustment, for the following diagnosis-related groups, as they fall within the diagnostic categories: (1) 371 cesarean section without complicating diagnosis; (2) 372 vaginal delivery with complicating diagnosis; and (3) 373 vaginal delivery without complicating diagnosis, shall be no greater than $3,528.

(b) The rates described in this subdivision do not include newborn care.

(c) Payments to managed care and county-based purchasing plans under section 256B.69, 256B.692, or 256L.12 shall be reduced for services provided on or after October 1, 2009, to reflect the adjustments in paragraph (a).

(d) Prior authorization shall not be required before reimbursement is paid for a cesarean section delivery.

Sec. 15. Minnesota Statutes 2008, section 256.969, subdivision 29, as added by Laws 2009, chapter 79, article 5, section 15, is amended to read:

Subd. 29. **Reimbursement for the fee increase for the early hearing detection and intervention program.** For ~~services provided~~ admissions occurring on or after July 1, 2010, ~~in addition to any other payment under this section, the commissioner shall reimburse hospitals for the increase in the fee for the early hearing detection and intervention program described in section 144.125, subdivision 1, paid by the hospital for public program recipients~~ payment rates shall be adjusted to include the increase to the fee that is effective on July 1, 2010, for the early hearing detection and intervention program recipients under section 144.125, subdivision 1, that is paid by the hospital for public program recipients. This payment increase shall be in effect until the increase is fully recognized in the base year cost under subdivision 2b. This payment shall be included in payments to contracted managed care organizations.

Sec. 16. Minnesota Statutes 2008, section 256.975, subdivision 7, as amended by Laws 2009, chapter 79, article 8, section 16, is amended to read:

Subd. 7. **Consumer information and assistance and long-term care options counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a statewide service to aid older Minnesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, must be available during business hours through a statewide toll-free number and must also be available through the Internet.

(b) The service must provide long-term care options counseling by assisting older adults, caregivers, and providers in accessing information and options counseling about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options;

(8) link callers with quality profiles for nursing facilities and other providers developed by the commissioner of health;

(9) incorporate information about housing with services and consumer rights within the MinnesotaHelp.info network long-term care database to facilitate consumer comparison of services and costs among housing with services establishments and with other in-home services and to support financial self-sufficiency as long as possible. Housing with services establishments and their arranged home care providers shall provide information to the commissioner of human services that is consistent with information required by the commissioner of health under section 144G.06, the Uniform Consumer Information Guide. The commissioner of human services shall provide the data to the Minnesota Board on Aging for inclusion in the MinnesotaHelp.info network long-term care database;

(10) provide long-term care options counseling. Long-term care options counselors shall:

(i) for individuals not eligible for case management under a public program or public funding source, provide interactive decision support under which consumers, family members, or other helpers are supported in their deliberations to determine appropriate long-term care choices in the context of the consumer's needs, preferences, values, and individual circumstances, including implementing a community support plan;

(ii) provide Web-based educational information and collateral written materials to familiarize consumers, family members, or other helpers with the long-term care basics, issues to be considered, and the range of options available in the community;

(iii) provide long-term care futures planning, which means providing assistance to individuals who anticipate having long-term care needs to develop a plan for the more distant future; and

(iv) provide expertise in benefits and financing options for long-term care, including Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages, private pay options, and ways to access low or no-cost services or benefits through volunteer-based or charitable programs; and

(11) using risk management and support planning protocols, provide long-term care options

counseling to current residents of nursing homes deemed appropriate for discharge by the commissioner. In order to meet this requirement, the commissioner shall provide designated Senior LinkAge Line contact centers with a list of nursing home residents appropriate for discharge planning via a secure Web portal. Senior LinkAge Line shall provide these residents, if they indicate a preference to receive long-term care options counseling, with initial assessment, review of risk factors, independent living support consultation, or referral to:

(i) long-term care consultation services under section 256B.0911~~, subdivision 3~~;

(ii) designated care coordinators of contracted entities under section 256B.035 for persons who are enrolled in a managed care plan; or

(iii) the long-term care consultation team for those who are appropriate for relocation service coordination due to high-risk factors or psychological or physical disability.

Sec. 17. Minnesota Statutes 2008, section 256B.056, subdivision 3b, is amended to read:

Subd. 3b. **Treatment of trusts.** (a) A "medical assistance qualifying trust" is a revocable or irrevocable trust, or similar legal device, established on or before August 10, 1993, by a person or the person's spouse under the terms of which the person receives or could receive payments from the trust principal or income and the trustee has discretion in making payments to the person from the trust principal or income. Notwithstanding that definition, a medical assistance qualifying trust does not include: (1) a trust set up by will; (2) a trust set up before April 7, 1986, solely to benefit a person with a developmental disability living in an intermediate care facility for persons with developmental disabilities; or (3) a trust set up by a person with payments made by the Social Security Administration pursuant to the United States Supreme Court decision in Sullivan v. Zebley, 110 S. Ct. 885 (1990). The maximum amount of payments that a trustee of a medical assistance qualifying trust may make to a person under the terms of the trust is considered to be available assets to the person, without regard to whether the trustee actually makes the maximum payments to the person and without regard to the purpose for which the medical assistance qualifying trust was established.

(b) Except as provided in paragraphs (c) and (d), trusts established after August 10, 1993, are treated according to section 13611(b) of the Omnibus Budget Reconciliation Act of 1993 (OBRA), Public Law 103-66.

(c) For purposes of paragraph (d), a pooled trust means a trust established under United States Code, title 42, section 1396p(d)(4)(C).

(d) A beneficiary's interest in a pooled trust is considered an available asset unless the trust provides that upon the death of the beneficiary or termination of the trust during the beneficiary's lifetime, whichever is sooner, the department receives any amount, up to the amount of medical assistance benefits paid on behalf of the beneficiary, remaining in the beneficiary's trust account after a deduction for reasonable administrative fees and expenses, and an additional remainder amount. The retained remainder amount of the subaccount must not exceed ten percent of the account value at the time of the beneficiary's death or termination of the trust, and must only be used for the benefit of disabled individuals who have a beneficiary interest in the pooled trust.

EFFECTIVE DATE. This section is effective for pooled trust accounts established on or after January 1, 2011.

Sec. 18. Minnesota Statutes 2008, section 256B.057, subdivision 11, as added by Laws 2009, chapter 79, article 5, section 19, is amended to read:

Subd. 11. **Treatment for colorectal cancer.** (a) Medical assistance shall be paid for an individual who:

(1) has been screened for colorectal cancer by the colorectal cancer prevention demonstration project;

(2) according to the individual's treating health professional, needs treatment for colorectal cancer;

(3) meets income eligibility guidelines for the colorectal cancer prevention demonstration project;

(4) is under the age of 65; and

(5) is not otherwise eligible for medical assistance or covered under creditable coverage as defined under United States Code, title 42, section 300gg~~(a)~~(c), but without regard to paragraph (1)(F) of such section.

(b) Medical assistance provided under this subdivision shall be limited to services provided during the period that the individual receives treatment for colorectal cancer.

(c) An individual meeting the criteria in paragraph (a) is eligible for medical assistance without meeting the eligibility criteria relating to income and assets in section 256B.056, subdivisions 1a to 5b.

(d) This subdivision expires December 31, 2010.

Sec. 19. Minnesota Statutes 2008, section 256B.06, subdivision 4, as amended by Laws 2009, chapter 79, article 5, section 23, is amended to read:

Subd. 4. **Citizenship requirements.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality according to the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

Notwithstanding paragraph (j), beginning July 1, 2010, children and pregnant women who are ~~qualified~~ noncitizens~~, as~~ described in paragraph (b) or (e), are eligible for medical assistance with federal financial participation as provided by the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3.

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully present in the United States, as defined in Code of Federal Regulations, title 8, section 103.12, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the United States Citizenship and Immigration Services to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Beginning July 1, 2009, pregnant noncitizens who are undocumented, nonimmigrants, or lawfully present as designated in paragraph (e) and who are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance through the period of pregnancy, including labor and delivery, and 60 days postpartum, to the extent federal funds are available under title XXI of the Social Security Act, and the state children's health insurance program.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

Sec. 20. Minnesota Statutes 2008, section 256B.0625, subdivision 3c, as amended by Laws 2009, chapter 79, article 5, section 26, is amended to read:

Subd. 3c. **Health Services Policy Committee.** (a) The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish a 13-member Health Services Policy Committee, which consists of 12 voting members and one nonvoting

member. The Health Services Policy Committee shall advise the commissioner regarding health services pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who shall work directly with the commissioner's medical director, to establish the agenda for each meeting. The Health Services Policy Committee shall also recommend criteria for verifying centers of excellence for specific aspects of medical care where a specific set of combined services, a volume of patients necessary to maintain a high level of competency, or a specific level of technical capacity is associated with improved health outcomes.

(b) The commissioner shall establish a dental subcommittee to operate under the Health Services Policy Committee. The dental subcommittee consists of general dentists, dental specialists, safety net providers, dental hygienists, health plan company and county and public health representatives, health researchers, consumers, and a designee of the commissioner of health. The dental subcommittee shall advise the commissioner regarding:

(1) the critical access dental program under section 256B.76, subdivision 4, including but not limited to criteria for designating and terminating critical access dental providers;

(2) any changes to the critical access dental provider program necessary to comply with program expenditure limits;

(3) dental coverage policy based on evidence, quality, continuity of care, and best practices;

(4) the development of dental delivery models; and

(5) dental services to be added or eliminated from subdivision 9, paragraph (b).

(c) The Health Services Policy Committee shall study approaches to making provider reimbursement under the medical assistance, MinnesotaCare, and general assistance medical care programs contingent on patient participation in a patient-centered decision-making process, and shall evaluate the impact of these approaches on health care quality, patient satisfaction, and health care costs. The committee shall present findings and recommendations to the commissioner and the legislative committees with jurisdiction over health care by January 15, 2010.

(d) The Health Services Policy Committee shall monitor and track the practice patterns of physicians providing services to medical assistance, MinnesotaCare, and general assistance medical care enrollees under fee-for-service, managed care, and county-based purchasing. The committee shall focus on services or specialties for which there is a high variation in utilization across physicians, or which are associated with high medical costs. The commissioner, based upon the findings of the committee, shall regularly notify physicians whose practice patterns indicate higher than average utilization or costs. Managed care and county-based purchasing plans shall provide the ~~committee~~ commissioner with utilization and cost data necessary to implement this paragraph, and the commissioner shall make this data available to the committee.

(e) The Health Services Policy Committee shall review caesarean section rates for the fee-for-service medical assistance population. The committee may develop best practices policies related to the minimization of caesarean sections, including but not limited to standards and guidelines for health care providers and health care facilities.

Sec. 21. Minnesota Statutes 2008, section 256B.0625, subdivision 13h, as amended by Laws 2009, chapter 79, article 5, section 31, is amended to read:

Subd. 13h. **Medication therapy management services.** (a) Medical assistance and general assistance medical care cover medication therapy management services for a recipient taking four or more prescriptions to treat or prevent two or more chronic medical conditions, or a recipient with a drug therapy problem that is identified or prior authorized by the commissioner that has resulted or is likely to result in significant nondrug program costs. The commissioner may cover medical therapy management services under MinnesotaCare if the commissioner determines this is cost-effective. For purposes of this subdivision, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

(1) performing or obtaining necessary assessments of the patient's health status;

(2) formulating a medication treatment plan;

(3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;

(4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(5) documenting the care delivered and communicating essential information to the patient's other primary care providers;

(6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;

(7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and

(8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

(1) have a valid license issued under chapter 151;

(2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements;

(3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting, or in home settings, excluding long-term care and group homes, if the service is ordered by the provider-directed care

coordination team; and

(4) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance and general assistance medical care providers. The commissioner may also establish contact requirements between the pharmacist and recipient, including limiting the number of reimbursable consultations per recipient.

(d) The commissioner shall establish a pilot project for an intensive medication therapy management program for patients identified by the commissioner with multiple chronic conditions and a high number of medications who are at high risk of preventable hospitalizations, emergency room use, medication complications, and suboptimal treatment outcomes due to medication-related problems. For purposes of the pilot project, medication therapy management services may be provided in a patient's home or community setting, in addition to other authorized settings. The commissioner may waive existing payment policies and establish special payment rates for the pilot project. The pilot project must be designed to produce a net savings to the state compared to the estimated costs that would otherwise be incurred for similar patients without the program. The pilot project must begin by January 1, 2010, and end June 30, 2012.

Sec. 22. Minnesota Statutes 2008, section 256B.0655, subdivision 4, as amended by Laws 2009, chapter 79, article 8, section 28, is amended to read:

Subd. 4. **Authorization; personal care assistance and qualified professional.** (a) All personal care assistance services, supervision by a qualified professional, and additional services beyond the limits established in section 256B.0651, subdivision 11, must be authorized by the commissioner or the commissioner's designee before services begin except for the assessments established in sections 256B.0651, subdivision 11, and 256B.0911. The authorization for personal care assistance and qualified professional services under section 256B.0659 must be completed within 30 days after receiving a complete request.

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

(1) total number of dependencies of activities of daily living as defined in section 256B.0659;

(2) number of complex health-related ~~functions~~ needs as defined in section 256B.0659; and

(3) number of behavior descriptions as defined in section 256B.0659.

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

(1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in section 256B.0659;

(2) 30 additional minutes per day for each complex health-related function as defined in section

256B.0659; and

(3) 30 additional minutes per day for each behavior issue as defined in section 256B.0659.

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

Sec. 23. Minnesota Statutes 2008, section 256B.0659, subdivision 9, as added by Laws 2009, chapter 79, article 8, section 31, is amended to read:

Subd. 9. **Responsible party; generally.** (a) "Responsible party~~,~~" ~~effective January 1, 2010,~~ means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(b) A responsible party must be 18 years of age, actively participate in planning and directing of personal care assistance services, and attend all assessments for the recipient.

(c) A responsible party must not be the:

(1) personal care assistant;

(2) home care provider agency owner or staff; or

(3) county staff acting as part of employment.

(d) A licensed family foster parent who lives with the recipient may be the responsible party as long as the family foster parent meets the other responsible party requirements.

(e) A responsible party is required when:

(1) the person is a minor according to section 524.5-102, subdivision 10;

(2) the person is an incapacitated adult according to section 524.5-102, subdivision 6, resulting in a court-appointed guardian; or

(3) the assessment according to section 256B.0655, subdivision 1b, determines that the recipient is in need of a responsible party to direct the recipient's care.

(f) There may be two persons designated as the responsible party for reasons such as divided households and court-ordered custodies. Each person named as responsible party must meet the program criteria and responsibilities.

(g) The recipient or the recipient's legal representative shall appoint a responsible party if necessary to direct and supervise the care provided to the recipient. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and personal care assistance care plan.

Sec. 24. Minnesota Statutes 2008, section 256B.0659, subdivision 10, as added by Laws 2009, chapter 79, article 8, section 31, is amended to read:

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

commissioner, to perform the following duties:

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

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

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

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

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

Sec. 25. Minnesota Statutes 2008, section 256B.0659, subdivision 13, as added by Laws 2009, chapter 79, article 8, section 31, is amended to read:

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

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

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

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

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

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

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

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

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

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

Sec. 26. Minnesota Statutes 2008, section 256B.0659, subdivision 21, as added by Laws 2009, chapter 79, article 8, section 31, is amended to read:

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

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

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

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

(4) proof of workers' compensation insurance coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 27. Minnesota Statutes ..., section 256B.0659, subdivision 29, as added by Laws 2009, chapter 79, article 8, section 31, is amended to read:

Subd. 29. **Transitional assistance.** The commissioner, counties, health plans, tribes, and personal care assistance providers shall work together to provide transitional assistance for recipients and families to come into compliance with the new requirements of this section that may require a change in living arrangement no later than August 10, 2010 ~~and ensure the personal care assistance services are not provided by the housing provider~~.

Sec. 28. Minnesota Statutes 2008, section 256B.0911, subdivision 1a, as amended by Laws 2009, chapter 79, article 8, section 33, is amended to read:

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

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

(1) assistance in identifying services needed to maintain an individual in the most inclusive

environment;

(2) providing recommendations on cost-effective community services that are available to the individual;

(3) development of an individual's person-centered community support plan;

(4) providing information regarding eligibility for Minnesota health care programs;

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

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

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

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

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

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

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

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

Sec. 29. Minnesota Statutes 2008, section 256B.441, subdivision 55, as amended by Laws 2009, chapter 79, article 8, section 61, is amended to read:

Subd. 55. **Phase-in of rebased operating payment rates.** (a) For the rate years beginning October 1, 2008, to October 1, 2015, the operating payment rate calculated under this section shall be phased in by blending the operating rate with the operating payment rate determined under section 256B.434. For purposes of this subdivision, the rate to be used that is determined under section 256B.434 shall not include the portion of the operating payment rate related to performance-based incentive payments under section 256B.434, subdivision 4, paragraph (d). For the rate year beginning October 1, 2008, the operating payment rate for each facility shall be 13 percent of the operating payment rate from this section, and 87 percent of the operating payment rate from section 256B.434. For the rate ~~period~~ year beginning October 1, 2009, ~~through September 30, 2013,~~ the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434. For rate years beginning October 1, 2010; October 1, 2011; and October 1, 2012, no rate adjustments

shall be implemented under this section, but shall be determined under section 256B.434. For the rate year beginning October 1, 2013, the operating payment rate for each facility shall be 65 percent of the operating payment rate from this section, and 35 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2014, the operating payment rate for each facility shall be 82 percent of the operating payment rate from this section, and 18 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2015, the operating payment rate for each facility shall be the operating payment rate determined under this section. The blending of operating payment rates under this section shall be performed separately for each RUG's class.

(b) For the rate year beginning October 1, 2008, the commissioner shall apply limits to the operating payment rate increases under paragraph (a) by creating a minimum percentage increase and a maximum percentage increase.

(1) Each nursing facility that receives a blended October 1, 2008, operating payment rate increase under paragraph (a) of less than one percent, when compared to its operating payment rate on September 30, 2008, computed using rates with RUG's weight of 1.00, shall receive a rate adjustment of one percent.

(2) The commissioner shall determine a maximum percentage increase that will result in savings equal to the cost of allowing the minimum increase in clause (1). Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the maximum percentage increase.

(3) Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than one percent and less than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the blended October 1, 2008, operating payment rate increase determined under paragraph (a).

(4) The October 1, 2009, through October 1, 2015, operating payment rate for facilities receiving the maximum percentage increase determined in clause (2) shall be the amount determined under paragraph (a) less the difference between the amount determined under paragraph (a) for October 1, 2008, and the amount allowed under clause (2). This rate restriction does not apply to rate increases provided in any other section.

(c) A portion of the funds received under this subdivision that are in excess of operating payment rates that a facility would have received under section 256B.434, as determined in accordance with clauses (1) to (3), shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h).

(1) Determine the amount of additional funding available to a facility, which shall be equal to total medical assistance resident days from the most recent reporting year times the difference between the blended rate determined in paragraph (a) for the rate year being computed and the blended rate for the prior year.

(2) Determine the portion of all operating costs, for the most recent reporting year, that are compensation related. If this value exceeds 75 percent, use 75 percent.

(3) Subtract the amount determined in clause (2) from 75 percent.

(4) The portion of the fund received under this subdivision that shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h), shall equal the amount determined in clause (1) times the amount determined in clause (3).

Sec. 30. Minnesota Statutes 2008, section 256B.49, subdivision 11a, as added by Laws 2009, chapter 79, article 8, section 64, is amended to read:

Subd. 11a. **Waivered services ~~waiting list~~ statewide priorities.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for CAC, CADI, and TBI waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

(1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;

(2) are moving from an institution due to bed closures;

(3) experience a sudden closure of their current living arrangement;

(4) require protection from confirmed abuse, neglect, or exploitation;

(5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(b) When allocating resources to lead agencies, the commissioner must take into consideration the number of individuals waiting who meet statewide priorities and the lead agencies' current use of waiver funds and existing service options.

(c) The commissioner shall evaluate the impact of the use of statewide priorities and provide recommendations to the legislature on whether to continue the use of statewide priorities in the November 1, 2011, annual report required by the commissioner in sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 31. Minnesota Statutes 2008, section 256B.756, as added by Laws 2009, chapter 79, article 5, section 50, is amended to read:

256B.756 REIMBURSEMENT RATES FOR BIRTHS.

Subdivision 1. **~~Facility~~ Provider rate.** (a) Notwithstanding section ~~256.969~~ 256B.76, effective for services provided on or after October 1, 2009, the ~~facility~~ payment rate for ~~the following diagnosis-related groups, as they fall within the diagnostic categories: (1) 371 cesarean section without complicating diagnosis; (2) 372 vaginal delivery with complicating diagnosis; and (3) 373 vaginal delivery without complicating diagnosis, shall be calculated as provided in~~ professional services related to labor, delivery, and antepartum and postpartum care when provided for any of the diagnostic categories identified in paragraph (b) shall be calculated using the methodology specified in paragraph (b).

(b) The commissioner shall calculate a single rate for ~~all of the diagnostic related groups specified in paragraph (a)~~ the following diagnosis-related groups, as they fall within the diagnostic categories: (1) 371 cesarean sections without complicating diagnosis; (2) 372 vaginal delivery with complicating diagnosis; and (3) 373 vaginal delivery without complicating diagnosis. The rate shall be consistent with an increase in the proportion of births by vaginal delivery and a reduction in the percentage of births by cesarean section. The calculated single rate must ~~be based on an expected increase in the number of vaginal births and expected reduction in the number of cesarean section such that the reduction in cesarean sections is less than or equal to one standard deviation below the average in the frequency of cesarean births for Minnesota health care program clients at hospitals performing greater than 50 deliveries per year.~~ not reflect a shift of greater than five percent in the current proportion of all births delivered vaginally and by cesarean section.

(c) The rates described in this subdivision do not include newborn care.

~~Subd. 2. **Provider rate.** Notwithstanding section 256B.76, effective for services provided on or after October 1, 2009, the payment rate for professional services related to labor, delivery, and antepartum and postpartum care when provided for any of the diagnostic categories identified in subdivision 1, paragraph (a), shall be calculated using the methodology specified in subdivision 1, paragraph (b).~~

Subd. 3. **Health plans.** Payments to managed care and county-based purchasing plans under sections 256B.69, 256B.692, or 256L.12 shall be reduced for services provided on or after October 1, 2009, to reflect the adjustments in ~~subdivisions~~ subdivision 1 ~~and 2~~.

Subd. 4. **Prior authorization.** Prior authorization shall not be required before reimbursement is paid for a cesarean section delivery.

Sec. 32. Minnesota Statutes 2008, section 256B.76, subdivision 1, as amended by Laws 2009, chapter 79, article 5, section 51, is amended to read:

Subdivision 1. **Physician reimbursement.** (a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992.

(b) Effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31,

1999, except for home health agency and family planning agency services. The increases in this paragraph shall be implemented January 1, 2000, for managed care.

(c) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by five percent over the rates in effect on June 30, 2009. This reduction does not apply to office or other outpatient ~~services (procedure codes 99201 to 99215)~~ visits, preventive medicine ~~services (procedure codes 99381 to 99412)~~ visits and family planning ~~services~~ visits billed by physicians, advanced practice nurses, or physician assistants in a family planning agency or in one of the following primary care ~~specialties~~ practices: general practice, general internal medicine, general pediatrics, general geriatrics, and family ~~practice, or by an advanced practice registered nurse or physician assistant practicing in pediatrics, geriatrics, or family practice~~ medicine. This reduction does not apply to federally qualified health centers, rural health centers, and Indian health services. Effective October 1, 2009, payments made to managed care plans and county-based purchasing plans under sections 256B.69, 256B.692, and 256L.12 shall reflect the payment reduction described in this paragraph.

Sec. 33. Minnesota Statutes 2008, section 256D.03, subdivision 4, as amended by Laws 2009, chapter 79, article 5, section 53, is amended to read:

Subd. 4. **General assistance medical care; services.** (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical care covers, except as provided in paragraph (c):

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

(10) physician's services;

(11) medical transportation except special transportation;

(12) chiropractic services as covered under the medical assistance program;

(13) podiatric services;

(14) dental services as covered under the medical assistance program;

(15) mental health services covered under chapter 256B;

(16) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(17) medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

(18) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;

(19) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;

(20) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171;

(21) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b;

(22) care coordination and patient education services provided by a community health worker according to section 256B.0625, subdivision 49; and

(23) regardless of the number of employees that an enrolled health care provider may have, sign language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient who has a hearing loss and uses interpreting services.

(ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A $1,000 deductible is required for each inpatient hospitalization.

(b) Effective August 1, 2005, sex reassignment surgery is not covered under this subdivision.

(c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided

the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) Effective January 1, 2008, drug coverage under general assistance medical care is limited to prescription drugs that:

(i) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and

(ii) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with the agreements. Prescription drug coverage under general assistance medical care must conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

(e) Recipients eligible under subdivision 3, paragraph (a), shall pay the following co-payments for services provided on or after October 1, 2003, and before January 1, 2009:

(1) $25 for eyeglasses;

(2) $25 for nonemergency visits to a hospital-based emergency room;

(3) $3 per brand-name drug prescription and $1 per generic drug prescription, subject to a $12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and

(4) 50 percent coinsurance on restorative dental services.

(f) Recipients eligible under subdivision 3, paragraph (a), shall include the following co-payments for services provided on or after January 1, 2009:

(1) $25 for nonemergency visits to a hospital-based emergency room; and

(2) $3 per brand-name drug prescription and $1 per generic drug prescription, subject to a $7 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness.

(g) MS 2007 Supp [Expired]

(h) Effective January 1, 2009, co-payments shall be limited to one per day per provider for nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the $7 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment.

(i) General assistance medical care reimbursement to fee-for-service providers and payments to managed care plans shall not be increased as a result of the removal of the co-payments effective

January 1, 2009.

(j) Any county may, from its own resources, provide medical payments for which state payments are not made.

(k) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(l) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(m) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

(n) Inpatient and outpatient payments shall be reduced by five percent, effective July 1, 2003. This reduction is in addition to the five percent reduction effective July 1, 2003, and incorporated by reference in paragraph (l).

(o) Payments for all other health services except inpatient, outpatient, and pharmacy services shall be reduced by five percent, effective July 1, 2003.

(p) Payments to managed care plans shall be reduced by five percent for services provided on or after October 1, 2003.

(q) A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(r) Fee-for-service payments for nonpreventive visits shall be reduced by $3 for services provided on or after January 1, 2006. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, advance practice nurse, audiologist, optician, or optometrist.

(s) Payments to managed care plans shall not be increased as a result of the removal of the $3 nonpreventive visit co-payment effective January 1, 2006.

(t) Payments for mental health services added as covered benefits after December 31, 2007, are not subject to the reductions in paragraphs (l), (n), (o), and (p).

(u) Effective for services provided on or after July 1, 2009, total payment rates for basic care services shall be reduced by three percent, in accordance with section 256B.766. Payments made to managed care plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(v) Effective for services provided on or after July 1, 2009, payment rates for physician and professional services shall be reduced as described under section 256B.76, subdivision 1, paragraph (c). Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

Sec. 34. Minnesota Statutes 2008, section 256J.575, subdivision 3, as amended by Laws 2009,

chapter 79, article 2, section 23, is amended to read:

Subd. 3. **Eligibility.** (a) The following MFIP participants are eligible for the services under this section:

(1) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3, except that it is not necessary for the participant to have reached or be approaching 60 months of eligibility for this section to apply;

(2) a participant who is applying for Supplemental Security Income or Social Security disability insurance;

(3) a participant who is a noncitizen who has been in the United States for 12 or fewer months; and

(4) a participant who is age 60 or older.

(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.

(c) A participant under paragraph (a), clause (3), must be provided with English as a second language opportunities and skills training for up to 12 months. After 12 months, the case manager and participant must determine whether the participant should continue with English as a second language classes or skills training, or both, and continue to receive family stabilization services.

(d) If a county agency or employment services provider has information that an MFIP participant may meet the eligibility criteria set forth in this subdivision, the county agency or employment services provider must assist the participant in obtaining the documentation necessary to determine eligibility. ~~Until necessary documentation is obtained, the participant must be treated as an eligible participant under subdivisions 5 to 7.~~

Sec. 35. Minnesota Statutes 2008, section 256L.03, subdivision 3b, as added by Laws 2009, chapter 79, article 5, section 54, is amended to read:

Subd. 3b. **Chiropractic services.** MinnesotaCare covers the following chiropractic services: medically necessary exams, manual manipulation of the spine, and x-rays.

EFFECTIVE DATE. This section is effective January 1, 2010, or upon federal approval, whichever is later.

Sec. 36. Minnesota Statutes 2008, section 256L.04, subdivision 1, as amended by Laws 2009, chapter 79, article 5, section 55, is amended to read:

Subdivision 1. **Families with children.** (a) Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be eligible for MinnesotaCare according to this section. All other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers to enrollment under section 256L.07, shall apply unless otherwise specified.

(b) Parents who enroll in the MinnesotaCare program must also enroll their children, if the children are eligible. Children may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If

one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members.

(c) Beginning October 1, 2003, the dependent sibling definition no longer applies to the MinnesotaCare program. These persons are no longer counted in the parental household and may apply as a separate household.

(d) Beginning July 1, 2003, or upon federal approval, whichever is later, parents are not eligible for MinnesotaCare if their gross income exceeds $57,500.

(e) Children formerly enrolled in medical assistance and automatically deemed eligible for MinnesotaCare according to section 256B.057, subdivision 2c, are exempt from the requirements of this section until renewal.

(f) Children deemed eligible for MinnesotaCare under section 256L.07, subdivision 8, are exempt from the eligibility requirements of this subdivision.

EFFECTIVE DATE. Paragraph (f) is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 37. Minnesota Statutes 2008, section 256L.05, subdivision 1c, as added by Laws 2009, chapter 79, article 5, section 60, is amended to read:

Subd. 1c. **Open enrollment and streamlined application and enrollment process.** (a) The commissioner and local agencies working in partnership must develop a streamlined and efficient application and enrollment process for medical assistance and MinnesotaCare enrollees that meets the criteria specified in this subdivision.

(b) The commissioners of human services and education shall provide recommendations to the legislature by January 15, 2010, on the creation of an open enrollment process for medical assistance and MinnesotaCare that is coordinated with the public education system. The recommendations must:

(1) be developed in consultation with medical assistance and MinnesotaCare enrollees and representatives from organizations that advocate on behalf of children and families, low-income persons and minority populations, counties, school administrators and nurses, health plans, and health care providers;

(2) be based on enrollment and renewal procedures best practices~~, including express lane eligibility as required under subdivision 1d~~;

(3) simplify the enrollment and renewal processes wherever possible; and

(4) establish a process:

(i) to disseminate information on medical assistance and MinnesotaCare to all children in the public education system, including prekindergarten programs; and

(ii) for the commissioner of human services to enroll children and other household members who are eligible.

The commissioner of human services in coordination with the commissioner of education shall implement an open enrollment process by August 1, 2010, to be effective beginning with the 2010-2011 school year.

(c) The commissioner and local agencies shall develop an online application process for medical assistance and MinnesotaCare.

(d) The commissioner shall develop an application for children that is easily understandable and does not exceed four pages in length.

(e) The commissioner of human services shall present to the legislature, by January 15, 2010, an implementation plan for the open enrollment period and online application process.

EFFECTIVE DATE. This section is effective July 1, ~~2010~~ 2009, or upon federal approval, which must be requested by the commissioner, whichever is later.

Sec. 38. Minnesota Statutes 2008, section 256L.11, subdivision 1, as amended by Laws 2009, chapter 79, article 5, section 67, is amended to read:

Subdivision 1. **Medical assistance rate to be used.** (a) Payment to providers under sections 256L.01 to 256L.11 shall be at the same rates and conditions established for medical assistance, except as provided in subdivisions 2 to 6.

(b) Effective for services provided on or after July 1, 2009, total payments for basic care services shall be reduced by three percent, in accordance with section 256B.766. Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(c) Effective for services provided on or after July 1, 2009, payment rates for physician and professional services shall be reduced as described under section 256B.76, subdivision 1, paragraph (c). Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

Sec. 39. Minnesota Statutes 2008, section 626.556, subdivision 3c, as amended by Laws 2009, chapter 79, article 8, section 74, is amended to read:

Subd. 3c. **Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, ~~and unlicensed personal care assistance provider organizations providing services and receiving reimbursements under chapter 256B~~and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations

of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.46.

(d) The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.

Sec. 40. Laws 2009, chapter 79, article 2, section 36, is amended to read:

Sec. 36. **REPEALER.**

Minnesota Statutes 2008, section 256I.06, subdivision 9, is repealed.

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

Sec. 41. Laws 2009, chapter 79, article 5, section 25, is amended to read:

Sec. 25. Minnesota Statutes 2008, section 256B.0625, subdivision 3, is amended to read:

Subd. 3. **Physicians' services.** (a) Medical assistance covers physicians' services.

(b) Rates paid for anesthesiology services provided by physicians shall be according to the formula utilized in the Medicare program and shall use a conversion factor "at percentile of calendar year set by legislature, " except that rates paid to physicians for the medical direction of a certified registered nurse anesthetist shall be the same as the rate paid to the certified registered nurse anesthetist under medical direction.

(c) Medical assistance does not cover physicians' services related to the provision of care related to a treatment reportable under section 144.7065, subdivision 2, clauses (1), (2), (3), and (5), and subdivision 7, clause (1).

(d) Medical assistance does not cover physicians' services related to the provision of care (1) for which hospital reimbursement is prohibited under section 256.969, subdivision 3b, paragraph (c), or (2) reportable under section 144.7065, subdivisions 2 to 7, if the physicians' services are billed by a physician who delivered care that contributed to or caused the adverse health care event or hospital-acquired condition.

(e) The payment limitations in this subdivision shall also apply to MinnesotaCare and general assistance medical care.

(f) A physician shall not bill a recipient of services for any payment disallowed under this subdivision.

Sec. 42. Laws 2009, chapter 79, article 5, section 52, is amended to read:

Sec. 52. **256B.766 REIMBURSEMENT FOR BASIC CARE SERVICES.**

(a) Effective for services provided on or after July 1, 2009, total payments for basic care services, shall be reduced by three percent, prior to third-party liability and spenddown calculation. Payments made to managed care plans and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(b) This section does not apply to physician and professional services, inpatient hospital services, family planning services, mental health services, dental services, prescription drugs, ~~and~~ medical transportation, federally qualified health centers, rural health centers, Indian health services, and Medicare cost-sharing.

Sec. 43. Laws 2009, chapter 79, article 8, section 8, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective ~~the day following final enactment~~ July 1, 2009.

Sec. 44. Laws 2009, chapter 79, article 8, section 13, is amended to read:

Sec. 13. **256.0281 INTERAGENCY DATA EXCHANGE.**

The Department of Human Services, the Department of Health, and the Office of the Ombudsman for Mental Health and Developmental Disabilities may establish interagency agreements governing the electronic exchange of data on providers and individuals collected, maintained, or used by each agency when such exchange is outlined by each agency in an interagency agreement to accomplish the purposes in clauses (1) to (4):

(1) to improve provider enrollment processes for home and community-based services and state plan home care services;

(2) to improve quality management of providers between state agencies;

(3) to establish and maintain provider eligibility to participate as providers under Minnesota health care programs; or

(4) to meet the quality assurance reporting requirements under federal law under section 1915(c) of the Social Security Act related to home and community-based waiver programs.

Each interagency agreement must include provisions to ensure anonymity of individuals, including mandated reporters, and must outline the specific uses of and access to shared data within each agency. Electronic interfaces between source data systems developed under these interagency agreements must incorporate these provisions as well as other ~~HIPPA~~ HIPAA provisions related to individual data.

Sec. 45. Laws 2009, chapter 79, article 8, section 73, is amended to read:

Sec. 73. Minnesota Statutes 2008, 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.

(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, recipients of home and community-based services may relocate to services without 24-hour supervision and receive the equivalent of the recipient's group residential housing allocation in Minnesota supplemental assistance shelter needy funding if the cost of the services and housing is equal to or less than provided to the recipient in home and community-based services and the relocation is the recipient's choice and is approved by the recipient or guardian.~~

~~(h) To access housing and services as provided in paragraph (g), the recipient may choose housing that may or may not be owned, operated, or controlled by the recipient's service provider.~~

~~(i) The provisions in paragraphs (g) and (h) are effective to June 30, 2011. The commissioner shall assess the development of publicly owned housing, other housing alternatives, and whether a public equity housing fund may be established that would maintain the state's interest, to the extent paid from group residential housing and Minnesota supplemental aid shelter needy funds in provider-owned housing so that when sold, the state would recover its share for a public equity fund to be used for future public needs under this chapter. The commissioner shall report findings and recommendations to the legislative committees and budget divisions with jurisdiction over health and human services policy and financing by January 15, 2012.~~

~~(j) In selecting prospective services needed by recipients for whom home and community-based services have been authorized, the recipient and the recipient's guardian shall first consider alternatives to home and community-based services. Minnesota supplemental aid shelter needy funding for recipients who utilize Minnesota supplemental aid shelter needy funding as provided in this section shall remain permanent unless the recipient with the recipient's guardian later chooses to access home and community-based services.~~

(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may or may not be owned, operated, or controlled by the recipient's service provider if the housing is located in a multifamily building of six or more units. The maximum number of units that may be used by recipients of this program shall be 50 percent of the units in a building. The department shall develop an exception process to the 50 percent maximum. This paragraph expires on June 30, 2011.

Sec. 46. Minnesota Statutes 2008, section 402A.30, subdivision 4, as added by Laws 2009, chapter 79, article 9, section 6, is amended to read:

Subd. 4. **Process for establishing a service delivery authority.** (a) The county or consortium of counties proposing to form a service delivery authority shall, in conjunction with the commissioner, ~~prevent~~ present a proposed memorandum of understanding to the council accompanied by a resolution from the board of commissioners of each participating county stating the county's intent to participate in a service delivery authority.

(b) The council shall certify a county or consortium of counties as a service delivery authority if:

(1) the conditions in subdivision 2, paragraphs (a) and (b), are met; and

(2) the county or consortium of counties are:

(i) a single county with a population of 55,000 or more;

(ii) a consortium of counties with a total combined population of 55,000 or more and the counties comprising the consortium are in reasonable geographic proximity; or

(iii) four or more counties in reasonable geographic proximity without regard to population.

The council may recommend that the commissioner of human services exempt a single county or multicounty service delivery authority from the minimum population standard if that service delivery authority can demonstrate that it can otherwise meet the requirements of this chapter.

(c) After the council has certified a county or consortium of counties as a service delivery authority, the commissioner may enter into the memoranda of understanding with the participating counties to form the service delivery authority.

Sec. 47. Laws 2009, chapter 79, article 10, section 46, is amended to read:

Sec. 46. **FEASIBILITY PILOT PROJECT FOR CANCER SURVEILLANCE.**

The commissioner of health must provide a grant to the Hennepin County Medical Center for a one-year feasibility pilot project to collect occupational, residential, and military service history data from newly diagnosed cancer patients at the Hennepin County Medical Center's Cancer Center. ~~Funding for this grant shall come from the Department of Health's current resources for the Chronic Disease and Environmental Epidemiology Section.~~

Under this pilot project, Hennepin County Medical Center will design an expansion of its existing cancer registry to include the collection of additional data, including the cancer patient's occupational, residential, and military service history. Patient consent is required for collection of these additional data. The consent must be in writing and must contain notice informing the patient about private and confidential data concerning the patient pursuant to Minnesota Statutes, section 13.04, subdivision 2. The patient is entitled to opt out of the project at any time. The data collection expansion may also include the cancer patient's possible toxic environmental exposure history, if known. The purpose of this pilot project is to determine the following:

(1) the feasibility of collecting these data on a statewide scale;

(2) the potential design of a self-administered patient questionnaire template; and

(3) necessary qualifications for staff who will collect these data.

Hennepin County Medical Center must report the results of this pilot project to the legislature

by October 1, 2010.

Sec. 48. **EXPOSURE LEVELS STUDY.**

The commissioner of health shall work with appropriate local, state, and federal agencies to determine whether the levels of exposure to pentachlorophenol (PCP) in Minneapolis neighborhoods where utility poles treated with PCP, creosote, or probable human carcinogens are installed, exceed human health risk limits or maximum contaminant levels for residents, utility workers, and others who handle the treated poles.

Sec. 49. **REPEALER.**

Laws 2009, chapter 79, article 7, section 12, is repealed.

ARTICLE 2

TECHNICAL APPROPRIATION CHANGES

Section 1. Laws 2009, chapter 79, article 13, section 3, is amended to read:

Sec. 3. **HUMAN SERVICES**

		~~**5,230,100,000**~~		~~**5,997,715,000**~~
Subdivision 1. **Total Appropriation**	**$**	5,225,451,000	**$**	6,002,864,000

Appropriations by Fund

	2010	2011
	~~4,376,839,000~~	~~5,211,018,000~~
General	4,375,689,000	5,209,765,000
State Government	~~1,315,000~~	
Special Revenue	565,000	565,000
	~~450,792,000~~	~~527,489,000~~
Health Care Access	450,662,000	527,411,000
	~~289,487,000~~	~~256,978,000~~
Federal TANF	286,770,000	263,458,000
Lottery Prize	1,665,000	1,665,000
Federal Fund	110,000,000	0

Receipts for Systems Projects. Appropriations and federal receipts for information systems projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota Office of Enterprise Technology, funded by the legislature, and approved

by the commissioner of finance, may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary, except that any transfers to one project that exceed $1,000,000 or multiple transfers to one project that exceed $1,000,000 in total require the express approval of the legislature. The preceding requirement for legislative approval does not apply to transfers made to establish a project's initial operating budget each year; instead, the requirements of section 11, subdivision 2, of this article apply to those transfers. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations. Any computer project with a total cost exceeding $1,000,000, including, but not limited to, a replacement for the proposed HealthMatch system, shall not be commenced without the express approval of the legislature.

HealthMatch Systems Project. In fiscal year 2010, $3,054,000 shall be transferred from the HealthMatch account in the state systems account in the special revenue fund to the general fund.

Nonfederal Share Transfers. The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

TANF Maintenance of Effort.

(a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) For fiscal years beginning with state fiscal year 2003, the commissioner shall ensure that the maintenance of effort used by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103, contains expenditures under paragraph (a), clause (1), equal to at least 16 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(d) For the federal fiscal years beginning on or after October 1, 2007, the commissioner may not claim an amount of TANF/MOE in excess of the 75 percent standard in Code of Federal

Regulations, title 45, section 263.1(a)(2), except:

(1) to the extent necessary to meet the 80 percent standard under Code of Federal Regulations, title 45, section 263.1(a)(1), if it is determined by the commissioner that the state will not meet the TANF work participation target rate for the current year;

(2) to provide any additional amounts under Code of Federal Regulations, title 45, section 264.5, that relate to replacement of TANF funds due to the operation of TANF penalties; and

(3) to provide any additional amounts that may contribute to avoiding or reducing TANF work participation penalties through the operation of the excess MOE provisions of Code of Federal Regulations, title 45, section 261.43 (a)(2).

For the purposes of clauses (1) to (3), the commissioner may supplement the MOE claim with working family credit expenditures to the extent such expenditures or other qualified expenditures are otherwise available after considering the expenditures allowed in this section.

(e) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(f) Notwithstanding any contrary provision in this article, this provision expires June 30, 2013.

Working Family Credit Expenditures as TANF/MOE. The commissioner may claim as TANF/MOE up to $6,707,000 per year of working family credit expenditures for fiscal year 2010 through fiscal year 2011.

Working Family Credit Expenditures to be Claimed for TANF/MOE. The commissioner

may count the following amounts of working family credit expenditure as TANF/MOE:

(1) fiscal year 2010, ~~$30,217,000~~ $50,973,000;

(2) fiscal year 2011, ~~$55,596,000~~ $53,793,000;

(3) fiscal year 2012, ~~$28,519,000~~ $23,516,000; and

(4) fiscal year 2013, ~~$22,138,000~~ $16,808,000.

Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

~~**TANF Transfer to Federal Child Care and Development Fund.** The following TANF fund amounts are appropriated to the commissioner for the purposes of MFIP and transition year child care under Minnesota Statutes, section 119B.05:~~

~~(1) fiscal year 2010, $5,909,000;~~

~~(2) fiscal year 2011, $9,808,000;~~

~~(3) fiscal year 2012, $10,826,000; and~~

~~(4) fiscal year 2013, $4,026,000.~~

~~The commissioner shall authorize the transfer of sufficient TANF funds to the federal child care and development fund to meet this appropriation and shall ensure that all transferred funds are expended according to federal child care and development fund regulations.~~

Food Stamps Employment and Training. (a) The commissioner shall apply for and claim the maximum allowable federal matching funds under United States Code, title 7, section 2025, paragraph (h), for state expenditures made on behalf of family stabilization services participants voluntarily engaged in food stamp employment and training activities, where appropriate.

(b) Notwithstanding Minnesota Statutes,

sections 256D.051, subdivisions 1a, 6b, and 6c, and 256J.626, federal food stamps employment and training funds received as reimbursement of MFIP consolidated fund grant expenditures for diversionary work program participants and child care assistance program expenditures for two-parent families must be deposited in the general fund. The amount of funds must be limited to $3,350,000 in fiscal year 2010 and $4,440,000 in fiscal years 2011 through 2013, contingent on approval by the federal Food and Nutrition Service.

(c) Consistent with the receipt of these federal funds, the commissioner may adjust the level of working family credit expenditures claimed as TANF maintenance of effort. Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

ARRA Food Support Administration. The funds available for food support administration under the American Recovery and Reinvestment Act (ARRA) of 2009 are appropriated to the commissioner to pay actual costs of implementing the food support benefit increases, increased eligibility determinations, and outreach. Of these funds, 20 percent shall be allocated to the commissioner and 80 percent shall be allocated to counties. The commissioner shall allocate the county portion based on caseload. Reimbursement shall be based on actual costs reported by counties through existing processes. Tribal reimbursement must be made from the state portion based on a caseload factor equivalent to that of a county.

ARRA Food Support Benefit Increases. The funds provided for food support benefit increases under the Supplemental Nutrition Assistance Program provisions of the American Recovery and Reinvestment Act (ARRA) of 2009 must be used for benefit increases beginning July 1, 2009.

Emergency Fund for the TANF Program. TANF Emergency Contingency funds available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are appropriated to the commissioner. The commissioner must request TANF Emergency Contingency funds from the Secretary of the Department of Health and Human Services to the extent the commissioner meets or expects to meet the requirements of section 403(c) of the Social Security Act. The commissioner must seek to maximize such grants. The funds received must be used as appropriated. Each county must maintain the county's current level of emergency assistance funding under the MFIP consolidated fund and use the funds under this paragraph to supplement existing emergency assistance funding levels.

Subd. 2. **Agency Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Financial Operations

	Appropriations by Fund	
General	3,380,000	3,908,000
Health Care Access	1,281,000	1,016,000
Federal TANF	122,000	122,000

(b) Legal and Regulatory Operations

	Appropriations by Fund	
General	13,749,000	13,534,000
State Government Special Revenue	440,000	440,000
Health Care Access	943,000	943,000
Federal TANF	100,000	100,000

Base Adjustment. The general fund base is decreased by $180,000 in fiscal year 2012 and $180,000 in fiscal year 2013.

(c) Management Operations

	Appropriations by Fund	
General	4,334,000	4,562,000
Health Care Access	242,000	242,000

Lease Cost Reduction. Base level funding to the commissioner shall be reduced by $381,000 in fiscal year 2010, and $153,000 in fiscal year 2011, to reflect a reduction in lease costs related to the Minnehaha Avenue building.

Base Adjustment. The general fund base is increased by $153,000 in each of fiscal years 2012 and 2013.

(d) Information Technology Operations

	Appropriations by Fund	
General	28,077,000	28,077,000
Health Care Access	4,856,000	4,868,000

Subd. 3. **Revenue and Pass-Through Revenue Expenditures** ~~65,746,000~~ 68,337,000 ~~67,068,000~~ 70,505,000

This appropriation is from the federal TANF fund.

TANF Transfer to Federal Child Care and Development Fund. The following TANF fund amounts are appropriated to the commissioner for the purposes of MFIP and transition year child care under Minnesota Statutes, section 119B.05:

(1) fiscal year 2010, $6,531,000;

(2) fiscal year 2011, $10,241,000;

(3) fiscal year 2012, $10,826,000; and

(4) fiscal year 2013, $4,046,000.

The commissioner shall authorize the transfer of sufficient TANF funds to the federal child care and development fund to meet this appropriation and shall ensure that all

transferred funds are expended according to federal child care and development fund regulations.

Subd. 4. **Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MFIP/DWP Grants

	Appropriations by Fund	
General	63,205,000	89,033,000
	~~100,404,000~~	~~85,789,000~~
Federal TANF	100,818,000	84,538,000

(b) Support Services Grants

	Appropriations by Fund	
General	8,715,000	12,498,000
	~~121,257,000~~	~~102,757,000~~
Federal TANF	116,557,000	107,457,000

MFIP Consolidated Fund. The MFIP consolidated fund TANF appropriation is reduced by $1,854,000 in fiscal year ~~2011~~ 2010 and fiscal year ~~2012~~ 2011.

Notwithstanding Minnesota Statutes, section 256J.626, subdivision 8, paragraph (b), the commissioner shall reduce proportionately the reimbursement to counties for administrative expenses.

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 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.

Supported Work. Of the TANF appropriation, ~~$6,400,000~~ $4,700,000 in fiscal year ~~2011 is~~ 2010 and $4,700,000 in fiscal year 2011 are to the commissioner for supported work for MFIP recipients and is available until expended. Supported work includes paid transitional work experience and a continuum of employment assistance, including outreach and recruitment, program orientation and intake, testing and assessment, job development and marketing, preworksite training, supported worksite experience, job coaching, and postplacement follow-up, in addition to extensive case management and referral services. This is a onetime appropriation.

Base Adjustment. The general fund base is reduced by $3,783,000 in each of fiscal years 2012 and 2013. The TANF fund base is increased by ~~$9,704,000~~ $5,004,000 in each of fiscal years 2012 and 2013.

Integrated Services Program Funding. The TANF appropriation for integrated services program funding is $1,250,000 in fiscal year 2010 and ~~$2,500,000~~ $0 in fiscal year 2011 and the base for fiscal years 2012 and 2013 is $0.

TANF Emergency Fund; Nonrecurrent Short-Term Benefits. TANF emergency contingency fund grants received due to increases in expenditures for nonrecurrent short-term benefits must be used to offset the increase in these expenditures for counties under the MFIP consolidated fund, under Minnesota Statutes, section 256J.626, and the diversionary work program. The commissioner shall develop procedures to maximize reimbursement of these expenditures over the TANF emergency fund

base year quarters. Growth in expenditures for the diversionary work program over the amount expended in the calendar quarters in the TANF emergency fund base year shall be used to leverage these funds.

(c) MFIP Child Care Assistance Grants 61,171,000 65,214,000

~~Appropriations by Fund~~

~~General 61,171,000 65,214,000~~

~~Federal TANF 1,022,000 406,000~~

~~**ARRA Child Care Development Block Grant Funds.** The funds available from the child care development block grant under ARRA must be used for MFIP child care to the extent that those funds are not earmarked for quality expansion or to improve the quality of infant and toddler care.~~

Acceleration of ARRA Child Care and Development Fund Expenditure. The commissioner must liquidate all child care and development money available under the American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5, by September 30, 2010. In order to expend those funds by September 30, 2010, the commissioner may redesignate and expend the ARRA child care and development funds appropriated in fiscal year 2011 for purposes under this section for related purposes that will allow liquidation by September 30, 2010. Child care and development funds otherwise available to the commissioner for those related purposes shall be used to fund the purposes from which the ARRA child care and development funds had been redesignated.

School Readiness Service Agreements. $400,000 in fiscal year 2010 and $400,000 in fiscal year 2011 are from the federal TANF fund to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section

119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

	~~40,104,000~~	~~45,096,000~~
(d) Basic Sliding Fee Child Care Assistance Grants	40,100,000	45,092,000

~~**Base Adjustment.** The general fund base is decreased by $260,000 in each of fiscal years 2012 and 2013.~~

School Readiness Service Agreements. ~~$261,000~~ $257,000 in fiscal year 2010 and ~~$261,000~~ $257,000 in fiscal year 2011 are from the ~~federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations~~ general fund for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

Child Care Development Fund Unexpended Balance. In addition to the amount provided in this section, the commissioner shall expend $5,244,000 in fiscal year 2010 from the federal child care 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.

Basic Sliding Fee. ~~$7,045,000~~ $4,000,000 in fiscal year 2010 and ~~$6,974,000~~ $4,000,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of basic sliding fee child care assistance under Minnesota Statutes, section 119B.03. This is a onetime appropriation. Any unexpended balance the

first year is available in the second year.

Basic Sliding Fee Allocation for Calendar Year 2010. Notwithstanding Minnesota Statutes, section 119B.03, subdivision 6, in calendar year 2010, basic sliding fee funds shall be distributed according to this provision. Funds shall be allocated first in amounts equal to each county's guaranteed floor, according to Minnesota Statutes, section 119B.03, subdivision 8, with any remaining available funds allocated according to the following formula:

(a) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (d).

(b) Up to three-fourths of the funds shall be allocated in proportion to the average of each county's most recent six months of reported waiting list as defined in Minnesota Statutes, section 119B.03, subdivision 2, and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (d).

(c) The amount necessary to serve all families in paragraphs (a) and (b) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

(d) Funds in excess of the amount necessary to serve all families in paragraphs (a) and (b) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported

during the most recent fiscal year completed at the time of the notice of allocation. To the extent that funds are available, and notwithstanding Minnesota Statutes, section 119B.03, subdivision 8, for the period January 1, 2011, to December 31, 2011, each county's guaranteed floor must be equal to its original calendar year 2010 allocation.

Base Adjustment. The general fund base is decreased by $257,000 in each of fiscal years 2012 and 2013.

(e) Child Care Development Grants 1,487,000 1,487,000

Family, friends, and neighbor grants. $375,000 in fiscal year 2010 and $375,000 in fiscal year 2011 are from the child care development fund required targeted quality funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services for family, friends, and neighbor grants under Minnesota Statutes, section 119B.232. This appropriation may be used on programs receiving family, friends, and neighbor grant funds as of June 30, 2009, or on new programs or projects. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

Voluntary quality rating system training, coaching, consultation, and supports. $633,000 in fiscal year 2010 and $633,000 in fiscal year 2011 are from the federal child care development fund required targeted quality funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of providing grants to provide statewide child-care provider training, coaching, consultation, and supports to prepare for the voluntary Minnesota quality rating system rating tool. This is a onetime appropriation. Any unexpended balance the

first year is available in the second year.

Voluntary quality rating system. $184,000 in fiscal year 2010 and $1,200,000 in fiscal year 2011 are from the federal child care development fund required targeted funds for quality expansion and infant/toddler from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of implementing the voluntary Parent Aware quality star rating system pilot in coordination with the Minnesota Early Learning Foundation. The appropriation for the first year is to complete and promote the voluntary Parent Aware quality rating system pilot program through June 30, 2010, and the appropriation for the second year is to continue the voluntary Minnesota quality rating system pilot through June 30, 2011. This is a onetime appropriation. Any unexpended balance the first year is available in the second year.

(f) Child Support Enforcement Grants 3,705,000 3,705,000

(g) Children's Services Grants

	Appropriations by Fund	
General	48,333,000	50,498,000
Federal TANF	340,000	240,000

Base Adjustment. The general fund base is decreased by $5,371,000 in fiscal year 2012 and ~~increased $8,737,000~~ decreased $5,371,000 in fiscal year 2013.

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 2010 and fiscal year 2011 for the adoption incentive grants are appropriated to the commissioner

for ~~these purposes~~ postadoption services including parent support groups.

Adoption Assistance and Relative Custody Assistance. The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

(h) Children and Community Services Grants 67,663,000 67,542,000

Targeted Case Management Temporary Funding Adjustment. The commissioner shall recover from each county and tribe receiving a targeted case management temporary funding payment in fiscal year 2008 an amount equal to that payment. The commissioner shall recover one-half of the funds by February 1, 2010, and the remainder by February 1, 2011. At the commissioner's discretion and at the request of a county or tribe, the commissioner may revise the payment schedule, but full payment must not be delayed beyond May 1, 2011. The commissioner may use the recovery procedure under Minnesota Statutes, section 256.017, to recover the funds. Recovered funds must be deposited into the general fund.

(i) General Assistance Grants 48,215,000 48,608,000

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 $7,889,812 in fiscal year 2010 and $7,889,812 in fiscal year 2011. Funds to counties must be allocated by the commissioner using the

allocation method specified in Minnesota Statutes, section 256D.06.

(j) Minnesota Supplemental Aid Grants 33,930,000 35,191,000

Emergency Minnesota Supplemental Aid Funds. The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than $1,100,000 in fiscal year 2010 and $1,100,000 in fiscal year 2011. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

(k) Group Residential Housing Grants 111,778,000 114,034,000

Group Residential Housing Costs Refinanced. (a) Effective July 1, 2011, the commissioner shall increase the home and community-based service rates and county allocations provided to programs for persons with disabilities established under section 1915(c) of the Social Security Act to the extent that these programs will be paying for the costs above the rate established in Minnesota Statutes, section 256I.05, subdivision 1.

(b) For persons receiving services under Minnesota Statutes, section 245A.02, who reside in licensed adult foster care beds for which a difficulty of care payment was being made under Minnesota Statutes, section 256I.05, subdivision 1c, paragraph (b), counties may request an exception to the individual's service authorization not to exceed the difference between the client's monthly service expenditures plus the amount of the difficulty of care payment.

(l) Children's Mental Health Grants 16,885,000 16,882,000

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.

(m) Other Children and Economic Assistance Grants 16,047,000 15,339,000

Fraud Prevention Grants. Of this appropriation, ~~$379,000~~ $228,000 in fiscal year 2010 and ~~$379,000~~ $228,000 in fiscal year 2011 is to the commissioner for fraud prevention grants to counties.

Homeless and Runaway Youth. $218,000 in fiscal year 2010 is for the Runaway and Homeless Youth Act under Minnesota Statutes, section 256K.45. Funds shall be spent in each area of the continuum of care to ensure that programs are meeting the greatest need. Any unexpended balance in the first year is available in the second year. Beginning July 1, 2011, the base is increased by $119,000 each year.

ARRA Homeless Youth Funds. To the extent permitted under federal law, the commissioner shall designate $2,500,000 of the Homeless Prevention and Rapid Re-Housing Program funds provided under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for agencies providing homelessness prevention and rapid rehousing services to youth.

Supportive Housing Services. $1,500,000 each year is for supportive services under Minnesota Statutes, section 256K.26. This is a onetime appropriation. ~~Beginning in fiscal year 2012, the base is increased by $68,000 per year.~~

Community Action Grants. Community action grants are reduced one time by ~~$1,764,000~~ $1,794,000 each year. This reduction is due to the availability of federal funds under the American Recovery and Reinvestment Act.

Base Adjustment. The general fund base is increased by $773,000 in fiscal year 2012 and $773,000 in fiscal year 2013.

Federal ARRA Funds for Existing Programs. (a) Federal funds received by the

commissioner for the emergency food and shelter program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, but not previously approved by the legislature are appropriated to the commissioner for the purposes of the grant program.

(b) Federal funds received by the commissioner for the emergency shelter grant program including the Homelessness Prevention and Rapid Re-Housing Program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant programs.

(c) Federal funds received by the commissioner for the emergency food assistance program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant program.

(d) Federal funds received by the commissioner for senior congregate meals and senior home-delivered meals from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the Minnesota Board on Aging, for purposes of the grant programs.

(e) Federal funds received by the commissioner for the community services block grant program from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant program.

Long-Term Homeless Supportive Service Fund Appropriation. To the extent permitted under federal law, the commissioner shall designate $3,000,000 of the Homelessness Prevention and Rapid Re-Housing Program funds provided under the American Recovery and Reinvestment Act of 2009, Public Law, 111-5, to the long-term homeless service fund

under Minnesota Statutes, section 256K.26. This appropriation shall become available by July 1, 2009. This paragraph is effective the day following final enactment.

Subd. 5. **Children and Economic Assistance Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Children and Economic Assistance Administration

	Appropriations by Fund	
General	10,318,000	10,308,000
Federal TANF	496,000	496,000

Base Adjustment. The federal TANF base is increased by $700,000 in each of fiscal years 2012 and 2013.

School Readiness Service Agreements. ~~$406,000~~ $106,000 in fiscal year 2010 and ~~$406,000~~ $241,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231, and the voluntary quality rating system in Minnesota Statutes, section 119B.231, subdivision 3e. This is a onetime appropriation. ~~Any unexpended balance the first year is available in the second year.~~

(b) Children and Economic Assistance Operations

	Appropriations by Fund	
General	33,590,000	33,423,000
Health Care Access	361,000	361,000

Financial Institution Data Match and Payment of Fees. The commissioner is authorized to allocate up to $310,000 each year in

fiscal years 2010 and 2011 from the PRISM special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

~~**School Readiness Service Agreements.** $106,000 in fiscal year 2010 and $241,000 in fiscal year 2011 are from the federal child care development funds received from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to the commissioner of human services consistent with federal regulations for the purpose of school readiness service agreements under Minnesota Statutes, section 119B.231. This is a onetime appropriation.~~

~~**Use of Federal Stabilization Funds.** $33,000,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.~~

Subd. 6. **Basic Health Care Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) MinnesotaCare Grants	~~391,915,000~~ 391,785,000	~~485,448,000~~ 485,370,000

This appropriation is from the health care access fund.

(b) MA Basic Health Care Grants - Families and Children	~~751,988,000~~ 751,166,000	~~973,088,000~~ 972,901,000

Medical Education Research Costs (MERC). Of these funds, the commissioner of human services shall transfer $38,000,000 in fiscal year 2010 to the medical education research fund. These funds must restore the fiscal

year 2009 unallotment of the transfers under Minnesota Statutes, section 256B.69, subdivision 5c, paragraph (a), for the July 1, 2008, through June 30, 2009, period.

Newborn Screening Fee. Of the general fund appropriation, $34,000 in fiscal year 2011 is to the commissioner for the hospital reimbursement increase described under Minnesota Statutes, section 256.969, subdivision ~~28~~ 29.

Local Share Payment Modification Required for ARRA Compliance. Effective retroactively from ~~July 1, 2009~~ October 1, 2008, to December 31, 2010, Hennepin County's monthly contribution to the nonfederal share of medical assistance costs must be reduced to the percentage required on September 1, 2008, to meet federal requirements for enhanced federal match under the American Reinvestment and Recovery Act (ARRA) of 2009. Notwithstanding the requirements of Minnesota Statutes, section 256B.19, subdivision 1c, paragraph (d), for the period beginning ~~July 1, 2009~~ October 1, 2008, to December 31, 2010, Hennepin County's monthly payment under that provision is reduced to $434,688. This provision is effective the day following final enactment.

Capitation Payments. Effective retroactively from ~~July 1, 2009~~ October 1, 2008, to December 31, 2010, notwithstanding the provisions of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (c), the commissioner shall increase capitation payments made to the Metropolitan Health Plan under Minnesota Statutes 2008, section 256B.69, by $6,800,000 to recognize higher than average medical education costs. The increased amount includes federal matching funds. This provision is effective the day following final enactment.

Use of Savings. Any savings derived from implementation of the prohibition in Minnesota Statutes, section 256B.032, on the

enrollment of low-quality, high-cost health care providers as vendors of state health care program services shall be used to offset on a pro rata basis the reimbursement reductions for basic care services in Minnesota Statutes, section 256B.766.

(c) MA Basic Health Care Grants - Elderly and Disabled	~~970,183,000~~ 969,992,000	~~1,142,310,000~~ 1,141,575,000

Minnesota Disability Health Options. Notwithstanding Minnesota Statutes, section 256B.69, subdivision 5a, paragraph (b), for the period beginning July 1, 2009, to June 30, 2011, the monthly enrollment of persons receiving home and community-based waivered services under Minnesota Disability Health Options shall not exceed 1,000. If the budget neutrality provision in Minnesota Statutes, section 256B.69, subdivision 23, paragraph (f), is reached prior to June 30, 2013, the commissioner may waive this monthly enrollment requirement.

Hospital Fee-for-Service Payment Delay. Payments from the Medicaid Management Information System that would otherwise have been made for inpatient hospital services for Minnesota health care program enrollees must be delayed as follows: for fiscal year 2011, payments in the month of June equal to $15,937,000 must be included in the first payment of fiscal year 2012 and for fiscal year 2013, payments in the month of June equal to $6,666,000 must be included in the first payment of fiscal year 2014. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. Notwithstanding any contrary provision in this article, this paragraph expires December 31, 2014.

Nonhospital Fee-for-Service Payment Delay. Payments from the Medicaid Management Information System that would otherwise have been made for nonhospital acute care services for Minnesota health care program enrollees must be delayed as follows:

payments in the month of June equal to $23,438,000 for fiscal year 2011 must be included in the first payment for fiscal year 2012, and payments in the month of June equal to $27,156,000 for fiscal year 2013 must be included in the first payment for fiscal year 2014. This payment delay must not include nursing facilities, intermediate care facilities for persons with developmental disabilities, home and community-based services, prepaid health plans, personal care provider organizations, and home health agencies. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. Notwithstanding any contrary provision in this article, this paragraph expires December 31, 2014.

	~~345,223,000~~	
(d) General Assistance Medical Care Grants	344,907,000	381,081,000

*** (The preceding text "381,081,000" was indicated as vetoed by the Governor.)**

(e) Other Health Care Grants

	Appropriations by Fund	
General	295,000	295,000
Health Care Access	23,533,000	7,080,000

Base Adjustment. The health care access fund base is reduced ~~to $190,000 in each of fiscal years 2012 and 2013~~ by $6,890,000 in fiscal year 2012 and $6,890,000 in fiscal year 2013.

Subd. 7. **Health Care Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Health Care Administration

	Appropriations by Fund	
	~~7,831,000~~	~~7,742,000~~
General	7,880,000	7,786,000
Health Care Access	1,812,000	906,000

Base Adjustment. The general fund base is

increased by $44,000 in fiscal year 2012 and increased by $44,000 in fiscal year 2013.

(b) Health Care Operations

	Appropriations by Fund	
General	19,914,000	18,949,000
Health Care Access	25,099,000	25,875,000

Base Adjustment. The health care access fund base is increased by $1,006,000 in fiscal year 2012 and $1,781,000 in fiscal year 2013. The general fund base is decreased by $237,000 in fiscal year 2012 and $237,000 in fiscal year 2013.

Subd. 8. **Continuing Care Grants**

The amounts that may be spent from the appropriation for each purpose are as follows:

~~**(a) Aging and Adult Services Grants**~~

	~~Appropriations by Fund~~			
~~General~~	~~13,488,000~~	~~15,779,000~~		
~~Federal~~	~~500,000~~	~~0~~		
(a) Aging and Adult Services Grants			13,499,000	15,805,000

Base Adjustment. The general fund base is increased by $5,751,000 in fiscal year 2012 and $6,705,000 in fiscal year 2013.

Information and Assistance Reimbursement. Federal administrative reimbursement obtained from information and assistance services provided by the Senior LinkAge or Disability Linkage lines to people who are identified as eligible for medical assistance shall be appropriated to the commissioner for this activity.

Community Service Development Grant Reduction. Funding for community service development grants must be reduced by ~~$251,000~~ $260,000 for fiscal year 2010; ~~$266,000~~ $284,000 in fiscal year 2011;

~~$25,000~~ $43,000 in fiscal year 2012; and ~~$25,000~~ $43,000 in fiscal year 2013. Base level funding shall be restored in fiscal year 2014.

Community Service Development Grant Community Initiative. Funding for community service development grants shall be used to offset the cost of aging support grants. Base level funding shall be restored in fiscal year 2014.

Senior Nutrition Use of Federal Funds. For fiscal year 2010, general fund grants for home-delivered meals and congregate dining shall be reduced by $500,000. The commissioner must replace these general fund reductions with equal amounts from federal funding for senior nutrition from the American Recovery and Reinvestment Act of 2009.

(b) Alternative Care Grants	50,234,000	48,576,000

Base Adjustment. The general fund base is decreased by $3,598,000 in fiscal year 2012 and $3,470,000 in fiscal year 2013.

Alternative Care Transfer. Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

(c) Medical Assistance Grants; Long-Term Care Facilities.	367,444,000	419,749,000
(d) Medical Assistance Long-Term Care Waivers and Home Care Grants	~~854,373,000~~ 853,567,000	~~1,043,411,000~~ 1,039,517,000

Manage Growth in TBI and CADI Waivers. During the fiscal years beginning on July 1, 2009, and July 1, 2010, the commissioner shall allocate money for home and community-based waiver programs under Minnesota Statutes, section 256B.49, to ensure a reduction in state spending that is equivalent to limiting the caseload growth of the TBI waiver to 12.5 allocations per

month each year of the biennium and the CADI waiver to 95 allocations per month each year of the biennium. Limits do not apply: (1) when there is an approved plan for nursing facility bed closures for individuals under age 65 who require relocation due to the bed closure; (2) to fiscal year 2009 waiver allocations delayed due to unallotment; or (3) to transfers authorized by the commissioner from the personal care assistance program of individuals having a home care rating of "CS," "MT," or "HL." Priorities for the allocation of funds must be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting.

Manage Growth in DD Waiver. The commissioner shall manage the growth in the DD waiver by limiting the allocations included in the February 2009 forecast to 15 additional diversion allocations each month for the calendar years that begin on January 1, 2010, and January 1, 2011. Additional allocations must be made available for transfers authorized by the commissioner from the personal care program of individuals having a home care rating of "CS," "MT," or "HL."

Adjustment to Lead Agency Waiver Allocations. Prior to the availability of the alternative license defined in Minnesota Statutes, section 245A.11, subdivision 8, the commissioner shall reduce lead agency waiver allocations for the purposes of implementing a moratorium on corporate foster care.

Alternatives to Personal Care Assistance Services. Base level funding of $3,237,000 in fiscal year 2012 and $4,856,000 in fiscal year 2013 is to implement alternative services to personal care assistance services for persons with mental health and other behavioral challenges who can benefit from other services that more appropriately meet their needs and assist them in living independently

in the community. These services may include, but not be limited to, a 1915(i) state plan option.

(e) Mental Health Grants

	Appropriations by Fund	
General	77,739,000	77,739,000
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.

(f) Deaf and Hard-of-Hearing Grants	1,930,000	1,917,000
(g) Chemical Dependency Entitlement Grants	111,303,000	122,822,000

Payments for Substance Abuse Treatment. For services provided during fiscal years 2010 and 2011, county-negotiated rates and provider claims to the consolidated chemical dependency fund must not exceed rates charged for these services on January 1, 2009. For services provided in fiscal years 2012 and 2013, statewide average rates under the new rate methodology to be developed under Minnesota Statutes, section 254B.12, must not exceed the average rates charged for these services on January 1, 2009, plus a state share increase of $3,787,000 for fiscal year 2012 and $5,023,000 for fiscal year 2013. Notwithstanding any provision to the contrary in this article, this provision expires on June 30, 2013.

Chemical Dependency Special Revenue Account. For fiscal year 2010, $750,000 must be transferred from the consolidated chemical dependency treatment fund administrative account and deposited into the general fund.

County CD Share of MA Costs for ARRA Compliance. Notwithstanding the provisions of Minnesota Statutes, chapter 254B, for

chemical dependency services provided during the period ~~July 1, 2009~~ October 1, 2008, to December 31, 2010, and reimbursed by medical assistance at the enhanced federal matching rate provided under the American Recovery and Reinvestment Act of 2009, the county share is 30 percent of the nonfederal share. This provision is effective the day following final enactment.

(h) Chemical Dependency Nonentitlement Grants	1,729,000	1,729,000

~~**Base Adjustment.** The general fund base is decreased by $3,000 in each of fiscal years 2012 and 2013.~~

	~~18,272,000~~	~~13,139,000~~
(i) Other Continuing Care Grants	19,201,000	17,528,000

Base Adjustment. The general fund base is increased by ~~$7,028,000~~ $2,639,000 in fiscal year 2012 and increased by ~~$8,243,000~~ $3,854,000 in fiscal year 2013.

Technology Grants. $650,000 in fiscal year 2010 and $1,000,000 in fiscal year 2011 are for technology grants, case consultation, evaluation, and consumer information grants related to developing and supporting alternatives to shift-staff foster care residential service models.

Other Continuing Care Grants; HIV Grants. Money appropriated for the HIV drug and insurance grant program in fiscal year 2010 may be used in either year of the biennium.

Quality Assurance Commission. Effective July 1, 2009, state funding for the quality assurance commission under Minnesota Statutes, section 256B.0951, is canceled.

Subd. 9. **Continuing Care Management**

	Appropriations by Fund	
General	24,927,000	25,314,000
State Government	~~875,000~~	
Special Revenue	125,000	125,000

Lottery Prize	157,000	157,000

~~**Quality Assurance Commission.** Effective July 1, 2009, state funding for the quality assurance commission under Minnesota Statutes, section 256B.0951, is canceled.~~

County Maintenance of Effort. $350,000 in fiscal year 2010 is from the general fund for the State-County Results Accountability and Service Delivery Reform under Minnesota Statutes, chapter 402A.

Base Adjustment. The general fund base is decreased $2,697,000 in fiscal year 2012 and $2,791,000 in fiscal year 2013.

Subd. 10. **State-Operated Services**	~~258,794,000~~	~~266,191,000~~

The amounts that may be spent from the appropriation for each purpose are as follows:

Transfer Authority Related to State-Operated Services. Money appropriated to finance state-operated services may be transferred between the fiscal years of the biennium with the approval of the commissioner of finance.

County Past Due Receivables. The commissioner is authorized to withhold county federal administrative reimbursement when the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

Forecast and Census Data. The commissioner shall include census data and fiscal projections for state-operated services and Minnesota sex offender services with the November and February budget forecasts. Notwithstanding any contrary provision in this article, this paragraph shall not expire.

	~~107,702,000~~	
(a) Adult Mental Health Services	106,702,000	107,201,000

Appropriation Limitation. No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

Community Behavioral Health Hospitals. Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner of human services is only required when a client's third-party coverage has been exhausted.

Base Adjustment. The general fund base is decreased by $500,000 for fiscal year 2012 and by $500,000 for fiscal year 2013.

(b) Minnesota Sex Offender Services

	Appropriations by Fund	
General	38,348,000	67,503,000
Federal Fund	26,495,000	0

Use of Federal Stabilization Funds. Of this appropriation, $26,495,000 in fiscal year 2010 is from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

(c) Minnesota Security Hospital and METO Services

	Appropriations by Fund	
	~~230,000,000~~	
General	230,000	83,735,000
	~~83,504,000~~	
Federal Fund	83,505,000	0

Minnesota Security Hospital. For the purposes of enhancing the safety of the public, improving supervision, and enhancing community-based mental health treatment, state-operated services may establish additional community capacity for providing treatment and supervision of clients who have been ordered into a less restrictive alternative of care from the state-operated services transitional services program consistent with Minnesota Statutes, section 246.014.

Use of Federal Stabilization Funds. $83,505,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

Sec. 2. Laws 2009, chapter 79, article 13, section 4, is amended to read:

Sec. 4. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation** **$ 165,717,000 $ 161,841,000**

	Appropriations by Fund	
	2010	2011
General	69,366,000	63,884,000
State Government Special Revenue	45,415,000	45,415,000
Health Care Access	39,203,000	40,809,000
Federal TANF	11,733,000	11,733,000

Subd. 2. **Community and Family Health Promotion**

	Appropriations by Fund	
General	44,814,000	39,671,000
State Government Special Revenue	1,033,000	~~1,304,000~~ 1,033,000
Federal TANF	11,733,000	11,733,000
Health Care Access	21,642,000	28,719,000

~~**Newborn Screening Fee.** Of the general fund appropriation, $300,000 in fiscal year 2011 is to the commissioner for the purpose of providing support services to families as required under Minnesota Statutes, section 144.966, subdivision 3a. $74,000 of this appropriation in fiscal year 2011 and $51,000 of this appropriation in subsequent fiscal years may be used by the commissioner for administrative costs associated with increasing the fee, contract administration, program oversight, and provide follow-up to families who need assistance beyond those available through the contractor.~~

Support Services for Families With Children Who are Deaf or Have Hearing Loss. Of the general fund amount, $16,000 in fiscal year 2010 and $284,000 in fiscal year 2011 is for support services to families with children who are deaf or have hearing loss. Of this amount, in fiscal year 2011, $223,000 is for grants and the balance is for administrative costs. Base funding in fiscal years 2012 and 2013 is $300,000 each year. Of this amount, $241,000 each year is for grants and the balance is for administrative costs.

Funding Usage. Up to 75 percent of the fiscal year 2012 appropriation for local public health grants may be used to fund calendar year 2011 allocations for this program. The general fund reduction of $5,193,000 in fiscal year 2011 for local public health grants is onetime and the base funding for local public health grants for fiscal year 2012 is increased by $5,193,000.

Colorectal Screening. ~~$88,000~~ $188,000 in fiscal year 2010 and $62,000 in fiscal year 2011 are for grants to the Hennepin County Medical Center and MeritCare Bemidji for colorectal screening demonstration projects.

Feasibility Pilot Project for Cancer Surveillance. Of the general fund appropriation for fiscal year 2010, $100,000 is to the commissioner to provide grant

funding to cover the cost of one full-time equivalent position at the Hennepin County Medical Center to carry out the feasibility pilot project.

American Recovery and Reinvestment Act Funds. Federal funds received by the commissioner for WIC program management information systems from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purpose of the grant.

TANF Appropriations. (1) $1,156,000 of the TANF funds are appropriated each year to the commissioner for family planning grants under Minnesota Statutes, section 145.925.

(2) $3,579,000 of the TANF funds are appropriated each year to the commissioner for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1.

(3) $2,000,000 of the TANF funds are appropriated each year to the commissioner for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(4) $4,998,000 of the TANF funds are appropriated each year to the commissioner for the family home visiting grant program according to Minnesota Statutes, section 145A.17. $4,000,000 of the funding must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. $998,000 of the funding must be distributed to tribal governments based on Minnesota Statutes, section 145A.14, subdivision 2a. The commissioner may use five percent of the funds appropriated each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and may use ten percent of the

funds appropriated each fiscal year to provide training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

Base Adjustment. The general fund base is increased by $10,302,000 for fiscal year 2012 and increased by $5,109,000 for fiscal year 2013. The health care access fund base is reduced to $1,719,000 for both fiscal years 2012 and 2013.

TANF Carryforward. Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

Subd. 3. **Policy Quality and Compliance**

Appropriations by Fund		
		~~7,242,000~~
General	7,491,000	7,243,000
State Government Special Revenue	14,173,000	14,173,000
Health Care Access	17,561,000	12,090,000

Community-Based Health Care Demonstration Project. Notwithstanding the provisions of Laws 2007, chapter 147, article 19, section 3, subdivision 6, paragraph (e), base level funding to the commissioner for the demonstration project grant described in Minnesota Statutes, section 62Q.80, subdivision 1a, shall be zero for fiscal years 2011 and 2012.

Medical Education and Research Cost Federal Compliance. Notwithstanding Laws 2008, chapter 363, article 18, section 4, subdivision 3, the base level funding for the commissioner to distribute to the Mayo Clinic for transitional funding while federal compliance changes are made to the medical education and research cost funding distribution formula shall be $0 for fiscal years 2010 and 2011.

Autism Clinical Research. The commissioner,

in partnership with a Minnesota research institution, shall apply for funds available for research grants under the American Recovery and Reinvestment Act (ARRA) of 2009 in order to expand research and treatment of autism spectrum disorders.

Health Information Technology. (a) Of the health care access fund appropriation, $4,000,000 is to fund the revolving loan account under Minnesota Statutes, section 62J.496. This appropriation must not be expended unless it is matched with federal funding under the federal Health Information Technology for Economic and Clinical Health (HITECH) Act. This appropriation must not be included in the agency's base budget for the fiscal year beginning July 1, 2012.

(b) On or before June 30, 2013, $1,200,000 shall be transferred from the revolving loan account under Minnesota Statutes, section 62J.496, to the health care access fund. This is a onetime transfer and must not be included in the agency's base budget for the fiscal year beginning July 1, 2014.

Base Adjustment. The general fund base is $8,243,000 in fiscal year 2012 and $8,243,000 in fiscal year 2013. The health care access fund base is $10,950,000 in fiscal year 2012 and $6,816,000 in fiscal year 2013.

Subd. 4. **Health Protection**

	Appropriations by Fund	
General	9,871,000	9,780,000
State Government Special Revenue	30,209,000	30,209,000

Base Adjustment. The general fund base is reduced by $50,000 in each of fiscal years 2012 and 2013.

Health Protection Appropriations. (a) $163,000 each year is for the lead abatement grant program.

(b) $100,000 each year is for emergency preparedness and response activities.

(c) $50,000 each year is for tuberculosis prevention and control. This is a onetime appropriation.

(d) $55,000 in fiscal year 2010 is for pentachlorophenol.

(e) $20,000 in fiscal year 2010 is for a PFC Citizens Advisory Group.

American Recovery and Reinvestment Act Funds. Federal funds received by the commissioner for immunization operations from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant.

Subd. 5. **Administrative Support Services**	7,190,000	7,190,000

Sec. 3. Laws 2009, chapter 79, article 13, section 5, is amended to read:

Sec. 5. **HEALTH-RELATED BOARDS**

Subdivision 1. **Total Appropriation**	~~**15,017,000**~~ **$** 14,034,000	~~**14,831,000**~~ **$** 13,848,000

This appropriation is from the state government special revenue fund.

Transfer. In fiscal year ~~2010~~ 2011, $6,000,000 shall be transferred from the state government special revenue fund to the general fund. The boards must allocate this reduction to boards carrying a positive balance as of July 1, 2009.

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

Subd. 2. **Board of Chiropractic Examiners**	447,000	447,000
Subd. 3. **Board of Dentistry**	1,009,000	1,009,000
Subd. 4. **Board of Dietetic and Nutrition Practice**	105,000	105,000
Subd. 5. **Board of Marriage and Family Therapy**	137,000	137,000

	~~3,674,000~~	~~3,674,000~~
Subd. 6. **Board of Medical Practice**	3,682,000	3,682,000
	~~4,217,000~~	~~4,219,000~~
Subd. 7. **Board of Nursing**	3,287,000	3,289,000
	~~1,146,000~~	~~958,000~~
Subd. 8. **Board of Nursing Home Administrators**	1,211,000	1,023,000

Administrative Services Unit - Operating Costs. Of this appropriation, $524,000 in fiscal year 2010 and $526,000 in fiscal year 2011 are for operating costs of the administrative services unit. The administrative services unit may receive and expend reimbursements for services performed by other agencies.

Administrative Services Unit - Retirement Costs. Of this appropriation in fiscal year 2010, $201,000 is for onetime retirement costs in the health-related boards. This funding may be transferred to the health boards incurring those costs for their payment. These funds are available either year of the biennium.

Administrative Services Unit - Volunteer Health Care Provider Program. Of this appropriation, $79,000 in fiscal year 2010 and $89,000 in fiscal year 2011 are to pay for medical professional liability coverage required under Minnesota Statutes, section 214.40.

Administrative Services Unit - Contested Cases and Other Legal Proceedings. Of this appropriation, $200,000 in fiscal year 2010 and $200,000 in fiscal year 2011 are for costs of contested case hearings and other unanticipated costs of legal proceedings involving health-related boards funded under this section. Upon certification of a health-related board to the administrative services unit that the costs will be incurred and that there is insufficient money available to pay for the costs out of money currently available to that board, the administrative

services unit is authorized to transfer money from this appropriation to the board for payment of those costs with the approval of the commissioner of finance. This appropriation does not cancel. Any unencumbered and unspent balances remain available for these expenditures in subsequent fiscal years.

Subd. 9. **Board of Optometry**	101,000	101,000
	~~1,413,000~~	~~1,413,000~~
Subd. 10. **Board of Pharmacy**	1,388,000	1,388,000
Subd. 11. **Board of Physical Therapy**	295,000	295,000
Subd. 12. **Board of Podiatry**	56,000	56,000
Subd. 13. **Board of Psychology**	806,000	806,000
	~~1,022,000~~	~~1,022,000~~
Subd. 14. **Board of Social Work**	921,000	921,000
Subd. 15. **Board of Veterinary Medicine**	195,000	195,000
Subd. 16. **Board of Behavioral Health and Therapy**	394,000	394,000

Sec. 4. Laws 2009, chapter 79, article 13, section 6, is amended to read:

Sec. 6. **EMERGENCY MEDICAL SERVICES BOARD**	**~~4,378,000~~**	**~~3,828,000~~**
	$ 3,928,000	**$** 3,828,000

Appropriations by Fund

	2010	2011
	~~3,674,000~~	
General	3,224,000	3,124,000
State Government Special Revenue	704,000	704,000

Longevity Award and Incentive Program. Of the general fund appropriation, $700,000 in fiscal year 2010 and $700,000 in fiscal year 2011 are to the board for the Cooper/Sams volunteer ambulance program, under Minnesota Statutes, section 144E.40.

Transfer. In fiscal year 2010, $6,182,000 is

transferred from the Cooper/Sams volunteer ambulance trust, established under Minnesota Statutes, section 144E.42, to the general fund.

Health Professional Services Program. $704,000 in fiscal year 2010 and $704,000 in fiscal year 2011 from the state government special revenue fund are for the health professional services program.

Comprehensive Advanced Life-Support Educational (CALS) Program. $100,000 in the first year from the ~~Cooper/Sams volunteer ambulance trust~~ general fund is for the comprehensive advanced life-support educational (CALS) program established under Minnesota Statutes, section 144E.37. This appropriation is to extend availability and affordability of the CALS program for rural emergency medical personnel and to assist hospital staff in attaining the credentialing levels necessary for implementation of the statewide trauma system.

Veterans Paramedic Apprenticeship Program. Of this appropriation, $200,000 in the first year is from the general fund for transfer to the commissioner of veterans affairs for a grant to the Minnesota Ambulance Association to implement a veterans paramedic apprenticeship program to reintegrate returning military medics into Minnesota's workforce in the field of paramedic and emergency services, thereby guaranteeing returning military medics gainful employment with livable wages and benefits. This appropriation is available until expended.

Medical Response Unit Reimbursement Pilot Program. (a) $250,000 in the first year is from the general fund for a transfer to the Department of Public Safety for a medical response unit reimbursement pilot program. Of this appropriation, $75,000 is for administrative costs to the Department of Public Safety, including providing contract

staff support and technical assistance to the pilot program partners if necessary.

(b) Of the amount in paragraph (a), $175,000 is to be used to provide a predetermined reimbursement amount to the participating medical response units. The Department of Public Safety or its contract designee will develop an agreement with the medical response units outlining reimbursement and program requirements to include HIPAA compliance while participating in the pilot program.

Sec. 5. **REPEALER.**

Laws 2009, chapter 79, article 13, sections 7; and 8, are repealed.

ARTICLE 3

HEALTH CARE ELIGIBILITY

Section 1. Minnesota Statutes 2008, section 62J.2930, subdivision 3, is amended to read:

Subd. 3. **Consumer information.** (a) The information clearinghouse or another entity designated by the commissioner shall provide consumer information to health plan company enrollees to:

(1) assist enrollees in understanding their rights;

(2) explain and assist in the use of all available complaint systems, including internal complaint systems within health carriers, community integrated service networks, and the Departments of Health and Commerce;

(3) provide information on coverage options in each region of the state;

(4) provide information on the availability of purchasing pools and enrollee subsidies; and

(5) help consumers use the health care system to obtain coverage.

(b) The information clearinghouse or other entity designated by the commissioner for the purposes of this subdivision shall not:

(1) provide legal services to consumers;

(2) represent a consumer or enrollee; or

(3) serve as an advocate for consumers in disputes with health plan companies.

(c) Nothing in this subdivision shall interfere with the ombudsman program established under section ~~256B.031, subdivision 6~~ 256B.69, subdivision 20, or other existing ombudsman programs.

Sec. 2. Minnesota Statutes 2008, section 245.494, subdivision 3, is amended to read:

Subd. 3. **Duties of the commissioner of human services.** The commissioner of human services, in consultation with the Integrated Fund Task Force, shall:

(1) in the first quarter of 1994, in areas where a local children's mental health collaborative has been established, based on an independent actuarial analysis, identify all medical assistance and MinnesotaCare resources devoted to mental health services for children in the target population including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services in the total health capitation of prepaid plans under contract with the commissioner to provide medical assistance services under section 256B.69;

(2) assist each children's mental health collaborative to determine an actuarially feasible operational target population;

(3) ensure that a prepaid health plan that contracts with the commissioner to provide medical assistance or MinnesotaCare services shall pass through the identified resources to a collaborative or collaboratives upon the collaboratives meeting the requirements of section 245.4933 to serve the collaborative's operational target population. The commissioner shall, through an independent actuarial analysis, specify differential rates the prepaid health plan must pay the collaborative based upon severity, functioning, and other risk factors, taking into consideration the fee-for-service experience of children excluded from prepaid medical assistance participation;

(4) ensure that a children's mental health collaborative that enters into an agreement with a prepaid health plan under contract with the commissioner shall accept medical assistance recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the agreement between the collaborative and the commissioner;

(5) ensure that a children's mental health collaborative that receives resources passed through a prepaid health plan under contract with the commissioner shall be subject to the quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4889, and other requirements established in Minnesota Rules, part 9500.1460;

(6) ensure that any prepaid health plan that contracts with the commissioner, including a plan that contracts under section 256B.69, must enter into an agreement with any collaborative operating in the same service delivery area that:

(i) meets the requirements of section 245.4933;

(ii) is willing to accept the rate determined by the commissioner to provide medical assistance services; and

(iii) requests to contract with the prepaid health plan;

(7) ensure that no agreement between a health plan and a collaborative shall terminate the legal responsibility of the health plan to assure that all activities under the contract are carried out. The agreement may require the collaborative to indemnify the health plan for activities that are not carried out;

(8) ensure that where a collaborative enters into an agreement with the commissioner to provide medical assistance and MinnesotaCare services a separate capitation rate will be determined through an independent actuarial analysis which is based upon the factors set forth in clause (3) to be paid to a

collaborative for children in the operational target population who are eligible for medical assistance but not included in the prepaid health plan contract with the commissioner;

(9) ensure that in counties where no prepaid health plan contract to provide medical assistance or MinnesotaCare services exists, a children's mental health collaborative that meets the requirements of section 245.4933 shall:

(i) be paid a capitated rate, actuarially determined, that is based upon the collaborative's operational target population;

(ii) accept medical assistance or MinnesotaCare recipients in the operational target population on a first-come, first-served basis up to the collaborative's operating capacity or as determined in the contract between the collaborative and the commissioner; and

(iii) comply with quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4889, and other requirements established in Minnesota Rules, part 9500.1460;

(10) subject to federal approval, in the development of rates for local children's mental health collaboratives, the commissioner shall consider, and may adjust, trend and utilization factors, to reflect changes in mental health service utilization and access;

(11) consider changes in mental health service utilization, access, and price, and determine the actuarial value of the services in the maintenance of rates for local children's mental health collaborative provided services, subject to federal approval;

(12) provide written notice to any prepaid health plan operating within the service delivery area of a children's mental health collaborative of the collaborative's existence within 30 days of the commissioner's receipt of notice of the collaborative's formation;

(13) ensure that in a geographic area where both a prepaid health plan including those established under either section 256B.69 or 256L.12 and a local children's mental health collaborative exist, medical assistance and MinnesotaCare recipients in the operational target population who are enrolled in prepaid health plans will have the choice to receive mental health services through either the prepaid health plan or the collaborative that has a contract with the prepaid health plan, according to the terms of the contract;

(14) develop a mechanism for integrating medical assistance resources for mental health service with MinnesotaCare and any other state and local resources available for services for children in the operational target population, and develop a procedure for making these resources available for use by a local children's mental health collaborative;

(15) gather data needed to manage mental health care including evaluation data and data necessary to establish a separate capitation rate for children's mental health services if that option is selected;

(16) by January 1, 1994, develop a model contract for providers of mental health managed care that meets the requirements set out in sections 245.491 to 245.495 and 256B.69, and utilize this contract for all subsequent awards, and before January 1, 1995, the commissioner of human services shall not enter into or extend any contract for any prepaid plan that would impede the implementation of sections 245.491 to 245.495;

(17) develop revenue enhancement or rebate mechanisms and procedures to certify expenditures made through local children's mental health collaboratives for services including administration and outreach that may be eligible for federal financial participation under medical assistance and other federal programs;

(18) ensure that new contracts and extensions or modifications to existing contracts under section 256B.69 do not impede implementation of sections 245.491 to 245.495;

(19) provide technical assistance to help local children's mental health collaboratives certify local expenditures for federal financial participation, using due diligence in order to meet implementation timelines for sections 245.491 to 245.495 and recommend necessary legislation to enhance federal revenue, provide clinical and management flexibility, and otherwise meet the goals of local children's mental health collaboratives and request necessary state plan amendments to maximize the availability of medical assistance for activities undertaken by the local children's mental health collaborative;

(20) take all steps necessary to secure medical assistance reimbursement under the rehabilitation option for family community support services and therapeutic support of foster care and for individualized rehabilitation services;

(21) provide a mechanism to identify separately the reimbursement to a county for child welfare targeted case management provided to children served by the local collaborative for purposes of subsequent transfer by the county to the integrated fund;

(22) ensure that family members who are enrolled in a prepaid health plan and whose children are receiving mental health services through a local children's mental health collaborative file complaints about mental health services needed by the family members, the commissioner shall comply with section ~~256B.031, subdivision 6~~ 256B.69, subdivision 20. A collaborative may assist a family to make a complaint; and

(23) facilitate a smooth transition for children receiving prepaid medical assistance or MinnesotaCare services through a children's mental health collaborative who become enrolled in a prepaid health plan.

Sec. 3. Minnesota Statutes 2008, section 256.015, subdivision 7, is amended to read:

Subd. 7. **Cooperation with information requests required.** (a) Upon the request of the ~~Department~~ commissioner of human services~~,~~:

(1) any state agency or third party payer shall cooperate ~~with the department in~~ by furnishing information to help establish a third party liability~~. Upon the request of the Department of Human Services or county child support or human service agencies~~, as required by the federal Deficit Reduction Act of 2005, Public Law 109-171;

(2) any employer or third party payer shall cooperate ~~in~~ by furnishing a data file containing information about group health insurance ~~plans~~ plan or medical benefit ~~plans available to~~ plan coverage of its employees or insureds within 60 days of the request.

(b) For purposes of section 176.191, subdivision 4, the ~~Department~~ commissioner of labor and industry may allow the ~~Department~~ commissioner of human services and county agencies direct access and data matching on information relating to workers' compensation claims in order to

determine whether the claimant has reported the fact of a pending claim and the amount paid to or on behalf of the claimant to the ~~Department~~ commissioner of human services.

(c) For the purpose of compliance with section 169.09, subdivision 13, and federal requirements under Code of Federal Regulations, title 42, section 433.138(d)(4), the commissioner of public safety shall provide accident data as requested by the commissioner of human services. The disclosure shall not violate section 169.09, subdivision 13, paragraph (d).

(d) The ~~Department~~ commissioner of human services and county agencies shall limit its use of information gained from agencies, third party payers, and employers to purposes directly connected with the administration of its public assistance and child support programs. The provision of information by agencies, third party payers, and employers to the department under this subdivision is not a violation of any right of confidentiality or data privacy.

Sec. 4. Minnesota Statutes 2008, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. **Payments.** (a) Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Except as provided in section 256.9693, medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

(b) For fee-for-service admissions occurring on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for inpatient services is reduced by .5 percent

from the current statutory rates.

(c) In addition to the reduction in paragraph (b), the total payment for fee-for-service admissions occurring on or after July 1, 2003, made to hospitals for inpatient services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432, and facilities defined under subdivision 16 are excluded from this paragraph.

(d) In addition to the reduction in paragraphs (b) and (c), the total payment for fee-for-service admissions occurring on or after ~~July~~ August 1, 2005, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 6.0 percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Notwithstanding section 256.9686, subdivision 7, for purposes of this paragraph, medical assistance does not include general assistance medical care. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2006, to reflect this reduction.

(e) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2008, through June 30, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 3.46 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2009, through June 30, 2009, to reflect this reduction.

(f) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2009, through June 30, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.9 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2009, through June 30, 2010, to reflect this reduction.

(g) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.79 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2010, to reflect this reduction.

Sec. 5. Minnesota Statutes 2008, section 256B.037, subdivision 5, is amended to read:

Subd. 5. **Other contracts permitted.** Nothing in this section prohibits the commissioner from contracting with an organization for comprehensive health services, including dental services, under ~~section 256B.031,~~ sections 256B.035, 256B.69, or 256D.03, subdivision 4, paragraph (c).

Sec. 6. Minnesota Statutes 2008, section 256B.056, subdivision 1c, is amended to read:

Subd. 1c. **Families with children income methodology.** (a)(1) [Expired, 1Sp2003 c 14 art 12 s 17]

(2) For applications processed within one calendar month prior to July 1, 2003, eligibility shall be determined by applying the income standards and methodologies in effect prior to July 1, 2003, for any months in the six-month budget period before July 1, 2003, and the income standards and methodologies in effect on July 1, 2003, for any months in the six-month budget period on or after that date. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.

(3) For children ages one through 18 whose eligibility is determined under section 256B.057, subdivision 2, the following deductions shall be applied to income counted toward the child's eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: $90 work expense, dependent care, and child support paid under court order. This clause is effective October 1, 2003.

(b) For families with children whose eligibility is determined using the standard specified in section 256B.056, subdivision 4, paragraph (c), 17 percent of countable earned income shall be disregarded for up to four months and the following deductions shall be applied to each individual's income counted toward eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: dependent care and child support paid under court order.

(c) If the four-month disregard in paragraph (b) has been applied to the wage earner's income for four months, the disregard shall not be applied again until the wage earner's income has not been considered in determining medical assistance eligibility for 12 consecutive months.

(d) The commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

(e) For children age 18 or under, annual gifts of $2,000 or less by a tax-exempt organization to or for the benefit of the child with a life-threatening illness must be disregarded from income.

Sec. 7. Minnesota Statutes 2008, section 256B.056, subdivision 3c, is amended to read:

Subd. 3c. **Asset limitations for families and children.** A household of two or more persons must not own more than $20,000 in total net assets, and a household of one person must not own more than $10,000 in total net assets. 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 value of assets that are not considered in determining eligibility for medical assistance for families and children is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business up to $200,000 are not considered;

(3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;

(4) ~~one burial plot and all other burial expenses equal to the supplemental security income program asset limit are not considered for each individual~~ assets designated as burial expenses are excluded to the same extent they are excluded by the Supplemental Security Income program;

(5) court-ordered settlements up to $10,000 are not considered;

(6) individual retirement accounts and funds are not considered; and

(7) assets owned by children are not considered.

Sec. 8. Minnesota Statutes 2008, section 256B.056, subdivision 6, is amended to read:

Subd. 6. **Assignment of benefits.** To be eligible for medical assistance a person must have applied or must agree to apply all proceeds received or receivable by the person or the person's legal representative from any third party liable for the costs of medical care. By accepting or receiving assistance, the person is deemed to have assigned the person's rights to medical support and third party payments as required by title 19 of the Social Security Act. Persons must cooperate with the state in establishing paternity and obtaining third party payments. By accepting medical assistance, a person assigns to the Department of Human Services all rights the person may have to medical support or payments for medical expenses from any other person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment takes effect upon the determination that the applicant is eligible for medical assistance and up to three months prior to the date of application if the applicant is determined eligible for and receives medical assistance benefits. The application must contain a statement explaining this assignment. For the purposes of this section, "the Department of Human Services or the state" includes prepaid health plans under contract with the commissioner according to sections ~~256B.031,~~ 256B.69, 256D.03, subdivision 4, paragraph (c), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing facilities under the alternative payment demonstration project under section 256B.434; and the county-based purchasing entities under section 256B.692.

Sec. 9. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 13i. **Drug Utilization Review Board; report.** (a) A nine-member Drug Utilization Review Board is established. The board must be comprised of at least three but no more than four licensed physicians actively engaged in the practice of medicine in Minnesota; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative. The remainder must be made up of health care professionals who are licensed in their field and have recognized knowledge in the clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. Members of the board must be appointed by the commissioner, shall serve three-year terms, and may be reappointed by the commissioner. The board shall annually elect a chair from among its members.

(b) The board must be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board.

(c) The commissioner shall, with the advice of the board:

(1) implement a medical assistance retrospective and prospective drug utilization review program as required by United States Code, title 42, section 1396r-8(g)(3);

(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;

(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;

(4) establish a grievance and appeals process for physicians and pharmacists under this section;

(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;

(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;

(7) establish and implement an ongoing process to:

(i) receive public comment regarding drug utilization review criteria and standards; and

(ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and

(8) adopt any rules necessary to carry out this section.

(d) The board may establish advisory committees. The commissioner may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to develop and implement a retrospective and prospective review program.

(e) The board shall report to the commissioner annually on the date the drug utilization review annual report is due to the Centers for Medicare and Medicaid Services. This report must cover the preceding federal fiscal year. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; and any fiscal impact resulting from the program. An honorarium of $100 per meeting and reimbursement for mileage must be paid to each board member in attendance.

(f) This subdivision is exempt from the provisions of section 15.059. Notwithstanding section 15.059, subdivision 5, the board is permanent and does not expire.

Sec. 10. Minnesota Statutes 2008, section 256B.0625, is amended by adding a subdivision to read:

Subd. 53. **Centers of excellence.** For complex medical procedures with a high degree of variation in outcomes, for which the Medicare program requires facilities providing the services to meet certain criteria as a condition of coverage, the commissioner may develop centers of excellence facility criteria in consultation with the Health Services Policy Committee, section 256B.0625, subdivision 3c. The criteria must reflect facility traits that have been linked to superior patient safety and outcomes for the procedures in question, and must be based on the best available empirical evidence. For medical assistance recipients enrolled on a fee-for-service basis, the commissioner may make coverage for these procedures conditional upon the facility providing the services meeting the specified criteria. Only facilities meeting the criteria may be reimbursed for the procedures in question.

EFFECTIVE DATE. This section is effective August 1, 2009, or upon federal approval,

whichever is later.

Sec. 11. Minnesota Statutes 2008, section 256B.094, subdivision 3, is amended to read:

Subd. 3. **Coordination and provision of services.** (a) In a county or reservation where a prepaid medical assistance provider has contracted under section ~~256B.031 or~~ 256B.69 to provide mental health services, the case management provider shall coordinate with the prepaid provider to ensure that all necessary mental health services required under the contract are provided to recipients of case management services.

(b) When the case management provider determines that a prepaid provider is not providing mental health services as required under the contract, the case management provider shall assist the recipient to appeal the prepaid provider's denial pursuant to section 256.045, and may make other arrangements for provision of the covered services.

(c) The case management provider may bill the provider of prepaid health care services for any mental health services provided to a recipient of case management services which the county or tribal social services arranges for or provides and which are included in the prepaid provider's contract, and which were determined to be medically necessary as a result of an appeal pursuant to section 256.045. The prepaid provider must reimburse the mental health provider, at the prepaid provider's standard rate for that service, for any services delivered under this subdivision.

(d) If the county or tribal social services has not obtained prior authorization for this service, or an appeal results in a determination that the services were not medically necessary, the county or tribal social services may not seek reimbursement from the prepaid provider.

Sec. 12. Minnesota Statutes 2008, section 256B.195, subdivision 1, is amended to read:

Subdivision 1. **Federal approval required.** ~~Sections~~ Section 145.9268~~, 256.969, subdivision 26,~~ and this section are contingent on federal approval of the intergovernmental transfers and payments to safety net hospitals and community clinics authorized under this section. These sections are also contingent on current payment, by the government entities, of intergovernmental transfers under section 256B.19 and this section.

Sec. 13. Minnesota Statutes 2008, section 256B.195, subdivision 2, is amended to read:

Subd. 2. **Payments from governmental entities.** (a) In addition to any payment required under section 256B.19, effective July 15, 2001, the following government entities shall make the payments indicated ~~before noon on the 15th of each month~~ annually:

(1) Hennepin County, ~~$2,000,000~~ $24,000,000; and

(2) Ramsey County, ~~$1,000,000~~ $12,000,000.

(b) These sums shall be part of the designated governmental unit's portion of the nonfederal share of medical assistance costs. Of these payments, Hennepin County shall pay 71 percent directly to Hennepin County Medical Center, and Ramsey County shall pay 71 percent directly to Regions Hospital. The counties must provide certification to the commissioner of payments to hospitals under this subdivision.

Sec. 14. Minnesota Statutes 2008, section 256B.195, subdivision 3, is amended to read:

Subd. 3. **Payments to certain safety net providers.** (a) Effective July 15, 2001, the commissioner shall make the following payments to the hospitals indicated ~~after noon on the 15th of each month~~ annually:

(1) to Hennepin County Medical Center, any federal matching funds available to match the payments received by the medical center under subdivision 2, to increase payments for medical assistance admissions and to recognize higher medical assistance costs in institutions that provide high levels of charity care; and

(2) to Regions Hospital, any federal matching funds available to match the payments received by the hospital under subdivision 2, to increase payments for medical assistance admissions and to recognize higher medical assistance costs in institutions that provide high levels of charity care.

(b) Effective July 15, 2001, the following percentages of the transfers under subdivision 2 shall be retained by the commissioner for deposit each month into the general fund:

(1) 18 percent, plus any federal matching funds, shall be allocated for the following purposes:

(i) during the fiscal year beginning July 1, 2001, of the amount available under this clause, 39.7 percent shall be allocated to make increased hospital payments under section 256.969, subdivision 26; 34.2 percent shall be allocated to fund the amounts due from small rural hospitals, as defined in section 144.148, for overpayments under section 256.969, subdivision 5a, resulting from a determination that medical assistance and general assistance payments exceeded the charge limit during the period from 1994 to 1997; and 26.1 percent shall be allocated to the commissioner of health for rural hospital capital improvement grants under section 144.148; and

(ii) during fiscal years beginning on or after July 1, 2002, of the amount available under this clause, 55 percent shall be allocated to make increased hospital payments under section 256.969, subdivision 26, and 45 percent shall be allocated to the commissioner of health for rural hospital capital improvement grants under section 144.148; and

(2) 11 percent shall be allocated to the commissioner of health to fund community clinic grants under section 145.9268.

(c) This subdivision shall apply to fee-for-service payments only and shall not increase capitation payments or payments made based on average rates. The allocation in paragraph (b), clause (1), item (ii), to increase hospital payments under section 256.969, subdivision 26, shall not limit payments under that section.

(d) Medical assistance rate or payment changes, including those required to obtain federal financial participation under section 62J.692, subdivision 8, shall precede the determination of intergovernmental transfer amounts determined in this subdivision. Participation in the intergovernmental transfer program shall not result in the offset of any health care provider's receipt of medical assistance payment increases other than limits resulting from hospital-specific charge limits and limits on disproportionate share hospital payments.

(e) Effective July 1, 2003, if the amount available for allocation under paragraph (b) is greater than the amounts available during March 2003, after any increase in intergovernmental transfers and payments that result from section 256.969, subdivision 3a, paragraph (c), are paid to the general fund, any additional amounts available under this subdivision after reimbursement of the transfers under subdivision 2 shall be allocated to increase medical assistance payments, subject to

hospital-specific charge limits and limits on disproportionate share hospital payments, as follows:

(1) if the payments under subdivision 5 are approved, the amount shall be paid to the largest ten percent of hospitals as measured by 2001 payments for medical assistance, general assistance medical care, and MinnesotaCare in the nonstate government hospital category. Payments shall be allocated according to each hospital's proportionate share of the 2001 payments; or

(2) if the payments under subdivision 5 are not approved, the amount shall be paid to the largest ten percent of hospitals as measured by 2001 payments for medical assistance, general assistance medical care, and MinnesotaCare in the nonstate government category and to the largest ten percent of hospitals as measured by payments for medical assistance, general assistance medical care, and MinnesotaCare in the nongovernment hospital category. Payments shall be allocated according to each hospital's proportionate share of the 2001 payments in their respective category of nonstate government and nongovernment. The commissioner shall determine which hospitals are in the nonstate government and nongovernment hospital categories.

Sec. 15. Minnesota Statutes 2008, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, 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, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, 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 for the prepaid medical assistance and general assistance medical care programs 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. 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. 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 paragraph that is reasonably expected to be returned.

(d)(1) Effective for services rendered on or after January 1, 2009, the commissioner shall withhold three percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs. 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.

(2) 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 paragraph. The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) 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.

Sec. 16. Minnesota Statutes 2008, section 256B.77, subdivision 13, is amended to read:

Subd. 13. **Ombudsman.** Enrollees shall have access to ombudsman services established in section ~~256B.031, subdivision 6~~ 256B.69, subdivision 20, and advocacy services provided by the ombudsman for mental health and developmental disabilities established in sections 245.91 to 245.97. The managed care ombudsman and the ombudsman for mental health and developmental disabilities shall coordinate services provided to avoid duplication of services. For purposes of the demonstration project, the powers and responsibilities of the Office of Ombudsman for Mental Health and Developmental Disabilities, as provided in sections 245.91 to 245.97 are expanded to include all eligible individuals, health plan companies, agencies, and providers participating in the demonstration project.

Sec. 17. Minnesota Statutes 2008, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **General assistance medical care; eligibility.** (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare ~~as~~ for applicants and recipients defined in paragraph ~~(b)~~ (c), except as provided in paragraph ~~(c)~~ (d), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of $1,000 per assistance unit. General assistance medical care is not available for applicants or enrollees who are otherwise eligible for medical assistance but fail to verify their assets. Enrollees who become eligible for medical assistance shall be terminated and transferred to medical assistance. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivisions 3 and 3d, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; or

(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not

in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization~~; or~~.

~~(iii)~~ (b) the commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

~~(b)~~ (c) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may not be paid for applicants or recipients who are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines who are not described in paragraph ~~(e)~~ (f).

~~(c)~~ (d) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may be paid for applicants and recipients who meet all eligibility requirements of paragraph (a), clause (2), item (i), for a temporary period beginning the date of application. Immediately following approval of general assistance medical care, enrollees shall be enrolled in MinnesotaCare under section 256L.04, subdivision 7, with covered services as provided in section 256L.03 for the rest of the six-month general assistance medical care eligibility period, until their six-month renewal.

~~(d)~~ (e) To be eligible for general assistance medical care following enrollment in MinnesotaCare as required by paragraph ~~(c)~~ (d), an individual must complete a new application.

~~(e)~~ (f) Applicants and recipients eligible under paragraph (a), clause ~~(1)~~ (2), item (i), are exempt from the MinnesotaCare enrollment requirements in this subdivision if they:

(1) have applied for and are awaiting a determination of blindness or disability by the state medical review team or a determination of eligibility for Supplemental Security Income or Social Security Disability Insurance by the Social Security Administration;

(2) fail to meet the requirements of section 256L.09, subdivision 2;

(3) are homeless as defined by United States Code, title 42, section 11301, et seq.;

(4) are classified as end-stage renal disease beneficiaries in the Medicare program;

(5) are enrolled in private health care coverage as defined in section 256B.02, subdivision 9;

(6) are eligible under paragraph ~~(j)~~ (k);

(7) receive treatment funded pursuant to section 254B.02; or

(8) reside in the Minnesota sex offender program defined in chapter 246B.

~~(f)~~ (g) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization.

~~(g)~~ (h) Beginning September 1, 2006, Minnesota health care program applications and renewals

completed by recipients and applicants who are persons described in paragraph ~~(c)~~ (d) and submitted to the county agency shall be determined for MinnesotaCare eligibility by the county agency. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which MinnesotaCare enrollment is pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraphs ~~(c)~~ (d), ~~(e)~~ (f), and ~~(f)~~ (g).

~~(h)~~ (i) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The applicant must complete the application within the time periods required under the medical assistance program as specified in Minnesota Rules, parts 9505.0015, subpart 5, and 9505.0090, subpart 2. The county agency must assist the applicant in obtaining verification if necessary.

~~(i)~~ (j) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

~~(j)~~ (k) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

~~(k)~~ (l) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

~~(l)~~ (m) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person

payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

~~(m)~~ (n) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

~~(n)~~ (o) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the United States Citizenship and Immigration Services.

~~(o)~~ (p) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

~~(p)~~ (q) Effective July 1, 2003, general assistance medical care emergency services end.

Sec. 18. Minnesota Statutes 2008, section 256L.01, is amended by adding a subdivision to read:

Subd. 4a. **Gross individual or gross family income.** (a) "Gross individual or gross family income" for nonfarm self-employed means income calculated for the 12-month period of eligibility using as a baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in depreciation, and carryover net operating loss amounts that apply to the business in which the family is currently engaged.

(b) "Gross individual or gross family income" for farm self-employed means income calculated for the 12-month period of eligibility using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year.

(c) "Gross individual or gross family income" means the total income for all family members, calculated for the 12-month period of eligibility.

EFFECTIVE DATE. This section is effective August 1, 2009, except that the amendment made to the "gross individual or gross family income" for farm self-employed is effective July 1, 2009, or upon federal approval, whichever is later.

Sec. 19. Minnesota Statutes 2008, section 256L.03, subdivision 5, is amended to read:

Subd. 5. **Co-payments and coinsurance.** (a) Except as provided in paragraphs (b) and (c), the MinnesotaCare benefit plan shall include the following co-payments and coinsurance requirements for all enrollees:

(1) ten percent of the paid charges for inpatient hospital services for adult enrollees, subject to an annual inpatient out-of-pocket maximum of $1,000 per individual ~~and $3,000 per family~~;

(2) $3 per prescription for adult enrollees;

(3) $25 for eyeglasses for adult enrollees;

(4) $3 per nonpreventive visit. For purposes of this subdivision, a "visit" means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist; and

(5) $6 for nonemergency visits to a hospital-based emergency room.

(b) Paragraph (a), clause (1), does not apply to parents and relative caretakers of children under the age of 21.

(c) Paragraph (a) does not apply to pregnant women and children under the age of 21.

(d) Paragraph (a), clause (4), does not apply to mental health services.

(e) Adult enrollees with family gross income that exceeds 200 percent of the federal poverty guidelines or 215 percent of the federal poverty guidelines on or after July 1, 2009, and who are not pregnant shall be financially responsible for the coinsurance amount, if applicable, and amounts which exceed the $10,000 inpatient hospital benefit limit.

(f) When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the $10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded.

Sec. 20. Minnesota Statutes 2008, section 256L.15, subdivision 2, is amended to read:

Subd. 2. **Sliding fee scale; monthly gross individual or family income.** (a) The commissioner shall establish a sliding fee scale to determine the percentage of monthly gross individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's monthly gross individual or family income. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. Until June 30, 2009, the sliding fee scale begins with a premium of 1.5 percent of monthly gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more than five. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall be adjusted at the time the change in income is reported.

(b) Children in families whose gross income is above 275 percent of the federal poverty guidelines shall pay the maximum premium. The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the maximum premium for three or more enrollees shall be three times the maximum premium for one.

(c) Beginning July 1, 2009, MinnesotaCare enrollees shall pay premiums according to the premium scale specified in paragraph (d) with the exception that children in families with income at or below 150 percent of the federal poverty guidelines shall pay a monthly premium of $4. For purposes of paragraph (d), "minimum" means a monthly premium of $4.

(d) The following premium scale is established for individuals and families with gross family incomes of ~~300~~ 275 percent of the federal poverty guidelines or less:

Federal Poverty Guideline Range	**Percent of Average Gross Monthly Income**
0-45%	minimum
46-54%	$4 or 1.1% of family income, whichever is greater
55-81%	1.6%
82-109%	2.2%
110-136%	2.9%
137-164%	3.6%
165-191%	4.6%
192-219%	5.6%
220-248%	6.5%
~~249-274%~~ 249-275%	7.2%
~~275-300%~~	~~8.0%~~

EFFECTIVE DATE. This section is effective January 1, 2009, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 21. Laws 2005, First Special Session chapter 4, article 8, section 54, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective August 1, ~~2007, or upon HealthMatch implementation, whichever is later~~ 2009.

Sec. 22. Laws 2005, First Special Session chapter 4, article 8, section 61, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective August 1, ~~2007, or upon HealthMatch implementation, whichever is later~~ 2009.

Sec. 23. Laws 2005, First Special Session chapter 4, article 8, section 63, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective August 1, ~~2007, or upon HealthMatch implementation, whichever is later~~ 2009.

Sec. 24. Laws 2005, First Special Session chapter 4, article 8, section 66, the effective date, is amended to read:

EFFECTIVE DATE. Paragraph (a) is effective August 1, ~~2007, or upon HealthMatch implementation, whichever is later~~ 2009, and paragraph (e) is effective September 1, 2006.

Sec. 25. Laws 2005, First Special Session chapter 4, article 8, section 74, the effective date, is amended to read:

EFFECTIVE DATE. The amendment to paragraph (a) changing gross family or individual income to monthly gross family or individual income is effective August 1, ~~2007, or upon implementation of HealthMatch, whichever is later~~ 2009. The amendment to paragraph (a) related to premium adjustments and changes of income and the amendment to paragraph (c) are effective September 1, 2005, or upon federal approval, whichever is later. ~~Prior to the implementation of HealthMatch,~~ The commissioner shall implement this section to the fullest extent possible, including the use of manual processing. ~~Upon implementation of HealthMatch, the commissioner shall implement this section in a manner consistent with the procedures and requirements of HealthMatch.~~

Sec. 26. **REPEALER.**

(a) Minnesota Statutes 2008, sections 256B.031; and 256L.01, subdivision 4, are repealed.

(b) Laws 2005, First Special Session chapter 4, article 8, sections 21; 22; 23; and 24, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2009."

Delete the title and insert:

"A bill for an act relating to state government; making technical health and human services changes; making health care program policy changes; changing health care eligibility provisions; authorizing rulemaking; requiring reports; changing appropriations; appropriating money; amending Minnesota Statutes 2008, sections 62J.2930, subdivision 3; 62J.497, subdivision 5, as added; 144.0724, subdivision 11, as added; 245.494, subdivision 3; 245A.11, subdivision 7a, as added; 245C.03, by adding a subdivision; 245C.04, subdivision 1, as amended, by adding a subdivision; 245C.05, subdivision 2b, as added; 245C.10, subdivision 5, as added, by adding a subdivision; 245C.21, subdivision 1a, as amended; 246.50, subdivision 3; 256.01, subdivision 18b, as added; 256.015, subdivision 7; 256.969, subdivisions 2b, as amended, 3a, 29, as added, by adding a subdivision; 256.975, subdivision 7, as amended; 256B.037, subdivision 5; 256B.056, subdivisions 1c, 3b, 3c, 6; 256B.057, subdivision 11, as added; 256B.06, subdivision 4, as amended; 256B.0625, subdivisions 3c, as amended, 13h, as amended, by adding subdivisions; 256B.0655, subdivision 4, as amended; 256B.0659, subdivisions 9, as added, 10, as added, 13, as added, 21, as

added, 29, as added; 256B.0911, subdivision 1a, as amended; 256B.094, subdivision 3; 256B.195, subdivisions 1, 2, 3; 256B.441, subdivision 55, as amended; 256B.49, subdivision 11a, as added; 256B.69, subdivision 5a; 256B.756, as added; 256B.76, subdivision 1, as amended; 256B.77, subdivision 13; 256D.03, subdivisions 3, 4, as amended; 256J.575, subdivision 3, as amended; 256L.01, by adding a subdivision; 256L.03, subdivisions 3b, as added, 5; 256L.04, subdivision 1, as amended; 256L.05, subdivision 1c, as added; 256L.11, subdivision 1, as amended; 256L.15, subdivision 2; 402A.30, subdivision 4, as added; 626.556, subdivision 3c, as amended; Laws 2005, First Special Session chapter 4, article 8, sections 54; 61; 63; 66; 74; Laws 2009, chapter 79, article 2, section 36; article 5, sections 25; 52; article 8, sections 8; 13; 73; article 10, section 46; article 13, sections 3; 4; 5; 6; repealing Minnesota Statutes 2008, sections 256B.031; 256L.01, subdivision 4; Laws 2005, First Special Session chapter 4, article 8, sections 21; 22; 23; 24; Laws 2009, chapter 79, article 7, section 12; article 13, sections 7; 8."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Thomas Huntley, Paul Thissen, Karen Clark, Larry Hosch, Jim Abeler

Senate Conferees: (Signed) Linda Berglin, Tony Lourey, Kathy Sheran, Julie Rosen, Yvonne Prettner Solon

Senator Berglin moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1988 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1988 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Senjem
Bakk	Fischbach	Kubly	Ortman	Sheran
Berglin	Fobbe	Langseth	Pappas	Sieben
Betzold	Foley	Latz	Pariseau	Skoe
Bonoff	Frederickson	Lourey	Pogemiller	Skogen
Carlson	Gerlach	Lynch	Prettner Solon	Sparks
Chaudhary	Gimse	Marty	Rest	Stumpf
Clark	Hann	Metzen	Robling	Tomassoni
Dahle	Higgins	Michel	Rosen	Torres Ray
Day	Johnson	Moua	Rummel	Vandeveer
Dibble	Jungbauer	Murphy	Saltzman	Vickerman
Dille	Kelash	Olseen	Saxhaug	Wiger
Doll	Koch	Olson, G.	Scheid	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1276, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1276 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1276

A bill for an act relating to health and human services; relieving counties of certain mandates; making changes to residential treatment facilities; county payment of cremation, burial, and funeral expenses; child welfare provisions; health plan audits; nursing facilities; home health aides; inspections of day training and habilitation facilities; changing certain health care provisions relating to school districts, charter schools, and local governments; amending Minnesota Statutes 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision 11, by adding a subdivision; 144A.43, by adding a subdivision; 144A.45, subdivision 1, by adding a subdivision; 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a; 256.935, subdivision 1; 256.962, subdivisions 6, 7; 256B.0945, subdivisions 1, 4; 256F.13, subdivision 1; 260C.212, subdivisions 4a, 11; 261.035; 471.61, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245B; repealing Minnesota Rules, part 4668.0110, subpart 5.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1276 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1276 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

HUMAN SERVICES

Section 1. Minnesota Statutes 2008, section 245.4882, subdivision 1, is amended to read:

Subdivision 1. **Availability of residential treatment services.** County boards must provide or contract for enough residential treatment services to meet the needs of each child with severe emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be subject to the six-month review process established in section 260C.212, ~~subdivisions 7 and 9~~ subdivision 7, and for children in voluntary placement for treatment, the court review process in section 260D.06. Services must be appropriate to the child's age and treatment needs and must be made available as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;

(2) help the child improve family living and social interaction skills;

(3) help the child gain the necessary skills to return to the community;

(4) stabilize crisis admissions; and

(5) work with families throughout the placement to improve the ability of the families to care for children with severe emotional disturbance in the home.

Sec. 2. Minnesota Statutes 2008, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** ~~The county board shall,~~ (a) Prior to admission, except in the case of emergency admission, ~~determine the needed level of care for~~ all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public funds are used to pay for the services. ~~The county board shall also determine the needed level of care for all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services.~~

(b) The county board shall determine the appropriate level of care when county-controlled funds are used to pay for the services. When the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care. When more than one entity bears responsibility for coverage, the entities shall coordinate level of care determination activities to the extent possible.

(c) The level of care determination shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's need.

(d) When a level of care determination is conducted, the ~~county board~~ responsible entity may not determine that referral or admission to a treatment foster care setting, or residential treatment facility~~, or acute care hospital~~ is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment

goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

(f) The level of care determination shall comply with section 260C.212. ~~Wherever possible,~~ The parent shall be consulted in the process, unless clinically ~~inappropriate~~ detrimental to the child.

(g) The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

~~An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).~~

Sec. 3. Minnesota Statutes 2008, section 245.4885, subdivision 1a, is amended to read:

Subd. 1a. **Emergency admission.** Effective July 1, 2006, if a child is admitted to a treatment foster care setting, residential treatment facility, or acute care hospital for emergency treatment or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, the level of care determination must occur within ~~three~~ five working days of admission.

Sec. 4. Minnesota Statutes 2008, section 256.935, subdivision 1, is amended to read:

Subdivision 1. **Cremation, burial, and funeral expenses.** On the death of any person receiving public assistance through MFIP, the county agency shall ~~pay~~ attempt to contact the decedent's spouse or next of kin. If the agency is not able to contact a spouse or next of kin and the personal preferences of the decedent or the practices of the decedent's faith tradition are not known, the agency shall pay for cremation of the person's remains and their burial or interment if the spouse or next of kin does not want to take possession of the ashes. If the county agency contacts the decedent's spouse or next of kin and it is determined that cremation is not in accordance with the decedent's personal preferences or the practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin, the county agency shall pay an amount for funeral expenses including the transportation of the body into or out of the community in which the deceased resided not exceeding the amount paid for comparable services under section 261.035

plus actual cemetery charges. No cremation, burial, or funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is able to pay such expenses~~; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized~~. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the cremation or burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant cremation, burial, or funeral expenses where the sale would cause undue loss to the estate. Any amount paid for cremation, burial, or funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph ~~(17)~~ (q). The state share shall pay the entire amount of county agency expenditures. Benefits shall be issued to recipients by the state or county subject to provisions of section 256.017.

Sec. 5. Minnesota Statutes 2008, section 256B.0945, subdivision 1, is amended to read:

Subdivision 1. **Residential services; provider qualifications.** Counties must arrange to provide residential services for children with severe emotional disturbance according to sections 245.4882, 245.4885, and this section. Services must be provided by a facility that is licensed according to section 245.4882 and administrative rules promulgated thereunder, and under contract with the county. Eligible service costs may be claimed for a facility that is located in a state that borders Minnesota if:

(1) the facility is the closest facility to the child's home, providing the appropriate level of care; and

(2) the commissioner of human services has completed an inspection of the out-of-state program according to the interagency agreement with the commissioner of corrections under section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to substantially meet the standards applicable to children's residential mental health treatment programs under Minnesota Rules, chapter 2960. Nothing in this section requires the commissioner of human services to enforce the background study requirements under chapter 245C or the requirements related to prevention and investigation of alleged maltreatment under section 626.556 or 626.557. Complaints received by the commissioner of human services must be referred to the out-of-state licensing authority for possible follow-up.

Sec. 6. Minnesota Statutes 2008, section 256B.0945, subdivision 4, is amended to read:

Subd. 4. **Payment rates.** (a) Notwithstanding sections 256B.19 and 256B.041, payments to counties for residential services provided by a residential facility shall only be made of federal earnings for services provided under this section, and the nonfederal share of costs for services provided under this section shall be paid by the county from sources other than federal funds or funds used to match other federal funds. Payment to counties for services provided according to this section shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as

room and board.

(b) Per diem rates paid to providers under this section by prepaid plans shall be the proportion of the per-day contract rate that relates to rehabilitative mental health services and shall not include payment for group foster care costs or services that are billed to the county of financial responsibility. Services provided in facilities located in bordering states are eligible for reimbursement on a fee-for-service basis only as described in paragraph (a) and are not covered under prepaid health plans.

(c) The commissioner shall set aside a portion not to exceed five percent of the federal funds earned for county expenditures under this section to cover the state costs of administering this section. Any unexpended funds from the set-aside shall be distributed to the counties in proportion to their earnings under this section.

Sec. 7. Minnesota Statutes 2008, section 256F.13, subdivision 1, is amended to read:

Subdivision 1. **Federal revenue enhancement.** (a) The commissioner of human services may enter into an agreement with one or more family services collaboratives to enhance federal reimbursement under title IV-E of the Social Security Act and federal administrative reimbursement under title XIX of the Social Security Act. The commissioner may contract with the Department of Education for purposes of transferring the federal reimbursement to the commissioner of education to be distributed to the collaboratives according to clause (2). The commissioner shall have the following authority and responsibilities regarding family services collaboratives:

(1) the commissioner shall submit amendments to state plans and seek waivers as necessary to implement the provisions of this section;

(2) the commissioner shall pay the federal reimbursement earned under this subdivision to each collaborative based on their earnings. Payments to collaboratives for expenditures under this subdivision will only be made of federal earnings from services provided by the collaborative;

(3) the commissioner shall review expenditures of family services collaboratives using reports specified in the agreement with the collaborative to ensure that the base level of expenditures is continued and new federal reimbursement is used to expand education, social, health, or health-related services to young children and their families;

(4) the commissioner may reduce, suspend, or eliminate a family services collaborative's obligations to continue the base level of expenditures or expansion of services if the commissioner determines that one or more of the following conditions apply:

(i) imposition of levy limits that significantly reduce available funds for social, health, or health-related services to families and children;

(ii) reduction in the net tax capacity of the taxable property eligible to be taxed by the lead county or subcontractor that significantly reduces available funds for education, social, health, or health-related services to families and children;

(iii) reduction in the number of children under age 19 in the county, collaborative service delivery area, subcontractor's district, or catchment area when compared to the number in the base year using the most recent data provided by the State Demographer's Office; or

(iv) termination of the federal revenue earned under the family services collaborative agreement;

(5) the commissioner shall not use the federal reimbursement earned under this subdivision in determining the allocation or distribution of other funds to counties or collaboratives;

(6) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of this subdivision;

(7) the commissioner shall recover from the family services collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the family services collaborative's actions in the integrated fund, or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample; and

(8) the commissioner shall establish criteria for the family services collaborative for the accounting and financial management system that will support claims for federal reimbursement.

(b) The family services collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the family services collaborative shall be the party with which the commissioner contracts. A lead county shall be designated as the fiscal agency for reporting, claiming, and receiving payments;

(2) the family services collaboratives may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement, or to expand education, social, health, or health-related services to families and children;

(3) ~~the family services collaborative must continue the base level of expenditures for education, social, health, or health-related services to families and children from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services, except as provided in paragraph (a), clause (4). The base year for purposes of this subdivision shall be the four quarter calendar year ending at least two calendar quarters before the first calendar quarter in which the new federal reimbursement is earned;~~

~~(4)~~ the family services collaborative must use all new federal reimbursement resulting from federal revenue enhancement to expand expenditures for education, social, health, or health-related services to families and children beyond the base level, except as provided in paragraph (a), clause (4);

~~(5)~~ (4) the family services collaborative must ensure that expenditures submitted for federal reimbursement are not made from federal funds or funds used to match other federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family services collaborative expenditures under agreement with the department, the nonfederal share of costs shall be provided by the family services collaborative from sources other than federal funds or funds used to match other federal funds;

~~(6)~~ (5) the family services collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the agreement; and

~~(7)~~ (6) the family services collaborative shall submit an annual report to the commissioner as specified in the agreement.

Sec. 8. Minnesota Statutes 2008, section 260C.212, subdivision 4a, is amended to read:

Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker or another person who has responsibility for visitation of the child on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child.

Sec. 9. Minnesota Statutes 2008, section 260C.212, subdivision 11, is amended to read:

Subd. 11. **Rules; family and group foster care.** ~~The commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0260, the rules setting standards for family and group family foster care.~~ The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on understanding and validating the cultural heritage of all children in their care, and on the importance of the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; ~~and~~

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures; and

(3) relieve relative foster care providers of the requirements promulgated as a result of clauses (1) and (2) when the safety of the child is not jeopardized and as allowed under federal law.

Sec. 10. Minnesota Statutes 2008, section 261.035, is amended to read:

261.035 CREMATION, BURIAL, AND FUNERALS AT EXPENSE OF COUNTY.

When a person dies in any county without apparent means to provide for that person's funeral or final disposition, the county board shall first investigate to determine whether that person had contracted for any prepaid funeral arrangements. If prepaid arrangements have been made, the county shall authorize arrangements to be implemented in accord with the instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary

expenses of a funeral and final disposition, nor any spouse of sufficient ability to procure the burial, the county board shall ~~provide~~ pay for ~~a funeral and final disposition~~ cremation of the person's remains ~~to be made at the expense of the county.~~ and the person's burial or interment if the spouse or next of kin does not want to take possession of the ashes. If it is determined that cremation is not in accordance with the decedent's personal preferences or the known practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin, the county board shall provide for a burial and funeral. Any burial, funeral, and final disposition provided at the expense of the county shall be in accordance with ~~religious and moral beliefs of the decedent or~~ personal preferences or known practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin. If neither the wishes of the decedent ~~are not known~~, nor the practices of the decedent's faith tradition are known, and the county has no information about the existence of or location of any next of kin, the county ~~may determine the method of final disposition~~ may provide for cremation of the person's remains and burial or interment.

ARTICLE 2

HEALTH CARE AND EDUCATION

Section 1. Minnesota Statutes 2008, section 62Q.37, subdivision 3, is amended to read:

Subd. 3. **Audits.** (a) The commissioner may conduct routine audits and investigations as prescribed under the commissioner's respective state authorizing statutes. If a nationally recognized independent organization has conducted an audit of the health plan company using audit procedures that are comparable to or more stringent than the commissioner's audit procedures:

(1) the commissioner ~~may~~ shall accept the independent audit, including standards and audit practices, and require no further audit if the results of the independent audit show that the performance standard being audited meets or exceeds state standards;

(2) the commissioner may accept the independent audit and limit further auditing if the results of the independent audit show that the performance standard being audited partially meets state standards;

(3) the health plan company must demonstrate to the commissioner that the nationally recognized independent organization that conducted the audit is qualified and that the results of the audit demonstrate that the particular performance standard partially or fully meets state standards; and

(4) if the commissioner has partially or fully accepted an independent audit of the performance standard, the commissioner may use the finding of a deficiency with regard to statutes or rules by an independent audit as the basis for a targeted audit or enforcement action.

(b) If a health plan company has formally delegated activities that are required under either state law or contract to another organization that has undergone an audit by a nationally recognized independent organization, that health plan company may use the nationally recognized accrediting body's determination on its own behalf under this section.

Sec. 2. Minnesota Statutes 2008, section 144A.04, subdivision 11, is amended to read:

Subd. 11. **Incontinent residents.** Notwithstanding Minnesota Rules, part 4658.0520, an

incontinent resident must be ~~checked according to a specific time interval written in the resident's~~ treated according to the comprehensive assessment and care plan. ~~The resident's attending physician must authorize in writing any interval longer than two hours unless the resident, if competent, or a family member or legally appointed conservator, guardian, or health care agent of a resident who is not competent, agrees in writing to waive physician involvement in determining this interval, and this waiver is documented in the resident's care plan.~~

Sec. 3. Minnesota Statutes 2008, section 144A.04, is amended by adding a subdivision to read:

Subd. 12. **Resident positioning.** Notwithstanding Minnesota Rules, part 4658.0525, subpart 4, the position of residents unable to change their own position must be changed based on the comprehensive assessment and care plan.

Sec. 4. Minnesota Statutes 2008, section 144A.43, is amended by adding a subdivision to read:

Subd. 5. **Medication reminder.** "Medication reminder" means providing a verbal or visual reminder to a client to take medication. This includes bringing the medication to the client and providing liquids or nutrition to accompany medication that a client is self-administering.

Sec. 5. Minnesota Statutes 2008, section 144A.45, subdivision 1, is amended to read:

Subdivision 1. **Rules.** The commissioner shall adopt rules for the regulation of home care providers pursuant to sections 144A.43 to 144A.47. The rules shall include the following:

(1) provisions to assure, to the extent possible, the health, safety and well-being, and appropriate treatment of persons who receive home care services;

(2) requirements that home care providers furnish the commissioner with specified information necessary to implement sections 144A.43 to 144A.47;

(3) standards of training of home care provider personnel, which may vary according to the nature of the services provided or the health status of the consumer;

(4) standards for medication management which may vary according to the nature of the services provided, the setting in which the services are provided, or the status of the consumer. Medication management includes the central storage, handling, distribution, and administration of medications;

(5) standards for supervision of home care services requiring supervision by a registered nurse or other appropriate health care professional which must occur on site at least every 62 days, or more frequently if indicated by a clinical assessment, and in accordance with sections 148.171 to 148.285 and rules adopted thereunder, except that~~, notwithstanding the provisions of Minnesota Rules, part 4668.0110, subpart 5, item B, supervision of~~ a person performing home care aide tasks for a class B licensee providing paraprofessional services ~~must occur only every 180 days, or more frequently if indicated by a clinical assessment~~ does not require nursing supervision;

(6) standards for client evaluation or assessment which may vary according to the nature of the services provided or the status of the consumer;

(7) requirements for the involvement of a consumer's physician, the documentation of physicians' orders, if required, and the consumer's treatment plan, and the maintenance of accurate, current clinical records;

(8) the establishment of different classes of licenses for different types of providers and different standards and requirements for different kinds of home care services; and

(9) operating procedures required to implement the home care bill of rights.

Sec. 6. Minnesota Statutes 2008, section 144A.45, is amended by adding a subdivision to read:

Subd. 1b. **Home health aide qualifications.** Notwithstanding the provisions of Minnesota Rules, part 4668.0100, subpart 5, a person may perform home health aide tasks if the person maintains current registration as a nursing assistant on the Minnesota nursing assistant registry. Maintaining current registration on the Minnesota nursing assistant registry satisfies the documentation requirements of Minnesota Rules, part 4668.0110, subpart 3.

Sec. 7. Minnesota Statutes 2008, section 147C.10, subdivision 2, as amended by Laws 2009, chapter 142, article 2, section 3, is amended to read:

Subd. 2. **Other health care practitioners.** (a) Nothing in this chapter shall prohibit the practice of any profession or occupation licensed or registered by the state by any person duly licensed or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.

(b) Nothing in this chapter shall be construed to require a respiratory care license for:

(1) a student enrolled in a respiratory therapy or polysomnography technology education program accredited by the Commission on Accreditation of Allied Health Education Programs, its successor organization, or another nationally recognized accrediting organization;

(2) a respiratory therapist as a member of the United States armed forces while performing duties incident to that duty;

(3) an individual employed by a durable medical equipment provider or a home medical equipment provider who delivers, sets up, instructs the patient on the use of, or maintains respiratory care equipment, but does not perform assessment, education, or evaluation of the patient;

(4) self-care by a patient or gratuitous care by a friend or relative who does not purport to be a licensed respiratory therapist; or

(5) an individual employed in a sleep lab or center as a polysomnographic technologist under the supervision of a licensed physician.

Sec. 8. **[245B.031] ACCREDITATION, ALTERNATIVE INSPECTION, AND DEEMED COMPLIANCE.**

Subdivision 1. **Day training and habilitation or supported employment services programs; alternative inspection status.** (a) A license holder providing day training and habilitation services or supported employment services according to this chapter, with a three-year accreditation from the Commission on Rehabilitation Facilities, that has had at least one on-site inspection by the commissioner following issuance of the initial license, may request alternative inspection status under this section.

(b) The request for alternative inspection status must be made in the manner prescribed by the commissioner, and must include:

(1) a copy of the license holder's application to the Commission on Rehabilitation Facilities for accreditation;

(2) the most recent Commission on Rehabilitation Facilities accreditation survey report; and

(3) the most recent letter confirming the three-year accreditation and approval of the license holder's quality improvement plan.

Based on the request and the accompanying materials, the commissioner may approve alternative inspection status.

(c) Following approval of alternative inspection status, the commissioner may terminate the alternative inspection status or deny a subsequent alternative inspection status if the commissioner determines that any of the following conditions have occurred after approval of the alternative inspection process:

(1) the license holder has not maintained full three-year accreditation;

(2) the commissioner has substantiated maltreatment for which the license holder or facility is determined to be responsible during the three-year accreditation period; and

(3) during the three-year accreditation period, the license holder has been issued an order for conditional license, a fine, suspension, or license revocation that has not been reversed upon appeal.

(d) The commissioner's decision that the conditions for approval for the alternative licensing inspection status have not been met is final and not subject to appeal under the provisions of chapter 14.

Subd. 2. **Programs exempt from certain statutes.** (a) A license holder approved for alternative inspection status under this section is exempt from the requirements under:

(1) section 245B.04;

(2) section 245B.05, subdivisions 5 and 6;

(3) section 245B.06, subdivisions 1, 3, 4, 5, and 6; and

(4) section 245B.07, subdivisions 1, 4, and 6.

(b) Upon receipt of a complaint regarding a requirement under paragraph (a), the commissioner shall refer the complaint to the Commission on Rehabilitation Facilities for possible follow-up.

Subd. 3. **Programs deemed to be in compliance with nonexempt licensing requirements.** (a) License holders approved for alternative inspection status under this section are required to maintain compliance with all licensing standards from which they are not exempt under subdivision 2, paragraph (a).

(b) License holders approved for alternative inspection status under this section shall be deemed to be in compliance with all nonexempt statutes, and the commissioner shall not perform routine licensing inspections.

(c) Upon receipt of a complaint regarding the services of a license holder approved for alternative inspection under this section that is not related to a licensing requirement from which the license

holder is exempt under subdivision 2, the commissioner shall investigate the complaint and may take any action as provided under section 245A.06 or 245A.07.

Subd. 4. **Investigations of alleged maltreatment of minors or vulnerable adults.** Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under section 626.556 or vulnerable adult under section 626.557.

Subd. 5. **Request to Commission on Rehabilitation Facilities to expand accreditation survey.** The commissioner shall submit a request to the Commission on Rehabilitation Facilities to routinely inspect for compliance with standards that are similar to the following nonexempt licensing requirements:

(1) section 245A.54;

(2) section 245A.66;

(3) section 245B.05, subdivisions 1, 2, and 7;

(4) section 245B.055;

(5) section 245B.06, subdivisions 2, 7, 9, and 10;

(6) section 245B.07, subdivisions 2, 5, and 8, paragraph (a), clause (7);

(7) section 245C.04, subdivision 1, paragraph (f);

(8) section 245C.07;

(9) section 245C.13, subdivision 2;

(10) section 245C.20; and

(11) Minnesota Rules, parts 9525.2700 to 9525.2810.

Sec. 9. Minnesota Statutes 2008, section 256.962, subdivision 6, is amended to read:

Subd. 6. **School districts and charter schools.** (a) At the beginning of each school year, a school district or charter school shall provide information to each student on the availability of health care coverage through the Minnesota health care programs.

(b) ~~For each child who is determined to be eligible for the free and reduced-price school lunch program, the district shall provide the child's family with information on how to obtain an application for the Minnesota health care programs and application assistance.~~

~~(c)~~ A school district or charter school shall also ensure that applications and information on application assistance are available at early childhood education sites and public schools located within the district's jurisdiction.

~~(d) Each district shall designate an enrollment specialist to provide application assistance and follow-up services with families who have indicated an interest in receiving information or an application for the Minnesota health care program. A district is eligible for the application assistance bonus described in subdivision 5.~~

~~(e) Each~~ (c) If a school district or charter school maintains a district Web site, the school district or

charter school shall provide on ~~their~~ its Web site a link to information on how to obtain an application and application assistance.

Sec. 10. Minnesota Statutes 2008, section 260B.171, subdivision 3, is amended to read:

Subd. 3. **Disposition order; copy to school.** (a) If a juvenile is enrolled in school, the juvenile's probation officer shall ~~transmit a~~ ensure that either a mailed notice or an electronic copy of the court's disposition order be transmitted to the superintendent of the juvenile's school district or the chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for committing an act on the school's property or an act:

(1) that would be a violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.3451 (fifth-degree criminal sexual conduct); 609.498 (tampering with a witness); 609.561 (first-degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or 609.749 (harassment and stalking), if committed by an adult;

(2) that would be a violation of section 152.021 (first-degree controlled substance crime); 152.022 (second-degree controlled substance crime); 152.023 (third-degree controlled substance crime); 152.024 (fourth-degree controlled substance crime); 152.025 (fifth-degree controlled substance crime); 152.0261 (importing a controlled substance); 152.0262 (possession of substances with intent to manufacture methamphetamine); or 152.027 (other controlled substance offenses), if committed by an adult; or

(3) that involved the possession or use of a dangerous weapon as defined in section 609.02, subdivision 6.

When a disposition order is transmitted under this subdivision, the probation officer shall notify the juvenile's parent or legal guardian that the disposition order has been shared with the juvenile's school.

(b) In addition, the juvenile's probation officer may transmit a copy of the court's disposition order to the superintendent of the juvenile's school district or the chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for offenses not listed in paragraph (a) and placed on probation. The probation officer shall notify the superintendent or chief administrative officer when the juvenile is discharged from probation.

(c) The disposition order must be accompanied by a notice to the school that the school may obtain additional information from the juvenile's probation officer with the consent of the juvenile or the juvenile's parents, as applicable. The disposition order must be maintained, shared, or released only as provided in section 121A.75.

(d) The juvenile's probation officer shall maintain a record of disposition orders released under this subdivision and the basis for the release.

(e) No later than September 1, 2002, the criminal and juvenile justice information policy group, in consultation with representatives of probation officers and educators, shall prepare standard forms for use by juvenile probation officers in forwarding information to schools under this subdivision and in maintaining a record of the information that is released. The group shall provide a copy of any forms or procedures developed under this paragraph to the legislature by January 15, 2003.

(f) As used in this subdivision, "school" means a charter school or a school as defined in section 120A.22, subdivision 4, except a home school.

Sec. 11. Minnesota Statutes 2008, section 471.61, subdivision 1, is amended to read:

Subdivision 1. **Officers, employees.** A county, municipal corporation, town, school district, county extension committee, other political subdivision or other body corporate and politic of this state, other than the state or any department of the state, through its governing body, and any two or more subdivisions acting jointly through their governing bodies, may insure or protect its or their officers and employees, and their dependents, or any class or classes of officers, employees, or dependents, under a policy or policies or contract or contracts of group insurance or benefits covering life, health, and accident, in the case of employees, and medical and surgical benefits and hospitalization insurance or benefits for both employees and dependents or dependents of an employee whose death was due to causes arising out of and in the course of employment, or any one or more of those forms of insurance or protection. A governmental unit, including county extension committees and those paying their employees, may pay all or any part of the premiums or charges on the insurance or protection. A payment is deemed to be additional compensation paid to the officers or employees, but for purposes of determining contributions or benefits under a public pension or retirement system it is not deemed to be additional compensation. One or more governmental units may determine that a person is an officer or employee if the person receives income from the governmental subdivisions without regard to the manner of election or appointment, including but not limited to employees of county historical societies that receive funding from the county and employees of the Minnesota Inter-county Association. The appropriate officer of the governmental unit, or those disbursing county extension funds, shall deduct from the salary or wages of each officer and employee who elects to become insured or so protected, on the officer's or employee's written order, all or part of the officer's or employee's share of premiums or charges and remit the share or portion to the insurer or company issuing the policy or contract.

A governmental unit, other than a school district, that pays all or part of the premiums or charges is authorized to levy and collect a tax, if necessary, in the next annual tax levy for the purpose of providing the necessary money for the payment of the premiums or charges, and the sums levied and appropriated are not, in the event the sum exceeds the maximum sum allowed by the charter of a municipal corporation, considered part of the cost of government of the governmental unit as defined in any levy or expenditure limitation; provided at least 50 percent of the cost of benefits on dependents must be contributed by the employee or be paid by levies within existing charter tax limitations.

The word "dependents" as used in this subdivision means spouse and minor unmarried children under the age of 18 years actually dependent upon the employee.

Notwithstanding any law to the contrary, a political subdivision described in this subdivision may provide health benefits to its employees, dependents, and any class or classes of officers, employers, or dependents through negotiated contributions to self-funded multiemployer health and welfare

funds.

EFFECTIVE DATE. This section is effective the day following final enactment; applies to contributions made before, on, or after that date; and is intended as a clarification of existing law.

Sec. 12. **REPEALER.**

Minnesota Rules, part 4668.0110, subpart 5, is repealed."

Delete the title and insert:

"A bill for an act relating to local government; relieving counties of certain health and human services mandates; making changes to residential treatment facilities; county payment of cremation, burial, and funeral expenses; child welfare provisions; health plan audits; nursing facilities; home health aides; inspections of day training and habilitation facilities; changing certain health care provisions relating to school districts, charter schools, and local governments; amending Minnesota Statutes 2008, sections 62Q.37, subdivision 3; 144A.04, subdivision 11, by adding a subdivision; 144A.43, by adding a subdivision; 144A.45, subdivision 1, by adding a subdivision; 147C.10, subdivision 2, as amended; 245.4882, subdivision 1; 245.4885, subdivisions 1, 1a; 256.935, subdivision 1; 256.962, subdivision 6; 256B.0945, subdivisions 1, 4; 256F.13, subdivision 1; 260B.171, subdivision 3; 260C.212, subdivisions 4a, 11; 261.035; 471.61, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245B; repealing Minnesota Rules, part 4668.0110, subpart 5."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Kim Norton, Patti Fritz, Matt Dean

Senate Conferees: (Signed) Ann Lynch, Ann H. Rest, David Hann

Senator Lynch moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1276 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1276 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Jungbauer	Michel	Robling
Bakk	Erickson Ropes	Kelash	Moua	Rosen
Berglin	Fischbach	Koch	Murphy	Rummel
Betzold	Fobbe	Koering	Olseen	Saltzman
Carlson	Foley	Kubly	Olson, G.	Saxhaug
Chaudhary	Frederickson	Langseth	Olson, M.	Scheid
Clark	Gerlach	Latz	Ortman	Senjem
Cohen	Gimse	Limmer	Pappas	Sheran
Dahle	Hann	Lourey	Pariseau	Sieben
Day	Higgins	Lynch	Pogemiller	Skoe
Dibble	Ingebrigtsen	Marty	Prettner Solon	Skogen
Dille	Johnson	Metzen	Rest	Sparks

Stumpf	Torres Ray	Vickerman
Tomassoni	Vandeveer	Wiger

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1728, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1728 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1728

A bill for an act relating to human services; amending child care programs, program integrity, and adult supports including general assistance medical care and group residential housing; amending Minnesota Statutes 2008, sections 119B.011, subdivision 3; 119B.08, subdivision 2; 119B.09, subdivision 1; 119B.12, subdivision 1; 119B.13, subdivision 6; 119B.15; 119B.231, subdivision 3; 256.014, subdivision 1; 256.0471, subdivision 1, by adding a subdivision; 256D.01, subdivision 1b; 256D.44, subdivision 3; 256I.04, subdivisions 2a, 3; 256I.05, subdivision 1k.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1728 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1728 be further amended as follows:

Page 6, after line 34, insert:

"Sec. 4. **INVENTORY OF EARLY CHILDHOOD SERVICES.**

Subdivision 1. **Creation.** (a) The State Advisory Council on Early Childhood Education and Care under Minnesota Statutes, section 124D.141, shall create an inventory of early childhood services.

(b) The inventory shall to the degree resources are available:

(1) identify programs and initiatives funded by state, federal, or private dollars;

(2) provide brief descriptions and any existing evaluations of programs under which services are received;

(3) provide budget allocations toward the outcome areas; and

(4) include subsections describing specific:

(i) geographic regions served by the program;

(ii) number of children eligible;

(iii) number of children enrolled; and

(iv) age, ethnicity and race, and family income demographics of children enrolled.

Subd. 2. **Funding.** The council is encouraged to seek and use federal and private funds for the inventory."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Diane Loeffler, Nora Slawik, Tara Mack

Senate Conferees: (Signed) Patricia Torres Ray, John Marty, Amy Koch

Senator Torres Ray moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1728 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1728 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koering	Olson, M.	Sheran
Bakk	Fischbach	Kubly	Ortman	Sieben
Berglin	Fobbe	Langseth	Pappas	Skoe
Betzold	Foley	Latz	Pariseau	Skogen
Bonoff	Frederickson	Limmer	Pogemiller	Sparks
Carlson	Gerlach	Lourey	Prettner Solon	Stumpf
Chaudhary	Gimse	Lynch	Rest	Tomassoni
Clark	Hann	Marty	Robling	Torres Ray
Cohen	Higgins	Metzen	Rosen	Vandeveer
Dahle	Ingebrigtsen	Michel	Rummel	Vickerman
Day	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Murphy	Saxhaug	
Dille	Kelash	Olseen	Scheid	
Doll	Koch	Olson, G.	Senjem	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1237, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1237 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1237

A bill for an act relating to natural resources; modifying wild rice season and harvest authority; modifying certain definitions; modifying state park permit requirements; modifying authority to establish secondary units; eliminating liquor service at John A. Latsch State Park; providing for establishment of boater waysides; modifying watercraft and off-highway motorcycle operation requirements; expanding snowmobile grant-in-aid program; modifying state trails; modifying Water Law; providing for appeals and enforcement of certain civil penalties; providing for taking wild animals to protect public safety; modifying Board of Water and Soil Resources membership; modifying local water program; modifying Reinvest in Minnesota Resources Law; modifying certain easement authority; providing for notice of changes to public waters inventory; modifying critical habitat plate eligibility; modifying cost-share program; amending Minnesota Statutes 2008, sections 84.105; 84.66, subdivision 2; 84.793, subdivision 1; 84.83, subdivision 3; 84.92, subdivision 8; 85.015, subdivisions 13, 14; 85.053, subdivision 3; 85.054, by adding subdivisions; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 97A.321; 103B.101, subdivisions 1, 2; 103B.3355; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 168.1296, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2008, sections 85.0505, subdivision 2; 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530, subparts 1, 2, 2a; 8400.3560.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1237 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. 1237 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

NATURAL RESOURCE POLICY

Section 1. Minnesota Statutes 2008, section 84.027, subdivision 13, is amended to read:

Subd. 13. **Game and fish rules.** (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game and fish, to prohibit or allow taking of wild animals to protect a species, to prevent or control wildlife disease, to open or close bodies of water or portions of bodies of water for night bow fishing, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited invasive species, regulated invasive species, unregulated nonnative species, and infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the Legislative Coordinating Commission, and complying with section 97A.0459, and including a statement of the emergency conditions and a copy of the rule in the notice. The emergency conditions for opening a water body or portion of a water body for night bow fishing under this section may include the need to temporarily open the area to evaluate compatibility of the activity on that body of water prior to permanent rulemaking. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b), if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

Sec. 2. Minnesota Statutes 2008, section 84.105, is amended to read:

84.105 WILD RICE SEASON.

Ripe wild rice may be harvested from ~~July~~ August 15 to September 30.

Sec. 3. Minnesota Statutes 2008, section 84.66, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For the purpose of this section, the following terms have the meanings given:

(1) "forest land" has the meaning given under section 89.001, subdivision 4;

(2) "forest resources" has the meaning given under section 89.001, subdivision 8;

(3) "guidelines" has the meaning given under section 89A.01, subdivision 8;

(4) "riparian land" has the meaning given under section 103F.511, subdivision ~~8a~~ 8b; and

(5) "working forest land" means land that provides a broad range of goods and services, including forest products, recreation, fish and wildlife habitat, clean air and water, and carbon sequestration.

Sec. 4. **[84.774] OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.**

(a) Except as provided in paragraph (b), a person who violates a provision of sections 84.773; 84.777; 84.788 to 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of the commissioner relating to off-highway vehicle use is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor if the person violates section 84.773, subdivision 2, clause (2), and the person recklessly upsets the natural and ecological balance of a wetland or public waters wetland.

(c) A person is prohibited from operating an off-highway vehicle for a period of one year if the person is:

(1) convicted of a gross misdemeanor under paragraph (b);

(2) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on the intentional operation on unfrozen public water, in a state park, in a scientific and natural area, or in a wildlife management area under section 84.773, subdivision 1, clause (3);

(3) convicted of or is subject to a final order under section 84.775 for a violation of the prohibition on the willful, wanton, or reckless disregard for the safety of persons or property under section

84.773, subdivision 2, clause (1); or

(4) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on carelessly upsetting the natural and ecological balance of a wetland or public waters wetland under section 84.773, subdivision 2, clause (2).

The commissioner shall notify the person of the time period during which the person is prohibited from operating an off-highway vehicle.

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

Sec. 5. **[84.7741] OFF-HIGHWAY VEHICLE FORFEITURE.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense.

(c) "Claimant" means an owner of an off-highway vehicle or a person claiming a leasehold or security interest in an off-highway vehicle.

(d) "Designated offense" means a second gross misdemeanor violation under section 84.774, paragraph (b).

(e) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, or great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

(f) "Off-highway vehicle" and "vehicle" do not include an off-highway vehicle that is stolen or taken in violation of the law.

(g) "Owner" means a person legally entitled to possession, use, and control of an off-highway vehicle, including a lessee of an off-highway vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of an off-highway vehicle according to the records of the Department of Public Safety or the Department of Natural Resources is the legal owner. For purposes of this section, if an off-highway vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred, or a designee, who is responsible for prosecuting violations of a designated offense. If a state agency initiated the forfeiture and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the attorney general's office, or its designee, may

initiate forfeiture under this section.

(i) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if an off-highway vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

Subd. 2. **Seizure.** (a) An off-highway vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety or Department of Natural Resources.

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in an off-highway vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When an off-highway vehicle is seized under this section, the appropriate agency may:

(1) place the vehicle under seal;

(2) remove the vehicle to a place designated by the agency;

(3) place a disabling device on the vehicle; and

(4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

Subd. 4. **Bond by owner for possession.** If the owner of an off-highway vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner. The forfeiture action must proceed against the security as if it were the seized vehicle.

Subd. 5. **Evidence.** Certified copies of court records and off-highway vehicle and driver's records concerning prior incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense.

Subd. 6. **Vehicle subject to forfeiture.** An off-highway vehicle is subject to forfeiture under this

section if it was used in the commission of a designated offense.

Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

(1) is convicted of the designated offense upon which the forfeiture is based; or

(2) fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance.

(b) An off-highway vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an off-highway vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) An off-highway vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law.

Subd. 8. **Administrative forfeiture procedure.** (a) An off-highway vehicle used to commit a designated offense is subject to administrative forfeiture under this subdivision.

(b) When an off-highway vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For off-highway vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons

in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially, the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 84.7741, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH $7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN $500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is $7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of an off-highway vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted according to subdivision 9.

Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of an off-highway vehicle used to commit a designated offense. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the vehicle, describing it, specifying that it was used in the commission of a designated offense, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must not precede adjudication in the criminal prosecution of the designated offense without the consent of the prosecuting authority. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that an off-highway vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of subdivision 12.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of subdivision 12.

(h) If the court orders the return of a seized vehicle under this subdivision, it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211. Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited off-highway vehicle for official use, the agency shall make reasonable efforts to ensure that the off-highway vehicle is available for use by the agency's officers who participate in off-highway vehicle enforcement or education programs.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a

supplement to the state or local agency's operating fund or similar fund for use in purchasing equipment for off-highway vehicle enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid security interest in or a valid lease covering a forfeited off-highway vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 10. A financial institution wishing to dispose of an off-highway vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a family or household member of the violator, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 10.

Subd. 12. **Redemption requirements.** (a) If an off-highway vehicle is seized by a peace officer for a designated offense, the seized vehicle must be released only:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner who provides proof of ownership of the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee who provides a copy of the rental or lease agreement; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle.

(b) The proof of ownership or, if applicable, the copy of the rental or lease agreement required under paragraph (a) must be provided to the law enforcement agency seizing the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

(c) No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to a seizure under this section.

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

Sec. 6. Minnesota Statutes 2008, section 84.793, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) After January 1, 1995, a person less

than 16 years of age operating an off-highway motorcycle on public lands or waters must possess a valid off-highway motorcycle safety certificate issued by the commissioner.

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

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

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

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

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

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

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

Sec. 7. Minnesota Statutes 2008, section 84.83, subdivision 3, is amended to read:

Subd. 3. **Purposes for the account.** The money deposited in the account and interest earned on that money may be expended only as appropriated by law for the following purposes:

(1) for a grant-in-aid program to counties and municipalities for construction and maintenance of snowmobile trails, including maintenance of trails on lands and waters of Voyageurs National Park~~,~~; on Lake of the Woods~~,~~; on Rainy Lake~~, and~~; on the following lakes in St. Louis County: Burntside, Crane, Little Long, Mud, Pelican, Shagawa, and Vermilion; and on the following lakes in Cook County: Devil Track and Hungry Jack;

(2) for acquisition, development, and maintenance of state recreational snowmobile trails;

(3) for snowmobile safety programs; and

(4) for the administration and enforcement of sections 84.81 to 84.91 and appropriated grants to local law enforcement agencies.

Sec. 8. Minnesota Statutes 2008, section 84.92, subdivision 8, is amended to read:

Subd. 8. **All-terrain vehicle or vehicle.** "All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than ~~800~~ 960 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

Sec. 9. Minnesota Statutes 2008, section 84.928, subdivision 1a, is amended to read:

Subd. 1a. **Crossing a public road right-of-way.** (a) An all-terrain vehicle may make a direct crossing of a public road right-of-way provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the road;

(3) the driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;

(4) in crossing a divided road, the crossing is made only at an intersection of the road with another public road; and

(5) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

(b) An all-terrain vehicle may be operated upon a bridge, other than a bridge that is part of the main-traveled lanes of an interstate highway, or roadway shoulder or inside bank of a public road right-of-way when required for the purpose of avoiding obstructions to travel or environmentally sensitive areas when no other method of avoidance is possible; provided the all-terrain vehicle is operated in the extreme right-hand lane, the entrance to the roadway is made within 100 feet of the bridge ~~or~~, obstacle, or sensitive area, and the crossing is made without undue delay.

(c) A person shall not operate an all-terrain vehicle upon a public street or highway unless the vehicle is equipped with at least one headlight and one taillight, each of minimum candlepower as prescribed by rules of the commissioner, and with brakes conforming to standards prescribed by rule of the commissioner, and all of which are subject to the approval of the commissioner of public safety.

(d) An all-terrain vehicle may be operated upon a public road right-of-way other than as provided by paragraph (b) in an emergency during the period of time when and at locations where the condition of the roadway renders travel by automobile impractical.

(e) Chapters 169 and 169A apply to the operation of all-terrain vehicles upon streets and highways, except for those provisions relating to required equipment and except those provisions which by their nature have no application.

(f) A sled, trailer, or other device being towed by an all-terrain vehicle must be equipped with reflective materials as required by rule of the commissioner.

(g) A driver's license is not required to operate an all-terrain vehicle along or on a public road right-of-way if the right-of-way encompasses a trail administered by the commissioner and designated for all-terrain vehicle use or multiple use.

(h) A road authority as defined in section 160.02, subdivision 25, may by permit designate corridor access trails on public road rights-of-way for purposes of accessing established all-terrain vehicle trails. A driver's license is not required to operate an all-terrain vehicle on a designated corridor access trail.

Sec. 10. Minnesota Statutes 2008, section 85.015, subdivision 2, is amended to read:

Subd. 2. **Casey Jones Trail, Murray, Redwood, ~~and~~ Pipestone, and Rock Counties.** (a) The trail shall originate in Lake Shetek State Park in Murray County and include the six-mile loop between Currie in Murray County and Lake Shetek State Park. From there, the first half of the trail shall trail southwesterly to Slayton in Murray County; thence westerly to the point of intersection with the most easterly terminus of the state-owned abandoned railroad right-of-way, commonly known as the Casey Jones unit; thence westerly along said Casey Jones unit to Pipestone in Pipestone County; thence southwesterly to Split Rock Creek State Park in Pipestone County~~,~~; thence southeasterly to Blue Mounds State Park in Rock County; thence southerly to Luverne and Schoneman Park in Rock County, and there terminate. The second half of the trail shall commence in Lake Shetek State Park in Murray County and trail northeasterly to Walnut Grove in Redwood County; thence northeasterly to Redwood Falls in Redwood County to join with the Minnesota River State Trail.

(b) The trail shall be developed as a multiuse, multiseasonal, dual treadway trail. Nothing herein shall abrogate the purpose for which the Casey Jones unit was originally established, and the use thereof shall be concurrent.

Sec. 11. Minnesota Statutes 2008, section 85.015, is amended by adding a subdivision to read:

Subd. 26. **Des Moines River Valley Trail, Jackson, Cottonwood, and Murray Counties.** The trail shall originate in Jackson County at the Minnesota-Iowa border and connect with the Dickinson Trail in Mini-Wakan State Park in Iowa. To the greatest extent possible, the trail shall follow the Des Moines River Valley, extending northwesterly through Jackson County to Kilen Woods State Park, through Cottonwood County, and into Murray County. The trail shall terminate at Casey Jones Trail in Murray County.

Sec. 12. Minnesota Statutes 2008, section 85.053, subdivision 3, is amended to read:

Subd. 3. **~~Second vehicle~~ Multiple-vehicle permits.** The commissioner shall prescribe and issue ~~second vehicle~~ multiple-vehicle state park permits for persons who own more than one motor vehicle and who request ~~a second~~ the permit for ~~the second vehicle~~ additional vehicles on a form prescribed by the commissioner. ~~The commissioner may issue an applicant only one second vehicle permit.~~

Sec. 13. Minnesota Statutes 2008, section 85.054, is amended by adding a subdivision to read:

Subd. 15. **John A. Latsch State Park.** A state park permit is not required and a fee may not be charged for motor vehicle entry or parking at the parking lot located adjacent to John Latsch Road and Trunk Highway 61 at John A. Latsch State Park.

Sec. 14. Minnesota Statutes 2008, section 85.054, is amended by adding a subdivision to read:

Subd. 16. **Greenleaf Lake State Recreation Area.** A state park permit is not required and a fee may not be charged for motor vehicle entry or parking at Greenleaf Lake State Recreation Area.

Sec. 15. Minnesota Statutes 2008, section 85.054, is amended by adding a subdivision to read:

Subd. 17. **School-sanctioned activities.** A state park permit is not required and a fee may not be charged for vehicles transporting K-12 students engaged in school-sanctioned activities at state parks.

Sec. 16. Minnesota Statutes 2008, section 85.055, subdivision 1, is amended to read:

Subdivision 1. **Fees.** The fee for state park permits for:

(1) an annual use of state parks is $25;

(2) a second or subsequent vehicle state park permit is $18;

(3) a state park permit valid for one day is $5;

(4) a daily vehicle state park permit for groups is $3;

(5) an annual permit for motorcycles is $20;

(6) an employee's state park permit is without charge; and

(7) a state park permit for disabled persons under section 85.053, subdivision 7, clauses (1) and (2), is $12.

The fees specified in this subdivision include any sales tax required by state law.

Sec. 17. Minnesota Statutes 2008, section 86A.05, is amended by adding a subdivision to read:

Subd. 15. **State boater wayside.** (a) Boater waysides may be established to provide for public use.

(b) No unit shall be authorized as a state boater wayside unless its proposed location substantially satisfies the following criteria:

(1) contains resources that are desirable for use by boaters;

(2) is accessible by persons traveling by boat, canoe, or kayak; and

(3) may be near, associated with, or located within a unit of the outdoor recreation system under this section.

(c) State boater waysides shall be administered by the commissioner of natural resources in a manner that is consistent with the purpose of this subdivision. Facilities for sanitation, picnicking, overnight mooring, camping, fishing, and swimming may be provided when the commissioner determines that these activities are justifiable and compatible with the resources and the natural environment.

Sec. 18. Minnesota Statutes 2008, section 86A.08, subdivision 1, is amended to read:

Subdivision 1. **Secondary authorization; when permitted.** A unit of the outdoor recreation system may be authorized wholly or partially within the boundaries of another unit only when the authorization is consistent with the purposes and objectives of the respective units. ~~and only in the instances permitted below:~~

~~(a) The following units may be authorized wholly or partially within a state park: historic site, scientific and natural area, wilderness area, wild, scenic, and recreational river, trail, rest area, aquatic management area, and water access site.~~

~~(b) The following units may be authorized wholly or partially within a state recreation area: historic site, scientific and natural area, wild, scenic, and recreational river, trail, rest area, aquatic management area, wildlife management area, and water access site.~~

~~(c) The following units may be authorized wholly or partially within a state forest: state park, state recreation area, historic site, wildlife management area, scientific and natural area, wilderness area, wild, scenic, and recreational river, trail, rest area, aquatic management area, and water access site.~~

~~(d) The following units may be authorized wholly or partially within a state historic site: wild, scenic, and recreational river, trail, rest area, aquatic management area, and water access site.~~

~~(e) The following units may be authorized wholly or partially within a state wildlife management area: state water access site and aquatic management area.~~

~~(f) The following units may be authorized wholly or partially within a state wild, scenic, or recreational river: state park, historic site, scientific and natural area, wilderness area, trail, rest area, aquatic management area, and water access site.~~

~~(g) The following units may be authorized wholly or partially within a state rest area: historic site, trail, wild, scenic, and recreational river, aquatic management area, and water access site.~~

~~(h) The following units may be authorized wholly or partially within an aquatic management area: historic site, scientific and natural area, wild, scenic, and recreational river, and water access site.~~

Sec. 19. Minnesota Statutes 2008, section 86A.09, subdivision 1, is amended to read:

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

Sec. 20. Minnesota Statutes 2008, section 86B.311, is amended by adding a subdivision to read:

Subd. 6. **Law enforcement watercraft displaying emergency lights.** When approaching and passing a law enforcement watercraft with its emergency lights activated, the operator of a watercraft must safely move the watercraft away from the law enforcement watercraft and maintain a slow-no wake speed while within 150 feet of the law enforcement watercraft.

Sec. 21. Minnesota Statutes 2008, section 97A.321, is amended to read:

97A.321 DOGS PURSUING OR KILLING BIG GAME.

Subdivision 1. **Owner responsibility; penalty amount.** The owner of a dog that pursues but does not kill a big game animal is subject to a civil penalty of $100 for each violation. The owner of a dog that kills a big game animal is subject to a civil penalty of $500 for each violation.

Subd. 2. **Appeals.** Civil penalties under this section may be appealed according to procedures in section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner in writing within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the civil penalty becomes a final order not subject to further review.

Subd. 3. **Enforcement.** Civil penalties under this section may be enforced according to section 116.072, subdivisions 9 and 10.

Subd. 4. **Payment of penalty.** Penalty amounts shall be remitted to the commissioner within 30 days of issuance of the penalty notice and shall be deposited in the game and fish fund.

Sec. 22. **[97B.657] TAKING WILD ANIMALS TO PROTECT PUBLIC SAFETY.**

A licensed peace officer may, at any time, take any protected wild animal that is posing an immediate threat to public safety. A peace officer who destroys a protected wild animal under this section must protect all evidence and report the taking to a conservation officer as soon as practicable, but no later than 48 hours after the animal is destroyed.

Sec. 23. Minnesota Statutes 2008, section 103B.101, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The Board of Water and Soil Resources is composed of ~~12~~ 15 appointed members knowledgeable of water and soil problems and conditions within the state and five ex officio members.

Sec. 24. Minnesota Statutes 2008, section 103B.101, subdivision 2, is amended to read:

Subd. 2. **Voting members.** (a) The members are:

(1) three county commissioners;

(2) three soil and water conservation district supervisors;

(3) three watershed district or watershed management organization representatives;

(4) three citizens who are not employed by, or the appointed or elected officials of, a governmental office, board, or agency;

(5) one township officer;

(6) two elected city officials, one of whom must be from a city located in the metropolitan area, as defined under section 473.121, subdivision 2;

~~(5)~~ (7) the commissioner of agriculture;

~~(6)~~ (8) the commissioner of health;

~~(7)~~ (9) the commissioner of natural resources;

~~(8)~~ (10) the commissioner of the Pollution Control Agency; and

~~(9)~~ (11) the director of the University of Minnesota Extension Service.

(b) Members in paragraph (a), clauses (1) to ~~(4)~~ (6), must be distributed across the state with at least ~~three~~ four members but not more than ~~five~~ six members from the metropolitan area, as defined by section 473.121, subdivision 2; and one from each of the current soil and water conservation administrative regions.

(c) Members in paragraph (a), clauses (1) to ~~(4)~~ (6), are appointed by the governor. In making the appointments, the governor may consider persons recommended by the Association of Minnesota

Counties, the Minnesota Association of Townships, the League of Minnesota Cities, the Minnesota Association of Soil and Water Conservation Districts, and the Minnesota Association of Watershed Districts. The list submitted by an association must contain at least three nominees for each position to be filled.

(d) The membership terms, compensation, removal of members and filling of vacancies on the board for members in paragraph (a), clauses (1) to ~~(4)~~ (6), are as provided in section 15.0575.

Sec. 25. Minnesota Statutes 2008, section 103B.3355, is amended to read:

103B.3355 WETLAND FUNCTIONS FOR DETERMINING PUBLIC VALUES.

(a) The public values of wetlands must be determined based upon the functions of wetlands for:

(1) water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, shoreline protection, and utilization of the wetland as a recharge area for groundwater;

(2) floodwater and stormwater retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;

(3) public recreation and education, including hunting and fishing areas, wildlife viewing areas, and nature areas;

(4) commercial uses, including wild rice and cranberry growing and harvesting and aquaculture;

(5) fish, wildlife, native plant habitats;

(6) low-flow augmentation; ~~and~~

(7) carbon sequestration; and

(8) other public uses.

(b) The Board of Water and Soil Resources, in consultation with the commissioners of natural resources and agriculture and local government units, shall adopt rules establishing:

(1) scientific methodologies for determining the functions of wetlands; and

(2) criteria for determining the resulting public values of wetlands.

(c) The methodologies and criteria established under this section or other methodologies and criteria that include the functions in paragraph (a) and are approved by the board, in consultation with the commissioners of natural resources and agriculture and local government units, must be used to determine the functions and resulting public values of wetlands in the state. The functions listed in paragraph (a) are not listed in order of priority.

(d) Public value criteria established or approved by the board under this section do not apply in areas subject to local comprehensive wetland protection and management plans established under section 103G.2243.

(e) The Board of Water and Soil Resources, in consultation with the commissioners of natural resources and agriculture and local government units, may identify regions of the state where preservation, enhancement, restoration, and establishment of wetlands would have high public

value. The board, in consultation with the commissioners, may identify high priority wetland regions using available information relating to the factors listed in paragraph (a). The board shall notify local units of government with water planning authority of these high priority regions.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to rulemaking that begins after that date.

Sec. 26. Minnesota Statutes 2008, section 103B.3369, subdivision 5, is amended to read:

Subd. 5. **Financial assistance.** A base grant may be awarded to a county that ~~levies~~ provides a match utilizing a water implementation tax or other local source. A water implementation tax that a county intends to use as a match to the base grant must be levied at a rate~~, which shall be~~ determined by the board. The minimum amount of the water implementation tax shall be a tax rate times the adjusted net tax capacity of the county for the preceding year. The rate shall be the rate, rounded to the nearest .001 of a percent, that, when applied to the adjusted net tax capacity for all counties, raises the amount of $1,500,000. The base grant will be in an amount equal to $37,500 less the amount raised by ~~that levy~~ the local match. If the amount necessary to implement the local water plan for the county is less than $37,500, the amount of the base grant shall be the amount that, when added to the ~~levy~~ match amount, equals the amount required to implement the plan. For counties where the tax rate generates an amount equal to or greater than $18,750, the base grant shall be in an amount equal to $18,750.

Sec. 27. Minnesota Statutes 2008, section 103C.501, subdivision 2, is amended to read:

Subd. 2. **Request by district board.** ~~(a)~~ A district board requesting funds of the state board must submit an application in a form prescribed by the board containing:

(1) a comprehensive plan;

(2) an annual work plan; and

(3) an application for cost-sharing funds.

~~(b) The comprehensive and annual work plans must be completed as provided in section 103C.331, subdivision 11. After review of the district's comprehensive plan, the state board must approve the comprehensive plan with necessary amendments or reject the plan.~~

Sec. 28. Minnesota Statutes 2008, section 103C.501, subdivision 4, is amended to read:

Subd. 4. **Cost-sharing funds.** (a) The state board shall allocate at least 70 percent of cost-sharing funds to areas with high priority erosion, sedimentation, or water quality problems or water quantity problems due to altered hydrology. The areas must be selected based on the statewide priorities established by the state board. The allocated funds must be used for conservation practices for high priority problems identified in the comprehensive and annual work plans of the districts.

(b) The remaining cost-sharing funds may be allocated to districts as follows:

(1) for technical and administrative assistance, not more than 20 percent of the funds; and

(2) for conservation practices for lower priority erosion, sedimentation, or water quality problems.

Sec. 29. Minnesota Statutes 2008, section 103C.501, subdivision 5, is amended to read:

Subd. 5. **Contracts by districts.** (a) A district board may contract on a cost-share basis to furnish financial aid to a land occupier or to a state agency for permanent systems for erosion or sedimentation control or water quality ~~improvement~~ or water quantity improvements that are consistent with the district's comprehensive and annual work plans.

(b) The duration of the contract must, at a minimum, be the time required to complete the planned systems. A contract must specify that the land occupier is liable for monetary damages and penalties in an amount up to 150 percent of the financial assistance received from the district, for failure to complete the systems or practices in a timely manner or maintain the systems or practices as specified in the contract.

(c) A contract may provide for cooperation or funding with federal agencies. A land occupier or state agency may provide the cost-sharing portion of the contract through services in kind.

(d) The state board or the district board may not furnish any financial aid for practices designed only to increase land productivity.

(e) When a district board determines that long-term maintenance of a system or practice is desirable, the board may require that maintenance be made a covenant upon the land for the effective life of the practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under section 84.65.

Sec. 30. Minnesota Statutes 2008, section 103C.501, subdivision 6, is amended to read:

Subd. 6. **Policies and rules.** (a) The state board may adopt rules and shall adopt ~~rules~~ policies prescribing:

(1) procedures and criteria for allocating funds for cost-sharing contracts;

(2) standards and guidelines for cost-sharing contracts;

(3) the scope and content of district comprehensive plans, plan amendments, and annual work plans;

(4) standards and methods necessary to plan and implement a priority cost-sharing program, including guidelines to identify high priority erosion, sedimentation, and water quality problems and water quantity problems due to altered hydrology;

(5) the share of the cost of conservation practices to be paid from cost-sharing funds; and

(6) requirements for districts to document their efforts to identify and contact land occupiers with high priority ~~erosion~~ problems.

(b) The rules may provide that cost-sharing may be used for ~~farmstead~~ windbreaks and shelterbelts for the purposes of energy conservation and snow protection.

Sec. 31. Minnesota Statutes 2008, section 103F.505, is amended to read:

103F.505 PURPOSE AND POLICY.

It is the purpose of sections 103F.505 to 103F.531 to ~~keep~~ restore certain marginal agricultural

land ~~out of crop production~~ and protect environmentally sensitive areas to ~~protect~~ enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife ~~habitat~~ habitats. It is state policy to encourage the restoration of wetlands and riparian lands and promote the retirement of marginal, highly erodible land, particularly land adjacent to public waters, drainage systems, wetlands, and locally designated priority waters~~, from crop production and to reestablish a cover of perennial vegetation~~.

Sec. 32. Minnesota Statutes 2008, section 103F.511, subdivision 5, is amended to read:

Subd. 5. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. ~~The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.~~

Sec. 33. Minnesota Statutes 2008, section 103F.511, is amended by adding a subdivision to read:

Subd. 8a. **Reinvest in Minnesota reserve program.** "Reinvest in Minnesota reserve program" means the program established under section 103F.515.

Sec. 34. Minnesota Statutes 2008, section 103F.511, subdivision 8a, is amended to read:

Subd. ~~8a~~ 8b. **Riparian land.** "Riparian land" means lands adjacent to public waters, drainage systems, wetlands, or locally designated priority waters ~~identified in a comprehensive local water plan, as defined in section 103B.3363, subdivision 3~~.

Sec. 35. Minnesota Statutes 2008, section 103F.515, subdivision 1, is amended to read:

Subdivision 1. **Establishment of program.** The board, in consultation with the commissioner of agriculture and the commissioner of natural resources, shall establish and administer ~~a conservation~~ the reinvest in Minnesota reserve program. The board shall implement sections 103F.505 to 103F.531. Selection of land for the ~~conservation~~ reinvest in Minnesota reserve program must be based on its enhancement potential for fish ~~and~~, wildlife ~~production~~, and native plant habitats, reducing erosion, and protecting water quality.

Sec. 36. Minnesota Statutes 2008, section 103F.515, subdivision 4, is amended to read:

Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production and livestock grazing, unless specifically approved by the board for ~~wildlife~~ conservation management purposes or extreme drought; and

~~(3) grazing of livestock except, for agreements entered before the effective date of Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the board after consultation with the commissioner of natural resources, in the case of severe drought, or a local emergency declared under section 12.29; and~~

~~(4)~~ (3) spraying with chemicals or mowing, except:

(i) as necessary to comply with noxious weed control laws ~~or~~;

(ii) for emergency control of pests necessary to protect public health; or

(iii) as approved by the board for conservation management purposes.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

(d) Notwithstanding paragraph (a), the board must permit the harvest of native grasses for use in seed production or bioenergy on wellhead protection lands eligible under subdivision 2, paragraph (d).

Sec. 37. Minnesota Statutes 2008, section 103F.515, subdivision 4, is amended to read:

Subd. 4. **Nature of property rights acquired.** (a) A conservation easement must prohibit:

(1) alteration of wildlife habitat and other natural features, unless specifically approved by the board;

(2) agricultural crop production and livestock grazing, unless specifically approved by the board for ~~wildlife~~ conservation management purposes or extreme drought; and

(3) ~~grazing of livestock except, for agreements entered before the effective date of Laws 1990, chapter 391, grazing of livestock may be allowed only if approved by the board after consultation with the commissioner of natural resources, in the case of severe drought, or a local emergency declared under section 12.29; and~~

~~(4)~~ spraying with chemicals or mowing, except as necessary to comply with noxious weed control laws ~~or~~, for emergency control of pests necessary to protect public health, or as approved by the board for conservation management purposes.

(b) A conservation easement is subject to the terms of the agreement provided in subdivision 5.

(c) A conservation easement must allow repairs, improvements, and inspections necessary to maintain public drainage systems provided the easement area is restored to the condition required by the terms of the conservation easement.

Sec. 38. Minnesota Statutes 2008, section 103F.515, subdivision 5, is amended to read:

Subd. 5. **Agreements by landowner.** The board may enroll eligible land in the ~~conservation~~ reinvest in Minnesota reserve program by signing an agreement in recordable form with a landowner in which the landowner agrees:

(1) to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

(2) to seed the land subject to the conservation easement, as specified in the agreement, to establish and maintain perennial cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates determined by the board; or to plant trees or carry out other long-term capital improvements approved by the board for soil and water conservation or wildlife management;

(3) to convey to the state a permanent easement for the wetland restoration;

(4) that other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if it supports natural vegetation ~~or~~ and has not been used in agricultural crop production, will not be converted to agricultural crop production or pasture; and

(5) that the easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

Sec. 39. Minnesota Statutes 2008, section 103F.515, subdivision 6, is amended to read:

Subd. 6. **Payments for conservation easements and establishment of ~~cover~~ conservation practices.** (a) The board ~~must make the following~~ shall establish rates for payments to the landowner for the conservation easement and ~~agreement:~~ related practices. The board shall consider market factors, including the township average equalized estimated market value of property as established by the commissioner of revenue at the time of easement application.

~~(1) to establish the perennial cover or other improvements required by the agreement:~~

~~(i) except as provided in items (ii) and (iii), up to 75 percent of the total eligible cost not to exceed $125 per acre for limited duration easements and 100 percent of the total eligible cost not to exceed $150 per acre for perpetual easements;~~

~~(ii) for native species restoration, 75 percent of the total eligible cost not to exceed $200 per acre for limited duration easements and 100 percent of the total eligible cost not to exceed $300 per acre for perpetual easements; and~~

~~(iii) 100 percent of the total eligible cost of wetland restoration not to exceed $600 per acre;~~

~~(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed $250 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed $400 per acre for perpetual easements;~~

~~(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;~~

~~(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or~~

~~(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the board.~~

~~(b) For hillside pasture conservation easements, the payments to the landowner in paragraph (a) for the conservation easement and agreement must be reduced to reflect the value of similar property.~~

~~(c)~~ (b) The board may establish a payment system for flowage easements acquired under this section.

~~(d)~~ (c) For wetland restoration projects involving more than one conservation easement, state

payments for restoration costs may exceed the limits set ~~forth in this section~~ by the board for an individual easement provided the total payment for the restoration project does not exceed the amount payable for the total number of acres involved.

~~(e)~~ (d) The board may use available nonstate funds to exceed the payment limits in this section.

Sec. 40. Minnesota Statutes 2008, section 103F.521, subdivision 1, is amended to read:

Subdivision 1. **Cooperation.** In implementing sections 103F.505 to 103F.531, the board must share information and cooperate with the Department of Agriculture, the Department of Natural Resources, the Pollution Control Agency, the United States Fish and Wildlife Service, ~~the Agricultural Stabilization and Conservation Service and Soil Conservation Service of~~ the United States Department of Agriculture, the Minnesota Extension Service, the University of Minnesota, county boards, soil and water conservation districts, watershed districts, and interested private organizations and individuals.

Sec. 41. Minnesota Statutes 2008, section 103F.525, is amended to read:

103F.525 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE CONSERVATION PROGRAMS.

The board may supplement payments made under federal land retirement programs to the extent of available appropriations ~~other than bond proceeds~~. The supplemental payments must be used to establish perennial cover on land enrolled or increase payments for land enrollment in programs approved by the board~~, including the federal conservation reserve program and federal and state water bank program~~.

Sec. 42. Minnesota Statutes 2008, section 103F.526, is amended to read:

103F.526 FOOD PLOTS ~~IN WINDBREAKS.~~

The board~~, in cooperation with the commissioner of natural resources,~~ may authorize wildlife food plots on land ~~with windbreaks~~ enrolled in a conservation easement under section 103F.515.

Sec. 43. Minnesota Statutes 2008, section 103F.531, is amended to read:

103F.531 RULEMAKING.

The board may adopt rules or policy to implement sections 103F.505 to 103F.531. ~~The rules must include standards for tree planting so that planting does not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage ditches.~~

Sec. 44. Minnesota Statutes 2008, section 103F.535, subdivision 5, is amended to read:

Subd. 5. **Release and alteration of conservation easements.** Conservation easements ~~existing under this section, as of April 30, 1992,~~ may be altered, released, or terminated by the board ~~of Water and Soil Resources~~ after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate a conservation easement only if the board determines that the public interest and general welfare are better served by the alteration, release, or termination.

Sec. 45. Minnesota Statutes 2008, section 103G.201, is amended to read:

103G.201 PUBLIC WATERS INVENTORY.

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

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

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

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

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

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

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

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

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

(2) as needed, to:

(i) correct errors in the original inventory;

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

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

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

Sec. 46. **CONSUMPTIVE USE OF WATER.**

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves of the consumptive use of water under a permit of more than 2,000,000 gallons per day average in a 30-day period in St. Louis County, in connection with snowmaking, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate to meet the basin's need for water and approval by the commissioner of natural resources of all applicable permits.

Sec. 47. **PLANNING AND DEVELOPMENT.**

The commissioner of natural resources shall work with Friends of the Casey Jones Trail in planning and developing the extension of the Casey Jones Trail.

Sec. 48. **TRAIL PLANNING AND DEVELOPMENT.**

The commissioner of natural resources shall work with Friends of the Jackson County Trails in planning and developing the Des Moines River Valley Trail.

Sec. 49. **WILD RICE HARVEST AUTHORITY.**

Notwithstanding Minnesota Statutes, section 84.15, subdivision 1, until December 31, 2009, the commissioner of natural resources may, by posting, restrict or prohibit the harvesting of wild rice on public waters based on the stage of ripeness of the wild rice stands in the waters.

Sec. 50. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall change the term "conservation reserve program" to "reinvest in Minnesota reserve program" where it appears in Minnesota Statutes, sections 84.95, subdivision 2; 92.70, subdivision 1; and 103H.105.

(b) In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
84.777	84.805	84.804
84.777	84.929	84.928
84.787, subd. 1	84.796	84.795
84.788, subd. 9	84.796	84.795
84.791, subd. 4	84.796	84.795
84.794, subd. 2	84.796	84.795
84.795, subd. 8	84.796	84.795
84.797, subd. 1	84.805	84.804
84.798, subd. 8	84.805	84.804
84.804, subd. 6	84.805	84.804
84.92, subd. 1	84.929	84.928

84.922, subd. 9	84.929	84.928
84.925, subd. 3	84.929	84.928
84.9256, subd. 4	84.929	84.928
84.927, subd. 2	84.929	84.928
84.928, subd. 1	84.929	84.928
84.928, subd. 6	84.929	84.928

Sec. 51. **APPROPRIATION.**

$20,000 is appropriated from the natural resources fund to the commissioner of natural resources for the start-up costs of the off-highway vehicle administrative forfeiture processes. Of this amount, $15,000 is from the all-terrain vehicle account; $3,000 is from the off-highway motorcycle account; and $2,000 is from the off-road vehicle account. This is a onetime appropriation.

Sec. 52. **REPEALER.**

(a) Minnesota Statutes 2008, sections 84.796; 84.805; 84.929; 85.0505, subdivision 2; 103B.101, subdivision 11; 103F.511, subdivision 4; and 103F.521, subdivision 2, are repealed.

(b) Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530; and 8400.3560, are repealed.

ARTICLE 2

GAME AND FISH POLICY

Section 1. Minnesota Statutes 2008, section 13.7931, is amended by adding a subdivision to read:

Subd. 6. **Electronic licensing system data.** Data on individuals created, collected, stored, or maintained by the department for the purposes of obtaining a noncommercial game and fish license, cross-country ski pass, horse trail pass, or snowmobile trail sticker; registering a recreational motor vehicle; or any other electronic licensing transaction are classified under section 84.0874.

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

Sec. 2. Minnesota Statutes 2008, section 17.4981, is amended to read:

17.4981 GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.

(a) Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife. Aquatic farms must be licensed and given classifications to prevent or minimize impacts on natural resources. The purpose of sections 17.4981 to 17.4997 is to:

(1) prevent public aquatic life from entering an aquatic farm;

(2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner;

(3) protect against release of disease pathogens to public waters;

(4) protect existing natural aquatic habitats and the wildlife dependent on them; and

(5) protect private aquatic life from unauthorized taking or harvest.

(b) Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

(c) The commissioner of natural resources shall establish license and other fees as provided in section 16A.1285, subdivision 2, that would make aquaculture licensing and enforcement self-sustaining. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish the fees required by this section. The fees are not subject to the rulemaking provisions of chapter 14, and section 14.386 does not apply. The commissioner shall develop best management practices for aquaculture to ensure the long-term sustainability of aquaculture and wetlands used for aquaculture, including, but not limited to, fish farming in man-made ponds.

Sec. 3. Minnesota Statutes 2008, section 17.4988, subdivision 3, is amended to read:

Subd. 3. **Inspection and additional fees.** Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish fees for the services listed in clauses (1) to (3) and the additional fee required under subdivision 2, paragraph (a). The fees must be set in an amount that does not recover significantly more or less than the cost of providing the service. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The services covered under this provision include:

(1) initial inspection of each water to be licensed;

(2) fish health inspection and certification, including initial tissue sample collection, basic fish health assessment, viral pathogen testing, and bacteriological testing; and

(3) initial inspection for containment and quarantine facility inspections.

Sec. 4. **[84.0874] ELECTRONIC LICENSING SYSTEM DATA.**

The following data created, collected, stored, or maintained by the department for purposes of obtaining a noncommercial game and fish license, cross-country ski pass, horse trail pass, or snowmobile trail sticker; registering a recreational motor vehicle; or any other electronic licensing transaction are private data on individuals as defined in section 13.02, subdivision 12: name, addresses, driver's license number, and date of birth. The data may be disclosed for law enforcement purposes. The data, other than the driver's license number, may be disclosed to a government entity and for natural resources management purposes, including recruitment, retention, and training certification and verification.

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

Sec. 5. Minnesota Statutes 2008, section 84.788, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the off-highway motorcycle was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the off-highway motorcycle was registered twice, once by the dealer and once by the customer.

Sec. 6. Minnesota Statutes 2008, section 84.798, subdivision 10, is amended to read:

Subd. 10. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (b), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration ~~and the vehicle was registered incorrectly by the commissioner or the deputy registrar.~~, the registration is not used or transferred, and:

(1) the off-road vehicle was registered incorrectly; or

(2) the off-road vehicle was registered twice, once by the dealer and once by the customer.

Sec. 7. Minnesota Statutes 2008, section 84.82, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the snowmobile was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the snowmobile was registered twice, once by the dealer and once by the customer.

Sec. 8. Minnesota Statutes 2008, section 84.922, subdivision 12, is amended to read:

Subd. 12. **Refunds.** The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration, the registration is not used or transferred, and:

(1) the vehicle was registered incorrectly ~~by the commissioner or the deputy registrar~~; or

(2) the vehicle was registered twice, once by the dealer and once by the customer.

Sec. 9. Minnesota Statutes 2008, section 86B.415, subdivision 11, is amended to read:

Subd. 11. **Refunds.** The commissioner may issue a refund on a license or title, not including any issuing fees paid under subdivision 8 or section 84.027, subdivision 15, paragraph (a), clause (3), or 86B.870, subdivision 1, paragraph (b), if the refund request is received within ~~12 months~~ 60 days of the original license or title, the license or title is not used or transferred, and:

(1) the watercraft was licensed or titled incorrectly ~~by the commissioner or the deputy registrar~~;

(2) the customer was incorrectly charged a title fee; or

(3) the watercraft was licensed or titled twice, once by the dealer and once by the customer.

Sec. 10. Minnesota Statutes 2008, section 97A.015, is amended by adding a subdivision to read:

Subd. 3b. **Bow fishing.** "Bow fishing" means taking rough fish by archery where the arrows are tethered or controlled by an attached line.

Sec. 11. Minnesota Statutes 2008, section 97A.051, subdivision 2, is amended to read:

Subd. 2. **Summary of fish and game laws.** (a) The commissioner shall prepare a summary of the hunting and fishing laws and rules and deliver a sufficient supply to ~~county auditors~~ license vendors to furnish one copy to each person obtaining a hunting, fishing, or trapping license.

(b) At the beginning of the summary, under the heading "Trespass," the commissioner shall summarize the trespass provisions under sections 97B.001 to 97B.945, state that conservation officers and peace officers must enforce the trespass laws, and state the penalties for trespassing.

(c) In the summary the commissioner shall, under the heading "Duty to Render Aid," summarize the requirements under section 609.662 and state the penalties for failure to render aid to a person injured by gunshot.

Sec. 12. Minnesota Statutes 2008, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (5), (6), (7), ~~(11),~~ (13), (14), and (15), ~~(16), and (17),~~ and 3, clauses (2), (3), (4), ~~(9)~~ (10), (11), and (12), ~~and (13),~~ and licenses issued under section 97B.301, subdivision 4.

(b) $2 from each annual deer license and $2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) $1 from each annual deer license and each bear license and $1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds $2,500,000 for the first time, $750,000 is canceled to the unappropriated balance of the game and fish fund. The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

Thereafter, when the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds $2,500,000 at the end of a fiscal year, the unencumbered balance in excess of $2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

Sec. 13. Minnesota Statutes 2008, section 97A.075, subdivision 5, is amended to read:

Subd. 5. **Turkey account.** (a) $4.50 from each turkey license sold, except youth licenses under section 97A.475, subdivision 2, clause (4), and subdivision 3, clause (7), must be credited to the wild turkey management account. Money in the account may be used only for:

(1) the development, restoration, and maintenance of suitable habitat for wild turkeys on public and private land including forest stand improvement and establishment of nesting cover, winter roost area, and reliable food sources;

(2) acquisitions of, or easements on, critical wild turkey habitat;

(3) reimbursement of expenditures to provide wild turkey habitat on public and private land;

(4) trapping and transplantation of wild turkeys; and

(5) the promotion of turkey habitat development and maintenance, population surveys and monitoring, and research.

(b) Money in the account may not be used for:

(1) costs unless they are directly related to a specific parcel of land under paragraph (a), clauses (1) to (3), a specific trap and transplant project under paragraph (a), clause (4), or to specific promotional or evaluative activities under paragraph (a), clause (5); or

(2) any permanent personnel costs.

Sec. 14. Minnesota Statutes 2008, 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. 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. 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 ~~of less than 30 pounds thrust~~ 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.

Sec. 15. Minnesota Statutes 2008, section 97A.137, is amended by adding a subdivision to read:

Subd. 4. **Exemption from certain local ordinances.** (a) Except as provided in paragraphs (c) and (d), wildlife management areas that are established according to section 86A.05, subdivision 8; designated under section 97A.133 or 97A.145; and 160 contiguous acres or larger are exempt from local ordinances that limit the taking of game and fish or vegetation management in the unit as authorized by state law.

(b) Except as provided in paragraphs (c) and (d), wildlife management areas that are established according to section 86A.05, subdivision 8; designated under section 97A.133 or 97A.145; and at least 40 contiguous acres and less than 160 contiguous acres are exempt from local ordinances that:

(1) restrict trapping;

(2) restrict the discharge of archery equipment;

(3) restrict the discharge of shotguns with shot sizes of F or .22 inch diameter or smaller shot;

(4) restrict noise;

(5) require dogs on a leash; or

(6) would in any manner restrict the management of vegetation in the unit as authorized by state law.

Sec. 16. Minnesota Statutes 2008, section 97A.137, is amended by adding a subdivision to read:

Subd. 5. **Portable stands.** Prior to the Saturday on or nearest September 16, a portable stand may be left overnight in a wildlife management area by a person with a valid bear license who is hunting within 100 yards of a bear bait site that is legally tagged and registered as prescribed under section 97B.425. Any person leaving a portable stand overnight under this subdivision must affix the person's name and address to the stand in such a manner that it can be read from the ground.

Sec. 17. Minnesota Statutes 2008, section 97A.331, subdivision 2, is amended to read:

Subd. 2. **Shining.** A person that violates section 97B.081, subdivision 1, relating to the use of an artificial light to locate wild animals ~~while in possession of a firearm, bow, or other implement capable of killing big game~~ is guilty of a gross misdemeanor.

Sec. 18. Minnesota Statutes 2008, section 97A.405, subdivision 4, is amended to read:

Subd. 4. **Replacement licenses.** (a) The commissioner may permit licensed deer hunters to change zone, license, or season options. The commissioner may issue a replacement license if the applicant submits the original deer license and unused tags that are being replaced and the applicant pays any increase in cost between the original and the replacement license. A refund of the difference in fees may be issued when a person changes from a regular deer license to a youth deer license. ~~When a person submits both an archery and a firearms license for replacement, the commissioner may apply the value of both licenses towards the replacement license fee.~~

(b) A replacement license may be issued only if the applicant has not used any tag from the original license or licenses and meets the conditions of paragraph (c). The original license or licenses and all unused tags for the licenses being replaced must be submitted to the issuing agent at the time the replacement license is issued.

(c) A replacement license may be issued under the following conditions, or as otherwise prescribed by rule of the commissioner:

(1) when the season for the license being surrendered has not yet opened; or

(2) when the person is ~~upgrading from a regular firearms or archery deer license to an all season deer license;~~

~~(3) when the person is upgrading from a regular firearms license to a multizone deer license; or~~

~~(4) when the person is~~ changing from a regular ~~firearms~~ deer license to a youth deer license.

(d) Notwithstanding section 97A.411, subdivision 3, a replacement license is valid immediately

upon issuance if the license being surrendered is valid at that time.

Sec. 19. Minnesota Statutes 2008, section 97A.421, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) The annual license of a person convicted of a violation of the game and fish laws relating to the license or wild animals covered by the license is void when:

(1) a second conviction occurs within three years under a license to trap fur-bearing animals, take small game or to take fish by angling or spearing;

(2) a third conviction occurs within one year under a minnow dealer's license;

(3) a second conviction occurs within three years for violations of section 97A.425 that do not involve falsifications or intentional omissions of information required to be recorded, or attempts to conceal unlawful acts within the records;

(4) two or more misdemeanor convictions occur within a three-year period under a private fish hatchery license;

(5) the conviction occurs under a license not described in clause (1), (2), or (4) or is for a violation of section 97A.425 not described in clause (3); or

(6) the conviction is related to assisting a person in the illegal taking, transportation, or possession of wild animals, when acting as a hunting or angling guide.

(b) Except for big game licenses and as otherwise provided in this section, for one year after the conviction the person may not obtain the kind of license or take wild animals under a lifetime license, issued under section 97A.473 or 97A.474, relating to the game and fish law violation.

Sec. 20. Minnesota Statutes 2008, section 97A.441, subdivision 7, is amended to read:

Subd. 7. **Owners or tenants of agricultural land.** (a) The commissioner may issue, without a fee, a license to take an antlerless deer to a resident who is an owner or tenant, or a nonresident who is an owner, of at least 80 acres of agricultural land, as defined in section 97B.001, in deer permit areas that have deer archery licenses to take additional deer under section 97B.301, subdivision 4. A person may receive only one license per year under this subdivision. For properties with co-owners or cotenants, only one co-owner or cotenant may receive a license under this subdivision per year. The license issued under this subdivision is restricted to land leased for agricultural purposes or owned by the holder of the license within the permit area where the qualifying land is located. The holder of the license may transfer the license to the holder's spouse or dependent. Notwithstanding sections 97A.415, subdivision 1, and 97B.301, subdivision 2, the holder of the license may purchase an additional license for taking deer and may take an additional deer under that license.

(b) A person who obtains a license under paragraph (a) must allow public deer hunting on their land during that deer hunting season, with the exception of the first Saturday and Sunday during the deer hunting season applicable to the license issued under section 97A.475, subdivision 2, ~~clauses (4) and (13)~~ clause (5).

Sec. 21. Minnesota Statutes 2008, section 97A.445, subdivision 1, is amended to read:

Subdivision 1. **Angling; Take a Kid Fishing Weekends.** A resident ~~over age 18~~ age 16 years or older may take fish by angling without an angling or fish house license during one three-day

consecutive period of the open water angling season and one three-day consecutive period of the ice angling season designated by rule of the commissioner if accompanied by a child who is under age 16. The commissioner shall publicize the three-day periods as "Take a Kid Fishing Weekend" for the open water angling season and "Take a Kid Ice Fishing Weekend" for the ice angling season.

Sec. 22. Minnesota Statutes 2008, section 97A.445, is amended by adding a subdivision to read:

Subd. 1a. **Angling in a state park.** A resident may take fish by angling without an angling license when shore fishing or wading on state-owned land within a state park. When angling from a boat or float, this subdivision applies only to those water bodies completely encompassed within the statutory boundary of the state park. The exemption from an angling license does not apply to waters where a trout stamp is required.

Sec. 23. Minnesota Statutes 2008, section 97A.451, subdivision 2, is amended to read:

Subd. 2. **Residents under age 16; fishing.** (a) A resident under the age of 16 years may take fish without a license.

(b) A resident under the age of 16 may net ciscoes and whitefish for personal consumption without the license required under section 97A.475, subdivision 13. A resident netting ciscoes and whitefish under this paragraph must follow all other applicable requirements for netting ciscoes and whitefish for personal consumption.

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

Sec. 24. Minnesota Statutes 2008, section 97A.451, is amended by adding a subdivision to read:

Subd. 8. **Residents 90 years of age or older; fishing.** A resident age 90 or older may take fish without a license.

Sec. 25. Minnesota Statutes 2008, section 97A.465, subdivision 1b, is amended to read:

Subd. 1b. **Residents discharged from active service.** (a) A resident who has served at any time during the preceding 24 months in federal active service, as defined in section 190.05, subdivision 5c, outside the United States as a member of the National Guard, or as a reserve component or active duty member of the United States armed forces and has been discharged from active service may take small game and fish without a license if the resident possesses official military discharge papers. The resident must obtain the seals, tags, and coupons required of a licensee, which must be furnished without charge.

(b) The commissioner shall issue, without fee, a deer license, valid for a deer of either sex, to a resident who has served at any time during the preceding 24 months in federal active service, as defined in section 190.05, subdivision 5c, outside the United States as a member of the National Guard, or as a reserve component or active duty member of the United States armed forces and has been discharged from active service. Eligibility under this paragraph is limited to one license per resident.

Sec. 26. Minnesota Statutes 2008, section 97A.473, subdivision 1, is amended to read:

Subdivision 1. **Resident lifetime licenses authorized.** (a) The commissioner may issue a lifetime angling license, a lifetime spearing license, a lifetime angling and spearing license, a lifetime small game hunting license, a lifetime firearm or archery deer hunting license, ~~or~~ a lifetime

sporting license or a lifetime sporting with spearing option license to a person who is a resident of the state for at least one year or who is under age 21 and the child of a person who is a resident of the state for at least one year. The license fees paid for a lifetime license are nonrefundable.

(b) The commissioner may require the holder of a lifetime license issued under this section to notify the department each year that the license is used, by:

(1) telephone or Internet notification, as specified by the commissioner;

(2) the purchase of stamps for the license; or

(3) registration and tag issuance, in the case of the resident lifetime deer license.

Sec. 27. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 2a. **Lifetime spearing license; fee.** (a) A resident lifetime spearing license authorizes a person to take fish by spearing in the state. The license authorizes those activities authorized by the annual resident spearing license.

(b) The fees for a resident lifetime spearing license are:

(1) age 3 and under, $258;

(2) age 4 to age 15, $320;

(3) age 16 to age 50, $372; and

(4) age 51 and over, $173.

Sec. 28. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 2b. **Lifetime angling and spearing license; fee.** (a) A resident lifetime angling and spearing license authorizes a person to take fish by angling or spearing in the state. The license authorizes those activities authorized by the annual resident angling and spearing licenses.

(b) The fees for a resident lifetime angling and spearing license are:

(1) age 3 and under, $485;

(2) age 4 to age 15, $620;

(3) age 16 to age 50, $755; and

(4) age 51 and over, $376.

Sec. 29. Minnesota Statutes 2008, section 97A.473, is amended by adding a subdivision to read:

Subd. 5a. **Lifetime sporting with spearing option license; fee.** (a) A resident lifetime sporting with spearing option license authorizes a person to take fish by angling or spearing and hunt and trap small game in the state. The license authorizes those activities authorized by the annual resident angling, spearing, resident small game hunting, and resident trapping licenses. The license does not include a trout and salmon stamp validation, a turkey stamp validation, a walleye stamp validation, or any other hunting stamps required by law.

(b) The fees for a resident lifetime sporting with spearing option license are:

(1) age 3 and under, $615;

(2) age 4 to age 15, $800;

(3) age 16 to age 50, $985; and

(4) age 51 and over, $586.

Sec. 30. Minnesota Statutes 2008, section 97A.4742, subdivision 1, is amended to read:

Subdivision 1. **Establishment; purpose.** The lifetime fish and wildlife trust fund is established as a fund in the state treasury. All money received from the issuance of lifetime angling, spearing, angling and spearing, small game hunting, deer hunting, ~~and~~ sporting, and sporting with spearing option licenses and earnings on the fund shall be credited to the lifetime fish and wildlife trust fund.

Sec. 31. Minnesota Statutes 2008, section 97A.475, subdivision 2, is amended to read:

Subd. 2. **Resident hunting.** Fees for the following licenses, to be issued to residents only, are:

(1) for persons age 18 or over and under age 65 to take small game, $12.50;

(2) for persons ages 16 and 17 and age 65 or over, $6 to take small game;

(3) for persons age 18 or over to take turkey, $23;

(4) for persons under age 18 to take turkey, $12;

(5) for persons age 18 or over to take deer with firearms during the regular firearms season, $26;

(6) for persons age 18 or over to take deer by archery, $26;

(7) for persons age 18 or over to take deer by muzzleloader during the muzzleloader season, $26;

(8) to take moose, for a party of not more than six persons, $310;

(9) to take bear, $38;

(10) to take elk, for a party of not more than two persons, $250;

(11) ~~multizone license to take antlered deer in more than one zone, $52;~~

~~(12)~~ to take Canada geese during a special season, $4;

~~(13) all season license to take three deer throughout the state in any open deer season, except as restricted under section 97B.305, $78;~~

~~(14)~~ (12) to take prairie chickens, $20;

~~(15)~~ (13) for persons under age 18 to take deer with firearms during the regular firearms season, $13;

~~(16)~~ (14) for persons under age 18 to take deer by archery, $13; and

~~(17)~~ (15) for persons under age 18 to take deer by muzzleloader during the muzzleloader season, $13.

Sec. 32. Minnesota Statutes 2008, section 97A.475, subdivision 3, is amended to read:

Subd. 3. **Nonresident hunting.** (a) Fees for the following licenses, to be issued to nonresidents, are:

(1) for persons age 18 or over to take small game, $73;

(2) for persons age 18 or over to take deer with firearms during the regular firearms season, $135;

(3) for persons age 18 or over to take deer by archery, $135;

(4) for persons age 18 or over to take deer by muzzleloader during the muzzleloader season, $135;

(5) to take bear, $195;

(6) for persons age 18 and older to take turkey, $78;

(7) for persons under age 18 to take turkey, $12;

(8) to take raccoon or bobcat, $155;

(9) ~~multizone license to take antlered deer in more than one zone, $270;~~

~~(10)~~ to take Canada geese during a special season, $4;

~~(11)~~ (10) for persons under age 18 to take deer with firearms during the regular firearms season in any open season option or time period, $13;

~~(12)~~ (11) for persons under age 18 to take deer by archery, $13; and

~~(13)~~ (12) for persons under age 18 to take deer during the muzzleloader season, $13.

(b) A $5 surcharge shall be added to nonresident hunting licenses issued under paragraph (a), clauses (1) to ~~(9)~~ (8). An additional commission may not be assessed on this surcharge.

Sec. 33. Minnesota Statutes 2008, section 97A.475, subdivision 7, is amended to read:

Subd. 7. **Nonresident fishing.** (a) Fees for the following licenses, to be issued to nonresidents, are:

(1) to take fish by angling, $37.50;

(2) to take fish by angling limited to seven consecutive days selected by the licensee, $26.50;

(3) to take fish by angling for a 72-hour period selected by the licensee, $22;

(4) to take fish by angling for a combined license for a family for one or both parents and dependent children under the age of 16, $50.50;

(5) to take fish by angling for a 24-hour period selected by the licensee, $8.50; ~~and~~

(6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, $38.50~~.~~; and

(7) to take fish by spearing from a dark house, $37.50.

(b) A $2 surcharge shall be added to all nonresident fishing licenses, except licenses issued under paragraph (a), clause (5). An additional commission may not be assessed on this surcharge.

Sec. 34. Minnesota Statutes 2008, section 97A.475, subdivision 11, is amended to read:

Subd. 11. **Fish houses ~~and~~, dark houses, and shelters; residents.** Fees for the following licenses are:

(1) annual for a fish house ~~or~~, dark house, or shelter that is not rented, $11.50;

(2) annual for a fish house ~~or~~, dark house, or shelter that is rented, $26;

(3) three-year for a fish house ~~or~~, dark house, or shelter that is not rented, $34.50; and

(4) three-year for a fish house ~~or~~, dark house, or shelter that is rented, $78.

Sec. 35. Minnesota Statutes 2008, section 97A.475, subdivision 12, is amended to read:

Subd. 12. **Fish houses, dark houses, and shelters; nonresident.** Fees for fish house, dark house, and shelter licenses for a nonresident are:

(1) annual, $33;

(2) seven consecutive days, $19; and

(3) three-year, $99.

Sec. 36. Minnesota Statutes 2008, section 97A.475, subdivision 29, is amended to read:

Subd. 29. **Private fish hatcheries.** The fees for the following licenses to be issued to residents and nonresidents are:

(1) for a private fish hatchery, with annual sales under $200, $70;

(2) for a private fish hatchery, with annual sales of $200 or more, $210 for the base license. The commissioner must establish an additional fee based on the acreage of the operation. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish the additional fee required by this subdivision. The fee is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply; and

(3) to take sucker eggs from public waters for a private fish hatchery, $400, plus $6 for each quart in excess of 100 quarts.

Sec. 37. Minnesota Statutes 2008, section 97A.525, subdivision 1, is amended to read:

Subdivision 1. **~~Residents~~ Generally.** A ~~resident~~ person may transport wild animals ~~within the state~~ by common carrier without being in the vehicle if the ~~resident~~ person has the license required to take the animals and they are shipped to the ~~resident. The wild animals that may be transported by common carrier are:~~ person or to a licensed taxidermist, tanner, or fur buyer.

~~(1) deer, bear, elk, and moose;~~

~~(2) undressed game birds; and~~

~~(3) fish.~~

Sec. 38. Minnesota Statutes 2008, section 97B.035, subdivision 2, is amended to read:

Subd. 2. **Possession of crossbows.** A person may not possess a crossbow ~~outdoors or~~ in a motor vehicle during the open season for any game, unless the crossbow is ~~unstrung, and in a case or in a closed trunk of a motor vehicle~~ not armed with a bolt or arrow.

Sec. 39. Minnesota Statutes 2008, section 97B.045, subdivision 2, is amended to read:

Subd. 2. **Exception for disabled persons.** The restrictions in subdivision 1 do not apply to a disabled person if:

(1) the person possesses a permit under section 97B.055, subdivision 3; and

~~(2) the person is participating in a hunt sponsored by a nonprofit organization under a permit from the commissioner or is hunting on property owned or leased by the person; and~~

~~(3)~~ (2) the firearm is not loaded in the chamber until the vehicle is stationary, or is a hinge action firearm with the action open until the vehicle is stationary.

Sec. 40. Minnesota Statutes 2008, section 97B.045, is amended by adding a subdivision to read:

Subd. 3. **Exceptions; hunting and shooting ranges.** (a) Notwithstanding provisions to the contrary under this chapter, a person may transport an unloaded, uncased firearm, excluding a pistol as defined in paragraph (b), in a motor vehicle while at a shooting range, as defined under section 87A.01, subdivision 3, where the person has received permission from the lawful owner or possessor to discharge firearms; lawfully hunting on private or public land; or travelling to or from a site the person intends to hunt lawfully that day or has hunted lawfully that day, unless:

(1) within Anoka, Hennepin, or Ramsey county;

(2) within an area where the discharge of a firearm has been prohibited under section 471.633;

(3) within the boundaries of a home rule charter or statutory city with a population of 2,500 or more;

(4) on school grounds; or

(5) otherwise restricted under section 97A.091, 97B.081, or 97B.086.

(b) For the purposes of this section, a "pistol" includes a weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length less than 16 inches in the case of a rifle:

(1) from which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or

(2) for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor.

Pistol does not include a device firing or ejecting a shot measuring .18 of an inch, or less, in diameter and commonly known as a "BB gun," a scuba gun, a stud gun, or nail gun used in the construction industry or children's pop guns or toys.

Sec. 41. Minnesota Statutes 2008, section 97B.051, is amended to read:

97B.051 TRANSPORTATION OF ARCHERY BOWS.

Except as specified under section 97B.055, subdivision 2, a person may not transport an archery bow in a motor vehicle unless the bow is~~:~~ not armed with a bolt or arrow.

~~(1) unstrung;~~

~~(2) completely contained in a case; or~~

~~(3) in the closed trunk or rear-most enclosed portion of a motor vehicle that is not accessible from the passenger compartment.~~

Sec. 42. Minnesota Statutes 2008, section 97B.055, subdivision 3, is amended to read:

Subd. 3. **Hunting from vehicle by disabled hunters.** (a) The commissioner may issue a special permit, without a fee, to discharge a firearm or bow and arrow from a stationary motor vehicle to a person who obtains the required licenses and who has a permanent physical disability that is more substantial than discomfort from walking. The permit recipient must be:

(1) unable to step from a vehicle without aid of a wheelchair, crutches, braces, or other mechanical support or prosthetic device; or

(2) unable to walk any distance because of a permanent lung, heart, or other internal disease that requires the person to use supplemental oxygen to assist breathing.

(b) The permanent physical disability must be established by medical evidence verified in writing by a licensed physician or chiropractor. The commissioner may request additional information from the physician or chiropractor if needed to verify the applicant's eligibility for the permit. Notwithstanding section 97A.418, the commissioner may, in consultation with appropriate advocacy groups, establish reasonable minimum standards for permits to be issued under this section. In addition to providing the medical evidence of a permanent disability, the applicant must possess a valid disability parking certificate authorized by section 169.345 or license plates issued under section 168.021.

(c) A person issued a special permit under this subdivision and hunting deer may take a deer of either sex, except in those antlerless permit areas and seasons where no antlerless permits are offered. This subdivision does not authorize another member of a party to take an antlerless deer under section 97B.301, subdivision 3.

(d) A permit issued under this subdivision is valid for five years.

(e) The commissioner may deny, modify, suspend, or revoke a permit issued under this section for cause, including a violation of the game and fish laws or rules.

(f) A person who knowingly makes a false application or assists another in making a false application for a permit under this section is guilty of a misdemeanor. A physician or chiropractor who fraudulently certifies to the commissioner that a person is permanently disabled as described in this section is guilty of a misdemeanor.

(g) Notwithstanding paragraph (d), the commissioner may issue a permit valid for the entire life

of the applicant if the commissioner determines that there is no chance that an applicant will become ineligible for a permit under this section and the applicant requests a lifetime permit.

Sec. 43. Minnesota Statutes 2008, section 97B.081, is amended to read:

97B.081 USING ARTIFICIAL LIGHTS TO LOCATE ANIMALS.

Subdivision 1. **With ~~firearms and bows~~ implements to take wild animals.** ~~(a)~~ Except as provided in subdivision 3, a person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest, to spot, locate, or take a wild animal~~, except while taking raccoons in accordance with section 97B.621, subdivision 3, or tending traps in accordance with section 97B.931,~~ while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to ~~kill~~ take big game, small game, or unprotected wild animals.

~~(b) This subdivision does not apply to a firearm that is:~~

~~(1) unloaded;~~

~~(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and~~

~~(3) in the closed trunk of a motor vehicle.~~

~~(c) This subdivision does not apply to a bow that is:~~

~~(1) completely encased or unstrung; and~~

~~(2) in the closed trunk of a motor vehicle.~~

~~(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.~~

~~(e) This subdivision does not apply to persons taking raccoons under section 97B.621, subdivision 3.~~

~~(f) This subdivision does not apply to a person hunting fox or coyote from January 1 to March 15 while using a handheld artificial light, provided that the person:~~

~~(1) is on foot;~~

~~(2) is using a shotgun;~~

~~(3) is not within a public road right-of-way;~~

~~(4) is using a handheld or electronic calling device; and~~

~~(5) is not within 200 feet of a motor vehicle.~~

Subd. 2. **Without ~~firearms~~ implements to take wild animals.** (a) ~~Between the hours of 10:00 p.m. and 6:00 a.m. from September 1 to December 31,~~ Except as provided in subdivision 3, from two hours after sunset until sunrise, a person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest to spot~~,~~ or locate~~, or take~~ a wild

animal ~~except to take raccoons under section 97B.621, subdivision 3, or to tend traps under section 97B.931~~.

(b) ~~Between one-half hour after sunset until sunrise,~~ Except as provided in subdivision 3, a person may not cast the rays of a spotlight, headlight, or other artificial light ~~to spot, locate, or take a wild animal~~ on fenced, agricultural land ~~containing livestock, as defined in section 17A.03, subdivision 5, or poultry that is marked with signs prohibiting the shining of lights. The signs must:~~

~~(1) display reflectorized letters that are at least two inches in height and state "no shining" or similar terms; and~~

~~(2) be placed at intervals of 1,000 feet or less along the boundary of the area.~~

~~(c) It is not a violation of paragraph (a) or (b) for a person to carry out any agricultural, occupational, or recreational practice, including snowmobiling that is not related to spotting, locating, or taking a wild animal.~~

~~(d) Between the hours of 6:00 p.m. and 6:00 a.m~~. (c) Except as provided in subdivision 3, a person may not ~~project a spotlight or handheld~~ cast an artificial light onto residential property or building sites from a ~~moving~~ motor vehicle ~~being operated on land, except for the following purposes:~~

~~(1) safety;~~

~~(2) emergency response;~~

~~(3) normal vehicle operations; or~~

~~(4) performing an occupational duty~~.

(d) Except as provided in subdivision 3, a person may not at any time cast the rays of a spotlight, headlight, or other artificial light onto property posted with signs prohibiting the shining of lights onto the property. When signs are posted, the signs shall display letters that are at least two inches in height and state "no shining" or similar terms and shall be placed at intervals of 500 feet or less along the boundary of the property.

Subd. 3. **Exceptions.** (a) It is not a violation of this section for a person to:

(1) cast the rays of a spotlight, headlight, or other artificial light to take raccoons according to section 97B.621, subdivision 3, or tend traps according to section 97B.931;

(2) hunt fox or coyote from January 1 to March 15 while using a handheld artificial light, provided that the person is:

(i) on foot;

(ii) using a shotgun;

(iii) not within a public road right-of-way;

(iv) using a handheld or electronic calling device; and

(v) not within 200 feet of a motor vehicle; or

(3) cast the rays of a handheld artificial light to retrieve wounded or dead big game animals, provided that the person is:

(i) on foot; and

(ii) not in possession of a firearm or bow.

(b) It is not a violation of subdivision 2 for a person to cast the rays of a spotlight, headlight, or other artificial light to:

(1) carry out any agricultural, safety, emergency response, normal vehicle operation, or occupational-related activities that do not involve taking wild animals; or

(2) carry out outdoor recreation as defined in section 97B.001 that is not related to spotting, locating, or taking a wild animal.

Sec. 44. Minnesota Statutes 2008, section 97B.086, is amended to read:

97B.086 POSSESSION OF NIGHT VISION EQUIPMENT.

(a) A person may not possess night vision ~~goggle~~ equipment while taking wild animals or while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to take wild animals.

(b) This section does not apply to a firearm that is:

(1) unloaded;

(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and

(3) in the closed trunk of a motor vehicle.

(c) This section does not apply to a bow that is:

(1) completely encased or unstrung; and

(2) in the closed trunk of a motor vehicle.

(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.

(e) This section does not apply to night vision ~~goggle~~ equipment possessed by peace officers or military personnel while exercising their duties.

Sec. 45. Minnesota Statutes 2008, section 97B.111, subdivision 1, is amended to read:

Subdivision 1. **Establishment; requirements.** The commissioner may establish criteria, special seasons, and limits for persons who have a physical disability to take big game and small game with firearms and by archery in designated areas. A person hunting under this section who has a physical disability must have a verified statement of the disability by a licensed physician and must be participating in a program for physically disabled hunters sponsored by a nonprofit organization that is permitted under subdivision 2. Notwithstanding section 97B.055, subdivision 3, the commissioner

may authorize hunt participants to shoot from a stationary motor vehicle. A license is not required for a person to assist a physically disabled person hunting during a special season under this section.

Sec. 46. Minnesota Statutes 2008, section 97B.328, subdivision 3, is amended to read:

Subd. 3. **Definition.** For purposes of this section, "bait or feed" includes grains, fruits, vegetables, nuts, hay, or other food that is capable of attracting or enticing deer and that has been placed by a person. Liquid scents, salt, and minerals~~, and bird feeders containing grains or nuts that are at least six feet above the ground~~ are not bait or feed. Food that has not been placed by a person and resulting from normal or accepted farming, forest management, wildlife food plantings, orchard management, or other similar land management activities is not bait or feed.

Sec. 47. Minnesota Statutes 2008, section 97B.651, is amended to read:

97B.651 UNPROTECTED MAMMALS AND BIRDS.

Subdivision 1. **Taking unprotected mammals and birds.** Mammals that are unprotected wild animals and unprotected birds may be taken at any time and in any manner, except with artificial lights, or by using a motor vehicle in violation of section 97B.091. Poison may not be used to take unprotected mammals or unprotected birds unless the safety of humans and domestic livestock is ensured. Unprotected mammals and unprotected birds may be possessed, bought, sold, or transported in any quantity, except importation or exportation is restricted as provided in subdivision 2.

Subd. 2. **Importing and exporting live coyotes.** A person may not export a live coyote out of the state or import a live coyote into the state unless authorized under a permit from the commissioner.

Sec. 48. Minnesota Statutes 2008, section 97B.811, subdivision 2, is amended to read:

Subd. 2. **Hours for placing decoys.** Except as provided in subdivisions 3 and 4, a person may not place decoys in public waters or on public lands more than ~~one hour~~ two hours before lawful shooting hours for waterfowl.

Sec. 49. Minnesota Statutes 2008, section 97B.811, subdivision 3, is amended to read:

Subd. 3. **Restrictions on leaving decoys unattended.** During the open season for waterfowl, a person may not leave decoys in public waters between sunset and ~~one hour~~ two hours before lawful shooting hours or leave decoys unattended during other times for more than ~~four~~ three consecutive hours unless:

(1) the decoys are in waters adjacent to private land under the control of the hunter; and

(2) there is not natural vegetation growing in water sufficient to partially conceal a hunter.

Sec. 50. Minnesota Statutes 2008, section 97B.931, subdivision 1, is amended to read:

Subdivision 1. **Restrictions.** A person may not tend a trap set for wild animals between 10:00 p.m. and 5:00 a.m. Between 5:00 a.m. and 10:00 p.m. a person on foot may use a portable artificial light to tend traps. While using a light in the field, the person may not possess or use a firearm other than a handgun or rifle capable of firing only rimfire cartridges of .17 or .22 caliber including .22 magnum.

Sec. 51. Minnesota Statutes 2008, section 97C.081, subdivision 2, is amended to read:

Subd. 2. **Contests without a permit.** A person may conduct a fishing contest without a permit from the commissioner provided:

(1) the following criteria are met:

(i) there are ~~30 participants~~ 25 boats or less for open water contests and 150 participants or less for ice fishing contests;

(ii) the entry fee is $25 per person or less;

(iii) the total prize value is $25,000 or less; and

(iv) the contest is not limited to trout species only;

(2) the following criteria are met:

(i) the contest is not limited to specifically named waters; and

(ii) the contest is not limited to trout species only; ~~or~~

(3) all the contest participants are age 18 years or under;

(4) the contest is limited to rough fish; or

(5) the total prize value is $500 or less.

Sec. 52. Minnesota Statutes 2008, section 97C.081, subdivision 3, is amended to read:

Subd. 3. **Contests requiring a permit.** (a) A person must have a permit from the commissioner to conduct a fishing contest that does not meet the criteria in subdivision 2. The commissioner shall charge a fee for the permit that recovers the costs of issuing the permit and of monitoring the activities allowed by the permit. ~~The commissioner may waive the fee under this subdivision for a charitable organization.~~ Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish contest permit fees. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(b) If entry fees are over $25 per person, or total prizes are valued at more than $25,000, and if the applicant has either:

(1) not previously conducted a fishing contest requiring a permit under this subdivision; or

(2) ever failed to make required prize awards in a fishing contest conducted by the applicant, the commissioner may require the applicant to furnish the commissioner evidence of financial responsibility in the form of a surety bond or bank letter of credit in the amount of $25,000.

(c) The permit fee for any individual contest may not exceed the following amounts:

(1) ~~$120~~ $60 for an open water contest not exceeding ~~100 participants~~ 50 boats and without off-site weigh-in;

(2) ~~$400~~ $200 for an open water contest with more than ~~100 participants~~ 50 boats and without off-site weigh-in;

(3) ~~$500~~ $250 for an open water contest not exceeding ~~100 participants~~ 50 boats with off-site weigh-in;

(4) ~~$1,000~~ $500 for an open water contest with more than ~~100 participants~~ 50 boats with off-site weigh-in; or

(5) $120 for an ice fishing contest with more than 150 participants.

Sec. 53. Minnesota Statutes 2008, section 97C.081, subdivision 4, is amended to read:

Subd. 4. **Restrictions.** (a) The commissioner may by rule establish restrictions on fishing contests to protect fish and fish habitat, to restrict activities during high use periods, to restrict activities that affect research or management work, to restrict the number of boats, and for the safety of contest participants.

(b) By March 1, 2011, the commissioner shall develop a best practices certification program for fishing contest organizers to ensure the proper handling and release of fish.

Sec. 54. Minnesota Statutes 2008, section 97C.081, subdivision 6, is amended to read:

Subd. 6. **Permit application process.** (a) Beginning August 1 each year, the commissioner shall accept permit applications for fishing contests to be held in the following year.

(b) If the number of permit applications received by the commissioner from August 1 through the last Friday in September exceeds the limits specified in subdivisions 7 and 8, the commissioner shall notify the affected applicants that their requested locations and time period are subject to a drawing. After notification, the commissioner shall allow the affected applicants a minimum of seven days to change the location or time period requested on their applications, provided that the change is not to a location or time period for which applications are already at or above the limits specified in subdivisions 7 and 8.

(c) After the applicants have been given at least seven days to change their applications, the commissioner shall conduct a drawing for all locations and time periods for which applications exceed limits. First preference in the drawings shall be given to applicants for established or traditional fishing contests, and second preference to applicants for contests that are not established as traditional fishing contests based on the number of times they have been unsuccessful in previous drawings. Except for applicants of established or traditional fishing contests, an applicant who is successful in a drawing loses all accumulated preference. "Established or traditional fishing contest" means a fishing contest that was issued permits in 1999 and 2000 or was issued permits four out of five years from 1996 to 2000 for the same lake and time period. Beginning with 2001, established or traditional fishing contests must continue to be conducted at least four out of five years for the same lake and time period to remain established or traditional.

(d) The commissioner has until November 7 to approve or deny permit applications that are submitted by 4:30 p.m. on the last Friday in September. The commissioner may approve a permit application that is received after 4:30 p.m. on the last Friday in September if approving the application would not result in exceeding the limits in subdivisions 7 and 8.

(e) The commissioner shall develop an online Web-based fishing contest permit application process.

Sec. 55. Minnesota Statutes 2008, section 97C.081, subdivision 9, is amended to read:

Subd. 9. **Permit restrictions.** (a) The commissioner may require fishing contest permittees to limit prefishing to week days only as a condition of a fishing contest permit. The commissioner may require proof from permittees that prefishing restrictions on the permit are communicated to fishing contest participants and enforced.

(b) The commissioner may require permit restrictions on the hours that a permitted fishing contest is conducted, including, but not limited to, starting and ending times.

(c) The commissioner may require permit restrictions on the number of parking spaces that may be used on a state-owned public water access site. The commissioner may require proof from permittees that parking restrictions on the permit are communicated to fishing contest participants and enforced.

(d) To prevent undue mortality of released fish, the commissioner may require restrictions for off-site weigh-ins and live releases on a fishing contest permit or may deny permits requesting an off-site weigh-in or live release. The commissioner may allow for live release weigh-ins at public accesses.

(e) A person may not transfer a fishing contest permit to another person.

(f) Failure to comply with fishing contest permit restrictions may be considered grounds for denial of future permit applications.

Sec. 56. Minnesota Statutes 2008, section 97C.335, is amended to read:

97C.335 USE OF ARTIFICIAL LIGHTS TO TAKE FISH PROHIBITED.

(a) A person may not use artificial lights to lure or attract fish or to see fish in the water while spearing, except that while angling or spearing, a person may:

(1) affix a lighted artificial bait with hooks attached to the end of a fishing line; or

(2) use a lighted decoy for spearing.

~~Any~~ (b) A battery that is used in lighted fishing lures ~~cannot~~ must not contain ~~any intentionally introduced~~ mercury.

(c) The restrictions in paragraph (a) do not apply to bow fishing.

Sec. 57. Minnesota Statutes 2008, section 97C.345, subdivision 2, is amended to read:

Subd. 2. **Possession.** (a) Except as specifically authorized, a person may not possess a spear, fish trap, net, dip net, seine, or other device capable of taking fish on or near any waters. Possession includes personal possession and in a vehicle.

(b) A person may possess spears, dip nets, ~~bows and arrows,~~ and spear guns allowed under section 97C.381 on or near waters between sunrise and sunset from May 1 to the last Sunday in February, or as otherwise prescribed by the commissioner.

Sec. 58. **[97C.346] PROHIBITION ON RETURNING CERTAIN NETTED ROUGH FISH TO WATERS.**

A person may not release carp or buffalo taken by netting back into the water.

Sec. 59. Minnesota Statutes 2008, section 97C.355, subdivision 2, is amended to read:

Subd. 2. **License required.** A person may not leave a dark house ~~or~~, fish house, or shelter unattended on the ice at any time between midnight and one hour before sunrise unless the house or shelter is licensed and has ~~a~~ the license tag attached to the exterior in a readily visible location, except as provided in this subdivision. The commissioner must issue a tag with a dark house ~~or~~, fish house, or shelter license, marked with a number to correspond with the license and the year of issue. A dark house ~~or~~, fish house, or shelter license is not required of a resident on boundary waters where the adjacent state does not charge a fee for the same activity.

Sec. 60. Minnesota Statutes 2008, section 97C.371, is amended by adding a subdivision to read:

Subd. 5. **Nonresidents.** Nonresidents may spear from a fish house or dark house.

Sec. 61. Minnesota Statutes 2008, section 97C.375, is amended to read:

97C.375 TAKING ROUGH FISH BY SPEARING ~~OR ARCHERY.~~

A resident or nonresident may take rough fish by spearing ~~or archery~~ during the times, in waters, and in the manner prescribed by the commissioner.

Sec. 62. **[97C.376] BOW FISHING.**

Subdivision 1. **Season.** The bow fishing season for residents and nonresidents is from May 1 to the last Sunday in February at any time of the day.

Subd. 2. **Possession of bows and arrows.** A person may possess bows and arrows for the purposes of bow fishing on or within 100 feet of waters at any time from May 1 to the last Sunday in February, subject to local ordinances. A person must take reasonable measures to retrieve arrows and wounded fish.

Subd. 3. **Nighttime restrictions on motors.** From sunset to sunrise, a person bow fishing with the assistance of a gasoline-powered motor must use a four-stroke engine powered generator. The noise limits for total noise while bow fishing from sunset to sunrise shall not exceed a noise level of 65 decibels on the A scale measured at a distance of 50 feet from the motorboat or equivalent noise levels at other distances as specified by the commissioner in a pass-by test or 67 decibels on the A scale measured at idle in a stationary test at least four feet above the water and at least four feet behind the transom of the motorboat being tested. The noise levels under section 86B.321 apply to persons traveling to and from bow fishing sites from sunset to sunrise.

Subd. 4. **Nighttime structure and campground setback requirements.** A person shall not discharge an arrow while bow fishing within 150 feet of an occupied structure or within 300 feet of a campsite from sunset to sunrise.

Subd. 5. **Prohibition on returning rough fish to waters.** Rough fish taken by bow fishing shall not be returned to the water and rough fish may not be left on the banks of any water of the state.

Sec. 63. Minnesota Statutes 2008, section 97C.395, subdivision 1, is amended to read:

Subdivision 1. **Dates for certain species.** (a) The open seasons to take fish by angling are as

follows:

(1) for walleye, sauger, northern pike, muskellunge, largemouth bass, and smallmouth bass, the Saturday two weeks prior to the Saturday of Memorial Day weekend to the last Sunday in February;

(2) for lake trout, from January 1 to October 31;

(3) for the winter season for lake trout on all lakes located outside or partially within the Boundary Waters Canoe Area, from January 15 to March 31;

(4) for the winter season for lake trout on all lakes located entirely within the Boundary Waters Canoe Area, from January 1 to March 31;

(5) for brown trout, brook trout, rainbow trout, and splake, between January 1 to October 31 as prescribed by the commissioner by rule except as provided in section 97C.415, subdivision 2;

~~(5)~~ (6) for the winter season for brown trout, brook trout, rainbow trout, and splake on all lakes, from January 15 to March 31; and

~~(6)~~ (7) for salmon, as prescribed by the commissioner by rule.

(b) The commissioner shall close the season in areas of the state where fish are spawning and closing the season will protect the resource.

Sec. 64. Laws 2008, chapter 368, article 2, section 25, the effective date, is amended to read:

EFFECTIVE DATE. The amendments to paragraph (a) are effective March 1, ~~2009~~ 2010.

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

Sec. 65. **ELK MANAGEMENT PLAN.**

Within 180 days of the effective date of this section, the commissioner of natural resources shall:

(1) develop an elk management plan consistent with the requirements under Minnesota Statutes, section 97B.516;

(2) present the elk management plan to the Kittson, Marshall, and Roseau County Boards; and

(3) begin implementing the plan.

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

Sec. 66. **RULEMAKING.**

(a) The commissioner of natural resources shall adopt or amend rules to establish minimum size limits for muskellunge on inland waters consistent with the provisions of this section. The commissioner must:

(1) establish a 48-inch statewide minimum size restriction for muskellunge and muskellunge-northern pike hybrids in inland waters, except for the lakes listed in clause (2) that are managed specifically for muskellunge-northern pike hybrids in Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties; and

(2) establish a 40-inch minimum size restriction for muskellunge-northern pike hybrids in the

following lakes in Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties:

LAKE	COUNTY
Bryant	Hennepin
Bush	Hennepin
Calhoun	Hennepin
Cedar	Hennepin
Cedar	Scott
Clear	Washington
Crystal	Dakota
Crystal	Hennepin
Eagle	Carver
Elmo	Washington
Gervais	Ramsey
Island	Ramsey
Isles	Hennepin
Johanna	Ramsey
Nokomis	Hennepin
Orchard	Dakota
Phalen	Ramsey
Pierson	Carver
Silver	Ramsey
Wasserman	Carver
Weaver	Hennepin

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the rules. Minnesota Statutes, section 14.386, does not apply except as provided in Minnesota Statutes, section 14.388.

Sec. 67. **TEMPORARY WARNING REQUIREMENTS; SHINING WITHOUT IMPLEMENTS TO TAKE WILD ANIMALS.**

A violation prior to August 1, 2010, of Minnesota Statutes, section 97B.081, subdivision 2, shall not result in a penalty, but is punishable only by a warning.

Sec. 68. **ZONE 3 DEER SEASON AND RESTRICTIONS; 2009.**

For the 2009 deer season, notwithstanding rules of the commissioner of natural resources under Minnesota Statutes, section 97B.311, paragraph (a), the commissioner shall allow a nine-day early A season in Zone 3 beginning the Saturday nearest November 6 and a nine-day late B season in Zone 3 beginning the Saturday nearest November 20. During the last two days of the 2009 early

A season in Zone 3, a person may not take antlered deer unless the deer has at least four points on one side, or the person has taken an antlerless deer prior to taking the antlered deer during the early A season in Zone 3. Party hunting for antlered deer under Minnesota Statutes, section 97B.301, subdivision 3, is not allowed in the last two days of the 2009 early A season in Zone 3. Zone 3 is defined in Minnesota Rules, part 6232.1400, subpart 3.

Sec. 69. **APPROPRIATION.**

$15,000 in fiscal year 2010 is appropriated from the game and fish fund to the commissioner for the development of an on-line fishing contest permit application process. This is a onetime appropriation.

Sec. 70. **LET'S GO FISHING; APPROPRIATION.**

(a) $150,000 in fiscal year 2010 and $150,000 in fiscal year 2011 are appropriated from the game and fish fund to the commissioner of natural resources for grants to Let's Go Fishing of Minnesota to provide community outreach to senior citizens, youth, and veterans and for the costs associated with the establishment and recruitment of new chapters. The grants must be matched with cash or in-kind contributions from nonstate sources. It is a condition of acceptance of grants under this section that Let's Go Fishing of Minnesota must submit a work program and annual progress reports in the form and manner determined by the commissioner of natural resources to the house of representatives and senate committees having budgetary oversight.

(b) The work program must include measurable outcomes and a plan for measuring and evaluating the results. The measurement and evaluation of outcomes must be supported with electronic data, including names of volunteers and guests, served in a meaningful format with each reimbursement request. For the purposes of this paragraph, "measurable outcomes" mean outcomes, indicators, or other performance measures that may be quantified or otherwise measured in order to measure the effectiveness of a project or program in meeting its intended goal or purpose.

(c) This appropriation may not be used to reimburse costs for lobbying or fundraising activities. Funds may be used, as approved in the work program, to reimburse salaries of individuals assigned responsibility for creating fundraising plans to be followed by chapters, but not for direct participation by Let's Go Fishing staff in any fundraising activity or costs associated with such activity. Administrative costs of delivering the program may not exceed 2.5 percent of the grant.

(d) All reimbursed costs must comply with the Department of Administration's Office of Grant Management policies as described in Minnesota Statutes, section 16B.98. Written contracts must be developed for all financial-related activity, such as rent, leases, sponsorships, manufacturer, agreements, in excess of $500 as prescribed in state policy.

(e) The work program must identify capital expenditures and leases over $2,000 and annual reports must describe the use of that capital equipment throughout its useful life.

(f) The commissioner must approve the work program before making a grant to Let's Go Fishing of Minnesota. This is a onetime appropriation.

Sec. 71. **REPEALER.**

Minnesota Statutes 2008, sections 97A.525, subdivision 2; 97B.301, subdivisions 7 and 8; and

97C.405, are repealed.

ARTICLE 3

STATE LAND ADMINISTRATION

Section 1. Minnesota Statutes 2008, section 84.0273, is amended to read:

84.0273 ESTABLISHMENT OF BOUNDARY LINES RELATING TO CERTAIN STATE LANDHOLDINGS.

(a) In order to resolve boundary line issues affecting the ownership interests of the state and adjacent landowners, the commissioner of natural resources may, in the name of the state upon terms the commissioner deems appropriate, convey, by a boundary line agreement, quitclaim deed, or management agreement in such form as the attorney general approves, such rights, titles, and interests of the state in state lands for such rights, titles and interests in adjacent lands as are necessary for the purpose of establishing boundaries. A notice of the proposed conveyance and a brief statement of the reason therefor shall be published once in the State Register by the commissioner between 15 and 30 days prior to conveyance. The provisions of this ~~section~~ paragraph are not intended to replace or supersede laws relating to land exchange or disposal of surplus state property.

(b) In order to resolve trespass issues affecting the ownership interests of the state and adjacent landowners, the commissioner of natural resources, in the name of the state, may sell surplus lands not needed for natural resource purposes at private sale to adjoining property owners and leaseholders. The conveyance must be by quitclaim in a form approved by the attorney general for a consideration not less than the value determined according to section 94.10, subdivision 1.

(c) Paragraph (b) applies to all state-owned lands managed by the commissioner of natural resources, except school trust land as defined in section 92.025. For acquired lands, the commissioner may sell the surplus lands as provided in paragraph (b) notwithstanding the offering to public entities, public sale, and related notice and publication requirements of sections 94.09 to 94.165. For consolidated conservation lands, the commissioner may sell the surplus lands as provided in paragraph (b) notwithstanding the classification and public sale provisions of chapters 84A and 282.

Sec. 2. **[84.0277] CAMP RIPLEY BUFFER EASEMENTS.**

Subdivision 1. **Acquisition authorized.** The commissioner may acquire, from willing sellers, perpetual conservation easements on behalf of the state and federal government consistent with Camp Ripley's Army compatible use buffer project. This project is geographically defined as a three-mile zone around Camp Ripley in central Minnesota.

Subd. 2. **Payments; terms.** Notwithstanding sections 84.0272, subdivision 1, and 84.0274, subdivision 5, paragraph (b), the commissioner may make payments to a landowner under this subdivision to acquire a perpetual conservation easement according to subdivision 1. The onetime payment may be based on the following:

(1) if the easement prohibits the construction of any new buildings or permanent structures upon the land, the commissioner may pay 60 percent of the most recent assessed market value of the land as determined by the county assessor of the county in which the land is located; or

(2) if the easement prohibits the construction of any new buildings or permanent structures upon the land and grants the public the right to access the land for natural resource-based outdoor recreation, the commissioner may pay 70 percent of the most recent assessed market value of the land as determined by the county assessor of the county in which the land is located.

Sec. 3. Minnesota Statutes 2008, section 85.0115, is amended to read:

85.0115 NOTICE OF ADDITIONS AND DELETIONS.

(a) The commissioner of natural resources shall publish a notice and description of proposed additions to and deletions from legislatively designated boundaries of state parks in a legal newspaper of general circulation in each county that is affected, and shall mail a copy of such notice and description to the chair of the affected county board or boards and to each affected landowner.

(b) When an addition to a legislatively designated boundary of a state park is proposed, the affected county board or boards or an affected city or township board may petition the commissioner of natural resources to attend a public hearing to discuss the proposed addition. The petition must be signed by the majority of the board members and include the time, date, and reason for the hearing, and be submitted to the commissioner of natural resources 30 days prior to the public hearing. The commissioner of natural resources or the commissioner's designee shall attend the public hearing when petitioned under this section.

Sec. 4. Minnesota Statutes 2008, section 85.015, subdivision 13, is amended to read:

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

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

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

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

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

Sec. 5. Minnesota Statutes 2008, section 103F.321, is amended by adding a subdivision to read:

Subd. 3. **Home-based business; conditional use.** A local unit of government may issue a conditional use permit in a wild and scenic river district designated pursuant to sections 103F.301 to 103F.351 to a home-based business that:

(1) is located on property that includes the primary residence of the business owner;

(2) is conducted within the primary residence or residential accessory structure and the residence and accessory structures were constructed prior to the effective date of this section;

(3) does not necessitate creation of additional impervious surface for vehicular parking on the property;

(4) satisfies all other requirements in a conditional use permit issued by the local unit of government; and

(5) satisfies all other state and local requirements applicable to the type of business.

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

Sec. 6. Minnesota Statutes 2008, section 282.04, subdivision 1, is amended to read:

Subdivision 1. **Timber sales; land leases and uses.** (a) The county auditor may sell timber upon any tract that may be approved by the natural resources commissioner. The sale of timber shall be made for cash at not less than the appraised value determined by the county board to the highest bidder after not less than one week's published notice in an official paper within the county. Any timber offered at the public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value thereof, until the time as the county board may withdraw the timber from sale. The appraised value of the timber and the forestry practices to be followed in the cutting of said timber shall be approved by the commissioner of natural resources.

(b) Payment of the full sale price of all timber sold on tax-forfeited lands shall be made in cash at the time of the timber sale, except in the case of oral or sealed bid auction sales, the down payment shall be no less than 15 percent of the appraised value, and the balance shall be paid prior to entry. In the case of auction sales that are partitioned and sold as a single sale with predetermined cutting blocks, the down payment shall be no less than 15 percent of the appraised price of the entire timber sale which may be held until the satisfactory completion of the sale or applied in whole or in part to the final cutting block. The value of each separate block must be paid in full before any cutting may begin in that block. With the permission of the county contract administrator the purchaser may enter unpaid blocks and cut necessary timber incidental to developing logging roads as may be needed to log other blocks provided that no timber may be removed from an unpaid block until separately scaled and paid for. If payment is provided as specified in this paragraph as security under paragraph (a) and no cutting has taken place on the contract, the county auditor may credit the security provided, less any down payment required for an auction sale under this paragraph, to any other contract issued to the contract holder by the county under this chapter to which the contract holder requests in writing that it be credited, provided the request and transfer is made within the same calendar year as the security was received.

(c) The county board may sell any timber, including biomass, as appraised or scaled. Any parcels of land from which timber is to be sold by scale of cut products shall be so designated in the published notice of sale under paragraph (a), in which case the notice shall contain a description of the parcels, a statement of the estimated quantity of each species of timber, and the appraised price of each

species of timber for 1,000 feet, per cord or per piece, as the case may be. In those cases any bids offered over and above the appraised prices shall be by percentage, the percent bid to be added to the appraised price of each of the different species of timber advertised on the land. The purchaser of timber from the parcels shall pay in cash at the time of sale at the rate bid for all of the timber shown in the notice of sale as estimated to be standing on the land, and in addition shall pay at the same rate for any additional amounts which the final scale shows to have been cut or was available for cutting on the land at the time of sale under the terms of the sale. Where the final scale of cut products shows that less timber was cut or was available for cutting under terms of the sale than was originally paid for, the excess payment shall be refunded from the forfeited tax sale fund upon the claim of the purchaser, to be audited and allowed by the county board as in case of other claims against the county. No timber, except hardwood pulpwood, may be removed from the parcels of land or other designated landings until scaled by a person or persons designated by the county board and approved by the commissioner of natural resources. Landings other than the parcel of land from which timber is cut may be designated for scaling by the county board by written agreement with the purchaser of the timber. The county board may, by written agreement with the purchaser and with a consumer designated by the purchaser when the timber is sold by the county auditor, and with the approval of the commissioner of natural resources, accept the consumer's scale of cut products delivered at the consumer's landing. No timber shall be removed until fully paid for in cash. Small amounts of timber not exceeding $3,000 in appraised valuation may be sold for not less than the full appraised value at private sale to individual persons without first publishing notice of sale or calling for bids, provided that in case of a sale involving a total appraised value of more than $200 the sale shall be made subject to final settlement on the basis of a scale of cut products in the manner above provided and not more than two of the sales, directly or indirectly to any individual shall be in effect at one time.

(d) As directed by the county board, the county auditor may lease tax-forfeited land to individuals, corporations or organized subdivisions of the state at public or private sale, and at the prices and under the terms as the county board may prescribe, for use as cottage and camp sites and for agricultural purposes and for the purpose of taking and removing of hay, stumpage, sand, gravel, clay, rock, marl, and black dirt from the land, and for garden sites and other temporary uses provided that no leases shall be for a period to exceed ten years; provided, further that any leases involving a consideration of more than $12,000 per year, except to an organized subdivision of the state shall first be offered at public sale in the manner provided herein for sale of timber. Upon the sale of any leased land, it shall remain subject to the lease for not to exceed one year from the beginning of the term of the lease. Any rent paid by the lessee for the portion of the term cut off by the cancellation shall be refunded from the forfeited tax sale fund upon the claim of the lessee, to be audited and allowed by the county board as in case of other claims against the county.

(e) As directed by the county board, the county auditor may lease tax-forfeited land to individuals, corporations, or organized subdivisions of the state at public or private sale, at the prices and under the terms as the county board may prescribe, for the purpose of taking and removing for use for road construction and other purposes tax-forfeited stockpiled iron-bearing material. The county auditor must determine that the material is needed and suitable for use in the construction or maintenance of a road, tailings basin, settling basin, dike, dam, bank fill, or other works on public or private property, and that the use would be in the best interests of the public. No lease shall exceed ten years. The use of a stockpile for these purposes must first be approved by the commissioner of natural resources. The request shall be deemed approved unless the requesting county is notified to the contrary by the commissioner of natural resources within

six months after receipt of a request for approval for use of a stockpile. Once use of a stockpile has been approved, the county may continue to lease it for these purposes until approval is withdrawn by the commissioner of natural resources.

(f) The county auditor, with the approval of the county board is authorized to grant permits, licenses, and leases to tax-forfeited lands for the depositing of stripping, lean ores, tailings, or waste products from mines or ore milling plants, or to use for facilities needed to recover iron-bearing oxides from tailings basins or stockpiles, or for a buffer area needed for a mining operation, upon the conditions and for the consideration and for the period of time, not exceeding ~~15~~ 25 years, as the county board may determine. The permits, licenses, or leases are subject to approval by the commissioner of natural resources.

(g) Any person who removes any timber from tax-forfeited land before said timber has been scaled and fully paid for as provided in this subdivision is guilty of a misdemeanor.

(h) The county auditor may, with the approval of the county board, and without first offering at public sale, grant leases, for a term not exceeding 25 years, for the removal of peat and for the production or removal of farm-grown closed-loop biomass as defined in section 216B.2424, subdivision 1, or short-rotation woody crops from tax-forfeited lands upon the terms and conditions as the county board may prescribe. Any lease for the removal of peat, farm-grown closed-loop biomass, or short-rotation woody crops from tax-forfeited lands must first be reviewed and approved by the commissioner of natural resources if the lease covers 320 or more acres. No lease for the removal of peat, farm-grown closed-loop biomass, or short-rotation woody crops shall be made by the county auditor pursuant to this section without first holding a public hearing on the auditor's intention to lease. One printed notice in a legal newspaper in the county at least ten days before the hearing, and posted notice in the courthouse at least 20 days before the hearing shall be given of the hearing.

(i) Notwithstanding any provision of paragraph (c) to the contrary, the St. Louis County auditor may, at the discretion of the county board, sell timber to the party who bids the highest price for all the several kinds of timber, as provided for sales by the commissioner of natural resources under section 90.14. Bids offered over and above the appraised price need not be applied proportionately to the appraised price of each of the different species of timber.

(j) In lieu of any payment or deposit required in paragraph (b), as directed by the county board and under terms set by the county board, the county auditor may accept an irrevocable bank letter of credit in the amount equal to the amount otherwise determined in paragraph (b). If an irrevocable bank letter of credit is provided under this paragraph, at the written request of the purchaser, the county may periodically allow the bank letter of credit to be reduced by an amount proportionate to the value of timber that has been harvested and for which the county has received payment. The remaining amount of the bank letter of credit after a reduction under this paragraph must not be less than 20 percent of the value of the timber purchased. If an irrevocable bank letter of credit or cash deposit is provided for the down payment required in paragraph (b), and no cutting of timber has taken place on the contract for which a letter of credit has been provided, the county may allow the transfer of the letter of credit to any other contract issued to the contract holder by the county under this chapter to which the contract holder requests in writing that it be credited.

Sec. 7. Laws 1996, chapter 407, section 32, subdivision 3, is amended to read:

Subd. 3. **Acquisition and management.** The commissioner of natural resources is authorized to

acquire by gift, lease, or purchase the lands for the Iron Range off-highway vehicle recreation area. Any lease with local government units shall be for at least ten years and may be paid up front at the request of either party. The commissioner shall manage the unit as a state recreation area as provided by Minnesota Statutes, section 86A.05, subdivision 3. The commissioner or the commissioner's designee in the trails and waterways division of the department of natural resources shall develop and manage the area for off-highway vehicle recreational use.

Sec. 8. Laws 2008, chapter 368, article 1, section 21, subdivision 4, is amended to read:

Subd. 4. **[85.012] [Subd. 38.] Lake Shetek State Park, Murray County.** The following areas are deleted from Lake Shetek State Park:

(1) Blocks 3 and 4 of Forman Acres according to the plat on file and of record in the Office of the Recorder for Murray County;

(2) the Hudson Acres subdivision according to the plat on file and of record in the Office of the Recorder for Murray County; and

(3) that part of Government Lot 6 ~~and~~, that part of Government Lot 7, and that part of Government Lot 8 of Section 6, Township 107 North, Range 40 West, and that part of Government Lot 1 and that part of Government Lot 2 of Section 7, Township 107 North, Range 40 West, Murray County, Minnesota, described as follows:

Commencing at the East Quarter Corner of said Section 6; thence on a bearing based on the 1983 Murray County Coordinate System (1996 Adjustment), of South 00 degrees ~~22 minutes 05 seconds East 1405.16~~ 17 minutes 23 seconds East 1247.75 feet along the east line of said Section 6; thence ~~North 89 degrees 07 minutes 01 second West 1942.39~~ South 88 degrees 39 minutes 00 seconds West 1942.74 feet; thence South 03 degrees 33 minutes 00 seconds West 94.92 feet to the northeast corner of Block 5 of FORMAN ACRES, according to the recorded plat thereof on file and of record in the Murray County Recorder's Office; thence South 14 degrees 34 minutes 00 seconds West 525.30 feet along the easterly line of said Block 5 and along the easterly line of the Private Roadway of FORMAN ACRES to the southeasterly corner of said Private Roadway and the POINT OF BEGINNING; thence North 82 degrees 15 minutes 00 seconds West 796.30 feet along the southerly line of said Private Roadway to an angle point on said line and an existing 1/2 inch diameter rebar; thence South 64 degrees 28 minutes 26 seconds West 100.06 feet along the southerly line of said Private Roadway to an angle point on said line and an existing 1/2 inch diameter rebar; thence South 33 degrees 01 minute 32 seconds West 279.60 feet along the southerly line of said Private Roadway to an angle point on said line; thence South 76 degrees 04 minutes 52 seconds West 766.53 feet along the southerly line of said Private Roadway to a 3/4 inch diameter rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON); thence South 16 degrees 24 minutes 50 seconds West 470.40 feet to a DNR MON; thence South 24 degrees 09 minutes 57 seconds West 262.69 feet to a DNR MON; thence South 08 degrees 07 minutes 09 seconds West 332.26 feet to a DNR MON; thence North 51 degrees 40 minutes 02 seconds West 341.79 feet to the east line of Lot A of Lot 1 of LOT A OF GOV. LOT 8, OF SEC. 6 AND LOT A OF GOV. LOT 1, OF SEC 7 TP. 107 RANGE 40, according to the recorded plat thereof on file and of record in the Murray County Recorder's Office and a DNR MON; thence South 14 degrees 28 minutes 55 seconds West 71.98 feet along the east line of said Lot A to the northerly most corner of Lot 36 of HUDSON ACRES, according to the record plat thereof on file and of record in the Murray County Recorder's Office and an existing steel fence post; thence South 51 degrees 37 minutes 05 seconds East 418.97 feet

along the northeasterly line of said Lot 36 and along the northeasterly line of Lots 35, 34, 33, 32 of HUDSON ACRES to an existing 1 inch inside diameter iron pipe marking the easterly most corner of Lot 32 and the most northerly corner of Lot 31A of HUDSON ACRES; thence South 48 degrees 33 minutes 10 seconds East 298.26 feet along the northeasterly line of said Lot 31A to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner thereof and the most northerly corner of Lot 31 of HUDSON ACRES; thence South 33 degrees 53 minutes 30 seconds East 224.96 feet along the northeasterly line of said Lot 31 and along the northeasterly line of Lots 30 and 29 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner of said Lot 29 and the most northerly corner of Lot 28 of ~~HUDSONS~~ HUDSON ACRES; thence South 45 degrees 23 minutes 54 seconds East 375.07 feet along the northeasterly line of said Lot 28 and along the northeasterly line of Lots 27, 26, 25, 24 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner of said Lot 24 and the most northerly corner of Lot 23 of HUDSON ACRES; thence South 64 degrees 39 minutes 53 seconds East 226.80 feet along the northeasterly line of said Lot 23 and along the northeasterly line of Lots 22 and 21 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner of said Lot 21 and the most northerly corner of Lot 20 of HUDSON ACRES; thence South 39 degrees 49 minutes 49 seconds East 524.75 feet along the northeasterly line of said Lot 20 and along the northeasterly line of Lots 19, 18, 17, 16, 15, 14 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner of said Lot 14 and the most northerly corner of Lot 13 of HUDSON ACRES; thence South 55 degrees 31 minutes 43 seconds East 225.11 feet along the northeasterly line of said Lot 13 and along the northeasterly line of Lots 12 and 11 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the easterly most corner of said Lot 11 and the northwest corner of Lot 10 of HUDSON ACRES; thence South 88 degrees 03 minutes 49 seconds East 224.90 feet along the north line of said Lot 10 and along the north line of Lots 9 and 8 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the northeast corner of said Lot 8 and the northwest corner of Lot 7 of HUDSON ACRES; thence North 84 degrees 07 minutes 37 seconds East 525.01 feet along the north line of said Lot 7 and along the north line of Lots 6, 5, 4, 3, 2, 1 of HUDSON ACRES to an existing 1 1/2 inch inside diameter iron pipe marking the northeast corner of said Lot 1 of HUDSON ACRES; thence southeasterly, easterly and northerly along a non-tangential curve concave to the north having a radius of 50.00 feet, central angle 138 degrees ~~41 minutes 58 seconds~~ 42 minutes 00 seconds, a distance of 121.04 feet, chord bears North 63 degrees 30 minutes 12 seconds East; thence continuing northwesterly and westerly along the previously described curve concave to the south having a radius of 50.00 feet, central angle 138 degrees 42 minutes 00 seconds, a distance of 121.04 feet, chord bears North 75 degrees 11 minutes 47 seconds West and a DNR MON; thence South 84 degrees 09 minutes 13 seconds West not tangent to said curve 520.52 feet to a DNR MON; thence North 88 degrees 07 minutes 40 seconds West 201.13 feet to a DNR MON; thence North 55 degrees 32 minutes 12 seconds West 196.66 feet to a DNR MON; thence North 39 degrees 49 minutes 59 seconds West 530.34 feet to a DNR MON; thence North 64 degrees 41 minutes 41 seconds West 230.01 feet to a DNR MON; thence North 45 degrees 23 minutes 00 seconds West 357.33 feet to a DNR MON; thence North 33 degrees 53 minutes ~~32~~ 30 seconds West 226.66 feet to a DNR MON; thence North 48 degrees 30 minutes 31 seconds West 341.45 feet to a DNR MON; thence North 08 degrees 07 minutes 09 seconds East 359.28 feet to a DNR MON; thence North 24 degrees 09 minutes ~~58~~ 57 seconds East 257.86 feet to a DNR MON; thence North 16 degrees 24 minutes 50 seconds East 483.36 feet to a DNR MON; thence North 76 degrees 04 minutes ~~53~~ 52 seconds East 715.53 feet to a DNR MON; thence North 33 degrees 01 minute 32 seconds East 282.54 feet to a DNR MON; thence North 64 degrees 28 minutes ~~25~~ 26 seconds East 84.97 feet to a DNR MON;

thence South 82 degrees 15 minutes 00 seconds East 788.53 feet to a DNR MON; thence North 07 degrees 45 minutes 07 seconds East 26.00 feet to the point of beginning; containing 7.55 acres.

Sec. 9. Laws 2008, chapter 368, article 1, section 21, subdivision 5, is amended to read:

Subd. 5. **[85.012] [Subd. 44a.] Moose Lake State Park, Carlton County.** The following areas are deleted from Moose Lake State Park, all in Township 46 North, Range 19 West, Carlton County:

(1) Parcel A: the West 660.00 feet of the Southwest Quarter of the Northeast Quarter of Section 28;

(2) Parcel B: the West 660.00 feet of the Northwest Quarter of the Southeast Quarter of Section 28 lying northerly of a line 75.00 feet northerly of and parallel with the centerline of State Trunk Highway 73, and subject to a taking for highway purposes of a 100.00-foot wide strip for access and also subject to highway and road easements;

(3) Parcel C: the West 660.00 feet of the Southwest Quarter of the Southeast Quarter of Section 28 lying northerly of a line 75.00 feet northerly of and parallel with the centerline of State Trunk Highway 73, and subject to taking for highway purposes of a road access under S.P. 0919 (311-311) 901 from State Trunk Highway 73 to old County Road 21, said access being 100.00 feet in width with triangular strips of land adjoining it at the northerly line of State Trunk Highway 73, and subject to highway and road easements;

(4) Parcel G: that part of Government Lot ~~1~~ 2 of Section 28, which lies northerly of the westerly extension of the northerly line of the Southwest Quarter of the Northeast Quarter of said Section 28, and southerly of the westerly extension of the northerly line of the South 660.00 feet of the Northwest Quarter of the Northeast Quarter of said Section 28;

(5) Parcel H: the South 660.00 feet of the Northwest Quarter of the Northeast Quarter of Section 28;

(6) Parcel I: the Southwest Quarter of the Northeast Quarter of Section 28, except the West 660.00 feet of said Southwest Quarter; and

(7) Parcel J: that part of the North One-Half of the Southeast Quarter of Section 28, described as follows: Commencing at the northwest corner of said North One-Half of the Southeast Quarter; thence South 89 degrees 57 minutes 36 seconds East along the north line of said North One-Half of the Southeast Quarter a distance of 660.01 feet to the east line of the West 660.00 feet of said North One-Half of the Southeast Quarter and the actual point of beginning; thence continue South 89 degrees 57 minutes 36 seconds East along the north line of said North One-Half of the Southeast Quarter a distance of 657.40 feet to the southeast corner of the Southwest Quarter of the Northeast Quarter of said Section 28; thence South 00 degrees 19 minutes 17 seconds West, parallel to the west line of said North One-Half of the Southeast Quarter a distance of 715.12 feet to the westerly right-of-way of US Interstate Highway 35; thence along said westerly right-of-way of US Interstate Highway 35 a distance of 457.86 feet on a nontangential curve, concave to the southeast, having a radius of 1,0 54.93 feet, a central angle of 24 degrees 52 minutes 03 seconds, and a chord bearing of South 39 degrees 00 minutes 37 seconds West; thence South 46 degrees 44 minutes 11 seconds West along said westerly right-of-way of US Interstate Highway 35 a distance of 295.30 feet to the northerly right-of-way of Minnesota Trunk Highway 73; thence 163.55 feet along said northerly right-of-way of Minnesota Trunk Highway 73 on a nontangential curve, concave to the south, having

a radius of 1, 984.88 feet, a central angle of 4 degrees 43 minutes 16 seconds, and a chord bearing of South 77 degrees 39 minutes 40 seconds West to the east line of the West 660.00 feet of said North One-Half of the Southeast Quarter; thence North 00 degrees 19 minutes 17 seconds East a distance of 1, 305.90 feet, more or less, to the point of beginning and there terminating.

Sec. 10. **ADDITIONS TO STATE PARKS.**

Subdivision 1. **[85.012] [Subd. 18.] Fort Snelling State Park, Ramsey, Hennepin and Dakota Counties.** The following area is added to Fort Snelling State Park, Hennepin County: that part of Section 20, Township 29 North, Range 23 West, described as follows: From monument number 2, located on the westerly extension of the south boundary of the U.S. Department of the Interior, Bureau of Mines; thence South 89 degrees 52 minutes 00 seconds East along said south boundary of the Bureau of Mines, 478.97 feet to reference point 1 on the easterly right-of-line of Trunk Highway No. 55 and the point of beginning; thence South 48 degrees 48 minutes 53 seconds East, 458.74 feet along the easterly right-of-way line of said Trunk Highway No. 55; thence North 23 degrees 48 minutes 00 seconds East, 329.00 feet to the south boundary of the Bureau of Mines; thence North 89 degrees 52 minutes 00 seconds West, 478.07 feet along said south boundary of the Bureau of Mines to the point of beginning.

Subd. 2. **[85.012] [Subd. 42.] Mille Lacs Kathio State Park, Mille Lacs County.** The following areas are added to Mille Lacs Kathio State Park, Mille Lacs County:

(1) Government Lot 4 of the Northwest Quarter of the Northwest Quarter; all in Section 25, Township 42, Range 27, less a tract to highway described as follows: Commencing at a point approximately 270.0 feet East of the southwest corner of Government Lot 4, Section 25, Township 42 North, Range 27 West, Engineers Station 71+00; thence North 26 degrees 56 minutes West to the west line of Section 25 at Engineers Station 77+07.4 a distance of 607.4 feet and there terminating. The above describes the center line of an 82.5-foot right-of-way for the reconstruction of County State-Aid Highway No. 26 and contains 0.23 acres in addition to the present 66-foot right-of-way, Mille Lacs County, Minnesota;

(2) Government Lot 5, Section 25, Township 42, Range 27;

(3) that part of Government Lot 1, Section 26, Township 42 North, Range 27 West, Mille Lacs County, Minnesota, EXCEPT that part of Government Lot 1, Section 26, Township 42 North, Range 27 West, Mille Lacs County, Minnesota, described as follows: Beginning at the northeast corner of said Government Lot 1; thence North 89 degrees 09 minutes 54 seconds West, bearing based on Mille Lacs County Coordinate System, along the north line of said Government Lot 1 a distance of 665.82 feet to a 3/4 inch iron rod with survey cap stamped "MN DNR LS 16098" (DNR monument); thence South 00 degrees 00 minutes 00 seconds West a distance of 241.73 feet to a DNR monument; thence continuing South 00 degrees 00 minutes 00 seconds West a distance of 42.18 feet to a P.K. nail in the centerline of County Road 26; thence southeasterly along the centerline of County Road 26 a distance of 860 feet, more or less, to the east line of said Government Lot 1; thence North 00 degrees 22 minutes 38 seconds East along the east line of said Government Lot 1 a distance of 763 feet, more or less, to the point of beginning, containing 6.6 acres, more or less. AND EXCEPT, that part of Government Lot 1, Section 26, Township 42 North, Range 27 West, described as follows: Commencing at a point where the west line of the Northwest Quarter of the Northwest Quarter, Section 25, Township 42, Range 27, intersects the meander line of lake commonly known and designated as "Warren Lake"; thence North along the west line of said forty a distance of 20 rods;

thence West at right angles to the meander line of said Warren Lake; thence in a southeasterly direction to the point of beginning; and

(4) Government Lot 2, Section 26, Township 42 North, Range 27 West, Mille Lacs County, Minnesota.

Sec. 11. **DELETIONS FROM STATE PARKS.**

Subdivision 1. **[85.012] [Subd. 21.] Lake Bemidji State Park, Beltrami County.** The following area is deleted from Lake Bemidji State Park, all in Beltrami County: that part of Government Lot 5, Section 24, Township 147 North, Range 33 West, Beltrami County, Minnesota described as follows: Commencing at the most easterly corner of Lot 2, Block 1, Shady Cove, according to the recorded plat thereof; thence northeasterly along the northeasterly extension of the line between Lots 1 and 2, Block 1 in said plat, a distance of 66.00 feet, to the point of beginning of the land to be described; thence continuing along last described course a distance of 150.00 feet; thence deflecting to the left 90 degrees 00 minutes 00 seconds, a distance of 607.70 feet; thence westerly along a line perpendicular to the westerly boundary of said Government Lot 5 to the west line of said Government Lot 5; thence South along the westerly boundary of said Government Lot 5 to intersect a line 66.00 feet northeasterly of, as measured at a right angle to and parallel with the northeasterly line of Block 1, said Shady Cove; thence southeasterly along said parallel line to the point of beginning.

Subd. 2. **[85.012] [Subd. 24a.] Great River Bluffs State Park, Winona County.** The following areas are deleted from Great River Bluffs State Park, Winona County:

(1) beginning at a point 200 feet West from the southeast corner of Lot 2, Section 26, Township 106 North, Range 5 West; thence West on lot line between Lots 2 and 3, 380 feet; thence North 58 degrees East, 320 feet; thence South 32 degrees East, 205 feet to place of beginning, containing 85/100 of an acre, more or less, Winona County, Minnesota;

(2) commencing at a point 200 feet West from the northeast corner of Lot 3, Section 26, Township 106 North, Range 5 West; thence South 33 degrees East 300 feet; thence South 58 degrees West 290 feet; thence North 32 degrees West, 490 feet to the lot line between Lots 2 and 3; thence East 350 feet to the place of beginning, containing 3 acres, more or less, Winona County, Minnesota;

(3) that part of the recorded plat of East Richmond, Winona County, Minnesota, lying within Section 27, Township 106 North, Range 5 West, that lies northwesterly of the southeasterly line of Jefferson Street, as dedicated in said plat and that lies southwesterly of the southwesterly right-of-way line of U.S. Highway No. 61;

(4) Lots 7 and 8, Block B, of Fern Glen Acres, the same being located upon and forming a part of Government Lot 1, Section 35; Lot 9 in Block B of Fern Glen Acres, township of Richmond, according to the recorded plat thereof; beginning at the southeast corner of Lot 9, Block B, Fern Glen Acres, South 33 degrees East 140 feet; thence South 70 degrees West 208 feet; thence North 33 degrees West 140 feet to the southwest line of Lot 9, Block B, Fern Glen Acres; thence North 57 degrees East on the southwest line of Lot 9, Block B, Fern Glen Acres, to place of beginning, all in Government Lot 1, Section 35, Township 106 North, Range 5 West, containing 3/4 acre more or less;

(5) that part of Government Lot 1, Section 35, Township 106, Range 5, Winona County,

Minnesota, which is more particularly bounded and described as follows, to wit: Commencing at the southwest corner of Lot 9 of Block "B" of the Plat of Fern Glen Acres; thence in a northeasterly direction and along the southerly line of said Lot 9 for a distance of 36.0 feet; thence deflect to the right 90 degrees 00 minutes, for a distance of 107.81 feet to an iron pipe which marks the point of beginning; thence continue in a southeasterly direction along the last described course for a distance of 73.78 feet; thence deflect to the left 9 degrees 04 minutes, for a distance of 32.62 feet; thence deflect to the right 90 degrees 00 minutes, for a distance of 73.23 feet; thence deflect to the right 89 degrees 20 minutes, for a distance of 104.04 feet; thence deflect to the right 9 degrees 44 minutes, for a distance of 35.00 feet; thence deflect to the right 90 degrees 00 minutes, for a distance of 64.75 feet; thence deflect to the right on a curve (Delta angle 90 degrees 00 minutes, radius 20.00 minutes) for an arc distance of 31.42 feet, more or less, to the point of beginning;

(6) that part of Government Lot 1, Section 35, Township 106, Range 5, Winona County, Minnesota, which is more particularly bounded and described as follows: Commencing at the southwest corner of Lot 9 of Block "B" of Fern Glen Acres; thence in a northeasterly direction along the southerly line of said Lot 9, a distance of 56.00 feet; thence at a deflection angle to the right of 90 degrees 00 minutes a distance of 180.00 feet to an iron pipe monument which marks the point of beginning; thence at a deflection angle to the left of 80 degrees 56 minutes 00 seconds a distance of 113.20 feet to the southerly right-of-way of U.S. Highway No. 61; thence at a deflection angle to the right of 84 degrees 18 minutes 00 seconds and southeasterly along the southerly right-of-way line of said U.S. Highway No. 61 a distance of 147.73 feet; thence at a deflection angle to the right of 87 degrees 12 minutes 30 seconds a distance of 193.87 feet; thence at a deflection angle to the right of 88 degrees 45 minutes 30 seconds a distance of 132.18 feet; thence at a deflection angle to the right of 90 degrees 40 minutes 00 seconds a distance of 93.23 feet; thence at a deflection angle to the left of 90 degrees 00 minutes 00 seconds a distance of 30.35 feet, more or less, to the point of beginning;

(7) that part of Government Lot 1, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota, which is more particularly bounded and described as follows: Commencing at the southwest corner of Lot 9 of Block "B" of the Plat of Fern Glen Acres; thence in a northeasterly direction along the southerly line of said Lot 9 a distance of 56.00 feet; thence at a deflection angle to the right of 90 degrees 00 minutes a distance of 180.00 feet; thence at a deflection angle to the left of 9 degrees 04 minutes 00 seconds a distance of 164.29 feet to an iron pipe monument which marks the point of beginning; thence at a deflection angle to the left of 89 degrees 25 minutes 30 seconds a distance of 102.19 feet to the southerly right-of-way line of U.S. Highway No. 61; thence at a deflection angle to the right of 92 degrees 47 minutes 30 seconds and southeasterly along the southerly right-of-way line of said U.S. highway a distance of 85.10 feet; thence at a deflection angle to the right of 87 degrees 12 minutes 30 seconds a distance of 187.89 feet; thence at a deflection angle to the right of 88 degrees 45 minutes 30 seconds a distance of 85.02 feet; thence at a deflection angle to the right of 91 degrees 14 minutes 30 seconds a distance of 91.68 feet, more or less, to the point of beginning;

(8) that part of Government Lots 1 and 2, Section 35, Township 106, Range 5, Winona County, Minnesota, described as follows: Commencing at the southwest corner of Lot 8 of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe in place; thence South 42 degrees 04 minutes East 296.1 feet to an iron pipe and the point of beginning; thence South 48 degrees 30 minutes 30 seconds West 107.35 feet to an iron pipe; thence continuing South 48 degrees 30 minutes

30 seconds West 12.11 feet; thence South 40 degrees 29 minutes 30 seconds East 100.7 feet; thence North 48 degrees 30 minutes 30 seconds East 17.83 feet to an iron pipe; thence continuing North 48 degrees 30 minutes 30 seconds East 111.83 feet to an iron pipe; thence continuing North 48 degrees 30 minutes 30 seconds East 70.61 feet to an iron pipe at a point on the southerly boundary line of Minnesota Trunk Highway No. 61 right-of-way; thence along said southerly boundary line a chord distance of 100.7 feet on a bearing North 40 degrees 29 minutes 30 seconds West to an iron pipe; thence South 48 degrees 30 minutes 30 seconds West 80.54 feet to the point of beginning;

(9) that part of Government Lots 1 and 2, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota, described as follows: Commencing at the southwest corner of Lot 8 of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe in place; thence South 42 degrees 04 minutes East 296.1 feet to an iron pipe; thence South 46 degrees 06 minutes 30 seconds East 101.05 feet to an iron pipe being the point of beginning; thence South 48 degrees 30 minutes 30 seconds West 111.83 feet to an iron pipe; thence continuing South 48 degrees 30 minutes 30 seconds West 17.56 feet; thence South 41 degrees 53 minutes East 192.4 feet; thence North 48 degrees 30 minutes 30 seconds East 94.05 feet to an iron pipe; thence continuing North 48 degrees 30 minutes 30 seconds East 105.95 feet to an iron pipe at a point on the southerly boundary line of U.S. Highway No. 61 right-of-way; thence along said southerly boundary line a chord distance of 192.4 feet on a bearing of North 41 degrees 53 minutes West to an iron pipe; thence South 48 degrees 30 minutes 30 seconds West 70.61 feet to the point of beginning;

(10) that part of Government Lot 2, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota described as follows: Commencing at the southwest corner of Lot 8 of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe in place; thence South 42 degrees 04 minutes East 296.1 feet; thence South 46 degrees 06 minutes 30 seconds East 371.05 feet to an iron pipe, the point of beginning; thence North 48 degrees 30 minutes 30 seconds East 52.45 feet to an iron pipe at a point on the southerly boundary line of Minnesota Trunk Highway No. 61 right-of-way; thence along said southerly boundary line a chord distance of 76.80 feet on a bearing of North 43 degrees 09 minutes 30 seconds West to an iron pipe; thence South 48 degrees 30 minutes 30 seconds West 105.95 feet to an iron pipe; thence continuing South 48 degrees 30 minutes 30 seconds West 94.05 feet; thence South 43 degrees 09 minutes 30 seconds East 76.80 feet; thence North 48 degrees 30 minutes 30 seconds East 55.93 feet to an iron pipe; thence continuing North 48 degrees 30 minutes 30 seconds East 91.62 feet to the point of beginning;

(11) that part of Government Lot 2, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota described as follows: Commencing at the southwest corner of Lot 8 of the Plat of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe; thence South 42 degrees 04 minutes East 296.1 feet to an iron pipe; thence South 46 degrees 06 minutes 30 seconds East 371.05 feet to an iron pipe which is the point of beginning; thence South 48 degrees 30 minutes 30 seconds West and along the south line of the property heretofore conveyed by Deed in Book 237 of Deeds on Page 693, for a distance of 147.55 feet; thence South 44 degrees 33 minutes 19 seconds East 127.91 feet; thence North 43 degrees 53 minutes 30 seconds East and along the northerly line of the property heretofore conveyed by Deed to Vincent Zanon in Book 252 of Deeds on page 663, for a distance of 200 feet, more or less, to the southerly right-of-way line of U.S. Highway No. 61; thence North 44 degrees 38 minutes 48 seconds West and along said southerly right-of-way line of

U.S. Highway No. 61 for a distance of 111.94 feet to an iron pipe in place at the southeast corner of the property heretofore conveyed by Deed in Book 237 of Deeds on page 693; thence South 48 degrees 30 minutes 30 seconds West 52.45 feet, more or less, to the point of beginning;

(12) that part of Government Lot 2, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota, described as follows: Commencing at the southwest corner of Lot 8 of the Plat of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe; thence South 42 degrees 04 minutes East 296.1 feet to an iron pipe; thence South 46 degrees 06 minutes 30 seconds East 371.05 feet to an iron pipe; thence South 48 degrees 30 minutes 30 seconds West and along the south line of the property heretofore conveyed by Deed in Book 237 of Deeds on page 693, for a distance of 147.55 feet; thence South 44 degrees 33 minutes 19 seconds East 127.91 feet to the point of beginning; thence continuing South 44 degrees 33 minutes 19 seconds East 112 feet; thence North 43 degrees 53 minutes 30 seconds East and along the north line of the property heretofore conveyed by Deed in Book 240 of Deeds on page 367, for a distance of 200 feet to the southerly right-of-way line of U.S. Highway No. 61; thence North 44 degrees 38 minutes 48 seconds West and along the said southerly right-of-way line of U.S. Highway No. 61 for a distance of 112 feet; thence South 43 degrees 53 minutes 30 seconds West for a distance of 200 feet, more or less, to the point of beginning; and

(13) that part of Government Lot 2, Section 35, Township 106 North, Range 5 West, Winona County, Minnesota, described as follows: Commencing at the southwest corner of Lot 8, Block "B" of Fern Glen Acres; thence South 33 degrees East 82.5 feet; thence North 57 degrees East 24.4 feet; thence South 43 degrees 47 minutes 30 seconds East 217.66 feet to an iron pipe; thence South 42 degrees 04 minutes East 296.1 feet to an iron pipe; thence South 46 degrees 06 minutes 30 seconds East 599.10 feet to an iron pipe, the point of beginning; thence North 43 degrees 53 minutes 30 seconds East 46.54 feet to a point on the southerly boundary line of Trunk Highway No. 61 right-of-way; thence along said southerly boundary line a chord distance of 73.05 feet, bearing South 46 degrees 00 minutes East; thence continuing along said southerly boundary line South 43 degrees 33 minutes West 10.0 feet; thence continuing along said southerly boundary line a chord distance of 28.50 feet bearing South 46 degrees 30 minutes East; thence South 45 degrees 00 minutes West 41.95 feet to an iron pipe in place; thence South 33 degrees 32 minutes West 255.0 feet; thence North 43 degrees 30 minutes 22 seconds West 146.84 feet; thence North 43 degrees 53 minutes 30 seconds East 184.1 feet to an iron pipe; thence North 43 degrees 53 minutes 30 seconds East 65.9 feet to the point of beginning.

Sec. 12. **WIND ENERGY LEASE.**

By August 30, 2009, the commissioner of natural resources must enter a 30-year lease of state land, according to Minnesota Statutes, section 92.502, paragraph (b), with the Mountain Iron Economic Development Authority for installation of up to four wind turbines and access roads. The land covered by the lease is located in St. Louis County and is described as: the South Half of Section 16, Township 59 North, Range 15 West.

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

Sec. 13. **LAKE VERMILION EASEMENTS.**

By July 30, 2009, the commissioner of natural resources shall grant easements across state land administered by the commissioner to private landowners on Bass Bay on the north shore of

Lake Vermilion to access Mud Creek Road (County Highway 408). Prior to granting an easement under this section, the commissioner shall comply with any applicable environmental review requirements in effect on the effective date of this section. If the commissioner has already prepared an environmental assessment worksheet for a proposed easement to which this section applies, further environmental review is not required by this section. A landowner granted an easement under this section shall grant a reciprocal easement to the state.

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

Sec. 14. **VETERANS CEMETERY.**

The commissioner of natural resources shall work with the commissioner of veterans affairs to locate sites throughout the state that would be appropriate for a new veterans cemetery.

Sec. 15. **SIGNS.**

The commissioner of natural resources shall adopt a suitable marking design to mark the C. J. Ramstad/Northshore Trail and shall erect the appropriate signs after the commissioner has been assured of the availability of funds from nonstate sources sufficient to pay all costs related to designing, erecting, and maintaining the signs.

ARTICLE 4

LAND SALES

Section 1. Laws 2007, chapter 131, article 2, section 38, is amended to read:

Sec. 38. **PUBLIC OR PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; WASHINGTON COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by public or private sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. If sold by private sale, the commissioner may only sell the land to a governmental subdivision of the state. If sold by private sale, the conveyance may be for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land.

(c) The land that may be sold is located in Washington County and is described as follows, Parcels A and B containing altogether 31.55 acres, more or less:

(1) Parcel A: all that part of the North Half of the Southeast Quarter, Section 30, Township 30 North, Range 20 West, bounded by the following described lines: commencing at the east quarter corner of said Section 30; thence on an assumed bearing of North 88 degrees 13 minutes 48 seconds West, 399.98 feet on and along the east-west quarter line of said Section 30 to the point of beginning; thence North 88 degrees 13 minutes 48 seconds West, 504.57 feet on and along the said east-west quarter line; thence South 17 degrees 54 minutes 26 seconds West, 1377.65 feet to a point on the south 1/16 line of said Section 30; thence South 88 degrees 10 minutes 45 seconds East, 504.44 feet

on and along the south 1/16 line of said Section 30; thence North 17 degrees 54 minutes 26 seconds East, 1378.11 feet to the point of beginning; and

(2) Parcel B: all that part of the North Half of the Southeast Quarter, Section 30, Township 30 North, Range 20 West, bounded by the following described lines: commencing at the east quarter corner of said Section 30; thence on an assumed bearing of North 88 degrees 13 minutes 48 seconds West, 904.55 feet along the east-west quarter line of said Section 30 to the point of beginning; thence South 17 degrees 54 minutes 26 seconds West, 1377.65 feet to a point on the south 1/16 line of said Section 30; thence North 88 degrees 10 minutes 45 seconds West, 369.30 feet along said south 1/16 line; thence North 42 degrees 24 minutes 47 seconds West, 248.00 feet; thence North 02 degrees 59 minutes 30 seconds East, 488.11 feet; thence North 47 degrees 41 minutes 19 seconds East, 944.68 feet to a point on the east-west quarter line of said Section 30; thence South 88 degrees 13 minutes 48 seconds East, 236.03 feet along said east-west quarter line to the point of beginning.

(d) The land borders Long Lake and is not contiguous to other state lands. The land was donated to the state with the understanding that the land would be used as a wildlife sanctuary. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 2. Laws 2008, chapter 368, article 1, section 34, is amended to read:

Sec. 34. **PRIVATE SALE OF SURPLUS STATE LAND; HENNEPIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 ~~and 94.10~~ to 94.16, the commissioner of natural resources ~~may sell by private sale~~ shall sell to the city of Wayzata the surplus land that is described in paragraph (c) upon verification that the city has acquired the adjacent parcel, currently occupied by a gas station.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land described in paragraph (c) to the city of Wayzata, for ~~less than the value of the land as determined by the commissioner~~ up to $75,000 plus transaction costs, but the conveyance must provide that the land described in paragraph (c) be used for ~~the~~ a public road and reverts to the state if the city of Wayzata fails to provide for public use of the land as a road or abandons the public use of the land.

(c) The land that may be sold is located in Hennepin County and is described as: Tract F, Registered Land Survey No. 1168.

(d) The Department of Natural Resources has determined that the state's land management interests would best be served if the land was conveyed to the city of Wayzata.

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

Sec. 3. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; AITKIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general

may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Aitkin County and is described as:

(1) parts of Government Lot 3, Section 33, and the Southeast Quarter of the Southwest Quarter, Section 28, all in Township 50 North, Range 23 West, Aitkin County, Minnesota, described as follows:

Commencing at the north quarter corner of said Section 33; thence South 88 degrees 07 minutes 19 seconds West, assumed bearing, along the northerly line of said Government Lot 3, a distance of 1020.00 feet to the point of beginning of the tract to herein be described; thence North 1 degree 52 minutes 41 seconds West 660.00 feet; thence South 88 degrees 07 minutes 19 seconds West 300 feet; thence South 1 degree 52 minutes 41 seconds East 660.00 feet to the northerly line of said Government Lot 3; thence South 88 degrees 07 minutes 19 seconds West 15.08 feet to the northwest corner of said Government Lot 3; thence South 1 degree 08 minutes 57 seconds East 326.00 feet, more or less, to the shoreline of Big Sandy Lake Reservoir; thence easterly along the said shoreline to a point which bears South 1 degree 52 minutes 41 seconds East from the point of beginning; thence North 1 degree 52 minutes 41 seconds West 330.00 feet, more or less, to the point of beginning of the tract to herein be described and there terminating, containing 3.89 acres, more or less; and

(2) those parts of Government Lot 3, Section 33 and the Southeast Quarter of the Southwest Quarter, Section 28, all in Township 50 North, Range 23 West, described as follows:

Commencing at the north quarter corner of said Section 33; thence South 88 degrees 07 minutes 19 seconds West, assumed bearing, along the northerly line of said Government Lot 3, a distance of 920.00 feet to the point of beginning of the tract to herein be described; thence North 1 degree 52 minutes 41 seconds West 660.00 feet; thence South 88 degrees 07 minutes 19 seconds West 100.00 feet; thence South 1 degree 52 minutes 41 seconds East 990.00 feet, more or less, to the shoreline of Big Sandy Lake Reservoir; thence easterly along the said shoreline to a point which bears South 1 degree 52 minutes 41 seconds East from the point of beginning; thence North 1 degree 52 minutes 41 seconds West 341.60 feet, more or less, to the point of beginning of the tract to herein be described and there terminating.

(d) The land borders Big Sandy Lake. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 4. **PRIVATE SALE OF SURPLUS STATE LAND; ANOKA COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale to the city of Ham Lake the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Anoka County and is described as:

That part of Government Lot 1, Section 20, Township 32 North, Range 23 West, described as follows: beginning at the quarter corner on the east line of Section 20, thence northerly along the east line of said Section 20, a distance of 1,250 feet; thence westerly and parallel to the

east and west quarter line of Section 20, a distance of 400 feet; thence southerly and parallel to the east line of Section 20, a distance of 750 feet; thence westerly and parallel to the east and west quarter line of Section 20, a distance of 750 feet; thence southerly and parallel to the east line of Section 20, a distance of 500 feet, to the east and west quarter line of Section 20; thence easterly along the quarter line a distance of 1,150 feet to the point of beginning, containing 20 acres, more or less.

(d) The city of Ham Lake currently leases the state land for a hiking trail in connection with Anoka County's management of adjacent public lands used for a county park. The Department of Natural Resources has determined that the state's land management interests would best be served if the land was conveyed to the city of Ham Lake.

(e) The city will use the land for the purpose of a public park.

Sec. 5. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; BELTRAMI COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Beltrami County and is described as: Government Lot 7, Section 25, Township 149 North, Range 33 West, containing 22 acres, more or less.

(d) The land borders Bass Lake. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 6. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; BELTRAMI COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Beltrami County and is described as: the West Half of the Northwest Quarter, Section 29, Township 147 North, Range 34 West, containing 80 acres, more or less.

(d) The land borders Grant Creek. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 7. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CASS COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general

may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cass County and is described as: Lot 21 of Longwood Point, according to the map or plat thereof on file and of record in the Office of the County Recorder in and for Cass County, Minnesota, in Section 5, Township 139 North, Range 26 West, containing 3.03 acres, more or less.

(d) The land borders Washburn Lake. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 8. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CASS COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cass County and is described as: Government Lots 5 and 6, Section 3, Township 141 North, Range 27 West, containing 81.15 acres, more or less.

(d) The land borders Mable Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 9. **PRIVATE SALE OF SURPLUS LAND; CLEARWATER COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land to the White Earth Band of Ojibwe for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land be used for the public and reverts to the state if the band fails to provide for public use or abandons the public use of the land. The conveyance may reserve an easement for ingress and egress.

(c) The land that may be sold is located in Clearwater County and is described as: the West 400 feet of the South 750 feet of Government Lot 3, Section 31, Township 145 North, Range 38 West, containing 6.89 acres, more or less.

(d) The Department of Natural Resources has determined that the land and building are no longer needed for natural resource purposes.

Sec. 10. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CROW WING COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Crow Wing County and is described as:

(1) Government Lot 3, Section 9, Township 136 North, Range 28 West, containing 39.25 acres, more or less; and

(2) Government Lot 2, Section 9, Township 136 North, Range 28 West, containing 25.3 acres, more or less.

(d) The land borders Shaffer Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 11. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CROW WING COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Crow Wing County and is described as: the North 1,000 feet of Government Lot 3, Section 25, Township 136 North, Range 27 West, excepting that portion which lies North and East of F.A.S #11, containing 32 acres, more or less.

(d) The land borders the Pine River. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 12. **CITY OF EAGAN; AUTHORITY TO EXCHANGE LAND; DAKOTA COUNTY.**

The portion of land conveyed to the city of Eagan under Laws 1995, chapter 159, now described as Parcel No. 10-30601-090-00, Outlot I, Gopher Eagan Industrial Park 2nd Addition, may be used for a colocation facility that provides secured space for public and private Internet and telecommunications network equipment and servers, notwithstanding the provision that the land reverts to the state if it is not used for public park or open space purposes. The commissioner of revenue is authorized to issue a state deed that provides for the land described above to be used for this purpose. The colocation facility must not be used by the municipality to provide voice, video, or Internet access services to the residents or businesses located in the city of Eagan. Nothing in this section is intended to restrict or limit the city of Eagan from communicating with its residents and businesses regarding governmental information and providing for the delivery of electronic services.

Sec. 13. **PRIVATE SALE OF SURPLUS LAND; FILLMORE COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Fillmore County and is described as:

That part of the Northwest Quarter of the Northwest Quarter of Section 2, Township 103

North, Range 10 West, described as follows: commencing at the northeast corner of the North Half of the Northwest Quarter of said Section 2; thence on an assumed bearing of South 89 degrees 22 minutes 48 seconds West, along the north line of said North Half of the Northwest Quarter, 500.09 feet; thence South 33 degrees 21 minutes 11 seconds West, 1,520.38 feet; thence North 00 degrees 37 minutes 12 seconds West, 540.85 feet; thence south 89 degrees 22 minutes 48 seconds West, 630.00 feet to the point of beginning of the land to be described; thence North 00 degrees 37 minutes 12 seconds West, 551.74 feet to the center line of Goodview Drive; thence North 89 degrees 03 minutes 27 seconds West, along said center line 77.26 feet; thence South 89 degrees 52 minutes 18 seconds West, along said center line, 162.78 feet; thence South 25 degrees 32 minutes 45 seconds West, 82.13 feet; thence South 20 degrees 17 minutes 19 seconds West, 169.57 feet; thence South 18 degrees 48 minutes 07 seconds West, 143.54 feet; thence South 26 degrees 31 minutes 49 seconds West, 211.00 feet; thence North 89 degrees 22 minutes 48 seconds East, 480.75 feet to the point of beginning. Subject to the right-of-way of said Goodview Drive. Containing 4.53 acres, more or less.

(d) The sale would be to the Eagle Bluff Environmental Learning Center for installation of a geothermal heating system for the center's adjacent educational facilities. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 14. **PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; HENNEPIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale to the city of St. Louis Park the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell to the city of St. Louis Park for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land described in paragraph (c) be used for the public and reverts to the state if the city of St. Louis Park fails to provide for public use or abandons the public use of the land.

(c) The land that may be sold is located in Hennepin County and is described as:

A strip of land 130 feet wide in the Southeast Quarter of the Northwest Quarter of Section 20, Township 117 North, Range 21 West, the center line of which strip has its beginning at a point on the west boundary of said Southeast Quarter of the Northwest Quarter, and 753.8 feet distant from the south boundary line of said Southeast Quarter of the Northwest Quarter, and continued thence east on a line parallel with the south boundary line of said Southeast Quarter of the Northwest Quarter for a distance of 1,012 feet, containing 3.02 acres, more or less.

(d) The land is adjacent to Minnehaha Creek and adjacent to other lands managed by the city of St. Louis Park. The Department of Natural Resources has determined that the state's land management interest would best be served if the land were conveyed to the city of St. Louis Park.

Sec. 15. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; HUBBARD COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Hubbard County and is described as: those parts of Government Lot 4 and the Southwest Quarter of the Southwest Quarter, Section 16, Township 143 North, Range 34 West, Hubbard County, Minnesota, lying southerly and easterly of Minnesota Department of Transportation Right-of-Way Plat Numbered 29-18 and Minnesota Department of Transportation Right-of-Way Plat Numbered 29-2 as the same is on file and of record in the Office of the County Recorder for Hubbard County, Minnesota, and lying westerly of the East 600 feet of said Government Lot 4, containing 14.6 acres, more or less.

(d) The land borders Lake Paine. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 16. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ITASCA COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Itasca County and is described as: Lot 23, Eagle Point Plat, Section 11, Township 59 North, Range 25 West, containing 0.31 acres, more or less.

(d) The land borders Eagle Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 17. **APPORTIONMENT OF PROCEEDS; TAX-FORFEITED LANDS; ITASCA COUNTY.**

Notwithstanding the provisions of Minnesota Statutes, chapter 282, and any other law relating to the apportionment of proceeds from the sale of tax-forfeited land, Itasca County may deposit proceeds from the sale of tax-forfeited lands into a tax-forfeited land replacement trust fund created in Laws 2006, chapter 236, article 1, section 43, as amended by Laws 2008, chapter 368, article 1, section 18. The principal and interest from these proceeds may be spent only on the purchase of lands to replace the tax-forfeited lands sold to Minnesota Steel Industries or for lands better suited for retention by Itasca County. Lands purchased with the land replacement fund must:

(1) become subject to a trust in favor of the governmental subdivision wherein they lie and all laws related to tax-forfeited lands; and

(2) be for forest management purposes and dedicated as memorial forest under Minnesota Statutes, section 459.06, subdivision 2.

Sec. 18. **PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; KITTSON COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Kittson County may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in Kittson County and is described as: that certain parcel situate in the Southwest Quarter of Section 10; Township 163 North, Range 48 West, described as follows: beginning at the southeast corner of said Southwest Quarter of said Section 10; thence West along the south boundary line of said Southwest Quarter a distance of 1,900 feet; thence North and parallel to the east boundary line of said Southwest Quarter a distance of 1,050 feet; thence East and parallel to the south boundary line of said Southwest Quarter a distance of 750 feet; thence southeasterly in a straight line to the point of beginning.

Sec. 19. **PRIVATE SALE OF SURPLUS STATE LAND; MURRAY COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale to the township of Murray the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and may be for consideration less than the appraised value of the land. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land to be sold is located in Murray County and is described as: that part of Government Lot 6, that part of Government Lot 7, and that part of Government Lot 8 of Section 6, Township 107 North, Range 40 West, and that part of Government Lot 1 and that part of Government Lot 2 of Section 7, Township 107 North, Range 40 West, Murray County, Minnesota, described as follows: Commencing at the east quarter corner of said Section 6; thence on a bearing based on the 1983 Murray County Coordinate System (1996 Adjustment), of South 00 degrees 17 minutes 23 seconds East 1247.75 feet along the east line of said Section 6; thence South 88 degrees 39 minutes 00 seconds West 1942.74 feet; thence South 03 degrees 33 minutes 00 seconds West 94.92 feet to the northeast corner of Block 5 of FORMAN ACRES, according to the recorded plat thereof on file and of record in the Murray County Recorder's Office; thence South 14 degrees 34 minutes 00 seconds West 525.30 feet along the easterly line of said Block 5 and along the easterly line of the private roadway of FORMAN ACRES to the southeasterly corner of said private roadway and the POINT OF BEGINNING; thence North 82 degrees 15 minutes 00 seconds West 796.30 feet along the southerly line of said private roadway to an angle point on said line and an existing 1/2 inch diameter rebar; thence South 64 degrees 28 minutes 26 seconds West 100.06 feet along the southerly line of said private roadway to an angle point on said line and an existing 1/2 inch diameter rebar; thence South 33 degrees 01 minute 32 seconds West 279.60 feet along the southerly line of said private roadway to an angle point on said line; thence South 76 degrees 04 minutes 52 seconds West 766.53 feet along the southerly line of said private roadway to a 3/4 inch diameter rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON); thence South 16 degrees 24 minutes 50 seconds West 470.40 feet to a DNR MON; thence South 24 degrees 09 minutes 57 seconds West 262.69 feet to a DNR MON; thence South 08 degrees 07 minutes 09 seconds West 332.26 feet to a DNR MON; thence North 51 degrees 40 minutes 02 seconds West 341.79 feet to the east line of Lot A of Lot 1 of LOT A OF GOVERNMENT LOT 8, OF SECTION 6 AND LOT

A OF GOVERNMENT LOT 1, OF SECTION 7, TOWNSHIP 107, RANGE 40, according to the recorded plat thereof on file and of record in the Murray County Recorder's Office and a DNR MON; thence South 14 degrees 28 minutes 55 seconds West 71.98 feet along the east line of said Lot A to the northerly most corner of Lot 36 of HUDSON ACRES, according to the record plat thereof on file and of record in the Murray County Recorder's Office and an existing steel fence post; thence South 51 degrees 37 minutes 05 seconds East 418.97 feet along the northeasterly line of said Lot 36 and along the northeasterly line of Lots 35, 34, 33, 32 of HUDSON ACRES to an existing 1-inch inside diameter iron pipe marking the easterly most corner of Lot 32 and the most northerly corner of Lot 31A of HUDSON ACRES; thence South 48 degrees 33 minutes 10 seconds East 298.26 feet along the northeasterly line of said Lot 31A to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner thereof and the most northerly corner of Lot 31 of HUDSON ACRES; thence South 33 degrees 53 minute 30 seconds East 224.96 feet along the northeasterly line of said Lot 31 and along the northeasterly line of Lots 30 and 29 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner of said Lot 29 and the most northerly corner of Lot 28 of HUDSON ACRES; thence South 45 degrees 23 minutes 54 seconds East 375.07 feet along the northeasterly line of said Lot 28 and along the northeasterly line of Lots 27, 26, 25, 24 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner of said Lot 24 and the most northerly corner of Lot 23 of HUDSON ACRES; thence South 64 degrees 39 minutes 53 seconds East 226.80 feet along the northeasterly line of said Lot 23 and along the northeasterly line of Lots 22 and 21 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner of said Lot 21 and the most northerly corner of Lot 20 of HUDSON ACRES; thence South 39 degrees 49 minutes 49 seconds East 524.75 feet along the northeasterly line of said Lot 20 and along the northeasterly line of Lots 19, 18, 17, 16, 15, 14 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner of said Lot 14 and the most northerly corner of Lot 13 of HUDSON ACRES; thence South 55 degrees 31 minutes 43 seconds East 225.11 feet along the northeasterly line of said Lot 13 and along the northeasterly line of Lots 12 and 11 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the easterly most corner of said Lot 11 and the northwest corner of Lot 10 of HUDSON ACRES; thence South 88 degrees 03 minutes 49 seconds East 224.90 feet along the north line of said Lot 10 and along the north line of Lots 9 and 8 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the northeast corner of said Lot 8 and the northwest corner of Lot 7 of HUDSON ACRES; thence North 84 degrees 07 minutes 37 seconds East 525.01 feet along the north line of said Lot 7 and along the north line of Lots 6, 5, 4, 3, 2, 1 of HUDSON ACRES to an existing 1 1/2-inch inside diameter iron pipe marking the northeast corner of said Lot 1 of HUDSON ACRES; thence southeasterly, easterly, and northerly along a nontangential curve concave to the North having a radius of 50.00 feet, central angle 138 degrees 42 minutes 00 seconds, a distance of 121.04 feet, chord bears North 63 degrees 30 minutes 12 seconds East; thence continuing northwesterly and westerly along the previously described curve concave to the South having a radius of 50.00 feet, central angle 138 degrees 42 minutes 00 seconds, a distance of 121.04 feet, chord bears North 75 degrees 11 minutes 47 seconds West and a DNR MON; thence South 84 degrees 09 minutes 13 seconds West not tangent to said curve 520.52 feet to a DNR MON; thence North 88 degrees 07 minutes 40 seconds West 201.13 feet to a DNR MON; thence North 55 degrees 32 minutes 12 seconds West 196.66 feet to a DNR MON; thence North 39 degrees 49 minutes 59 seconds West 530.34 feet to a DNR MON; thence North 64 degrees 41 minutes 41 seconds West 230.01 feet to a DNR MON; thence North 45 degrees 23 minutes 00 seconds West 357.33 feet to a DNR MON; thence North 33 degrees 53 minutes 30 seconds West 226.66 feet to a DNR MON; thence North 48 degrees 30 minutes 31 seconds West

341.45 feet to a DNR MON; thence North 08 degrees 07 minutes 09 seconds East 359.28 feet to a DNR MON; thence North 24 degrees 09 minutes 57 seconds East 257.86 feet to a DNR MON; thence North 16 degrees 24 minutes 50 seconds East 483.36 feet to a DNR MON; thence North 76 degrees 04 minutes 52 seconds East 715.53 feet to a DNR MON; thence North 33 degrees 01 minute 32 seconds East 282.54 feet to a DNR MON; thence North 64 degrees 28 minutes 26 seconds East 84.97 feet to a DNR MON; thence South 82 degrees 15 minutes 00 seconds East 788.53 feet to a DNR MON; thence North 07 degrees 45 minutes 07 seconds East 26.00 feet to the point of beginning; containing 7.55 acres.

(d) The Department of Natural Resources has determined that the state's land management interests would best be served if the lands were conveyed to the township of Murray.

Sec. 20. **CONVEYANCE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; RED LAKE COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Red Lake County may convey to the city of Red Lake Falls for no consideration the tax-forfeited land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and provide that the land reverts to the state if the city of Red Lake Falls fails to provide for the public use described in paragraph (d) or abandons the public use of the land. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be conveyed is located in Red Lake County and is described as follows: all that part of Block 5 which lies North of Block 6 and West of a line which is a projection northerly of the west line of Lot 11 of said Block 6, all in Mill Reserve Addition, containing approximately 500 feet frontage on the Clearwater River.

(d) The city will use the land to establish a public park.

Sec. 21. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in St. Louis County and is described as: Government Lot 4, Section 36, Township 58 North, Range 16 West, St. Louis County, Minnesota, EXCEPTING therefrom that part platted as SILVER LAKE SHORES according to the plat on file and of record in the Office of the Recorder for St. Louis County, Minnesota, containing 7.88 acres, more or less.

(d) The land borders Silver Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 22. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may not sell any part of the land described in paragraph (c) that is being used for airport purposes by the city of Eveleth or is proposed to be used for airport purposes by the city of Eveleth.

(c) The land that may be sold is located in St. Louis County and is described as: the Northeast Quarter of the Northwest Quarter, Section 16, Township 57 North, Range 17 West, St. Louis County, Minnesota, except that part of the North 10 feet thereof lying East of St. Mary's Lake and also except that part lying East of County State-Aid Highway 132, containing 26.5 acres, more or less.

(d) The land borders St. Mary's Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 23. **PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.**

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, St. Louis County shall sell by private sale the tax-forfeited land described in paragraph (c) to the nearest private landowner who has owned proximate land for at least 70 years.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as: Lots 150 and 151, NE NA MIK KA TA, town of Breitung, Section 6, Township 62 North, Range 15 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 24. **PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, St. Louis County may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyances must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. The conveyances must include any easements or deed restrictions specified in paragraph (c).

(c) The lands to be sold are located in St. Louis County and are described as:

(1) the East Half of the East Half of the Southwest Quarter of the Southwest Quarter, Section 5, Township 50 North, Range 14 West. Conveyance of this land must provide, for no consideration, an easement to the state that is 75 feet in width on each side of the centerline of East Branch Chester Creek, to provide riparian protection and angler access;

(2) the East Half of the East Half of the Southeast Quarter of the Southwest Quarter, Section 5, Township 50 North, Range 14 West. Conveyance of this land must provide, for no consideration, an

easement to the state that is 75 feet in width on each side of the centerline of East Branch Chester Creek, to provide riparian protection and angler access;

(3) the West Half of the East Half of the Southeast Quarter of the Southwest Quarter, Section 5, Township 50 North, Range 14 West. Conveyance of this land must provide, for no consideration, an easement to the state that is 75 feet in width on each side of the centerline of East Branch Chester Creek, to provide riparian protection and angler access;

(4) the West Half of the East Half of the Northwest Quarter of the Southwest Quarter and the West Half of the East Half of the Southwest Quarter of the Southwest Quarter, Section 4, Township 51 North, Range 17 West;

(5) all that part or strip lying North of the Savanna River, about 3 to 4 acres of the Southeast Quarter of the Northeast Quarter, Section 7, Township 51 North, Range 20 West;

(6) Government Lot 1, Section 18, Township 53 North, Range 18 West;

(7) the Southwest Quarter of the Southeast Quarter, Section 34, Township 53 North, Range 19 West;

(8) Lot 2, Jingwak Beach 1st Addition, town of Cotton, Section 20, Township 54 North, Range 16 West;

(9) Lot 4, Jingwak Beach 1st Addition, town of Cotton, Section 20, Township 54 North, Range 16 West;

(10) Lots 1, 2, 3, and 4, 1st Addition to Strand Lake, Section 20, Township 54 North, Range 16 West;

(11) the Southeast Quarter of the Southwest Quarter, Section 1, Township 55 North, Range 20 East. Conveyance of this land must provide, for no consideration, an easement to the state that is 75 feet in width on each side of the centerline of East Swan River, to provide riparian protection and angler access;

(12) that part of the Northeast Quarter of the Northwest Quarter beginning at the intersection of the east line of Highway 4 with the north line of the Northeast Quarter of the Northwest Quarter; thence South 500 feet; thence East 350 feet; thence North 500 feet; thence West 350 feet to the point of beginning, Section 19, Township 57 North, Range 15 West. Conveyance of this land must provide, for no consideration, an easement to the state that is 75 feet in width on each side of the centerline of the unnamed stream, to provide riparian protection and angler access. Where there is less than 75 feet from the centerline of the stream channel to the north property line, the easement shall be granted to the north property line;

(13) the West Half of Lot 1, Section 22, Township 58 North, Range 16 West. Conveyance of this land must provide, for no consideration, a 33-foot road easement to the state for access to Black Lake. The conveyance must include a deed restriction prohibiting buildings, structures, tree cutting, removal of vegetation, and shoreland alterations across a 75-foot strip from the ordinary high water mark, except a 15-foot strip is allowed for lake access and a dock; and

(14) the South Half of the Northwest Quarter of the Northwest Quarter, except the North Half of the Southwest Quarter, Section 32, Township 62 North, Range 18 West. Conveyance of this land

must provide, for no consideration, an easement to the state that is 105 feet in width on each side of the centerline of Rice River, to provide riparian protection and angler access.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 25. **PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County shall sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as: the easterly 200 feet of the Northwest Quarter of the Southeast Quarter, Section 21, Township 58 North, Range 15 West, except that part North of the St. Louis River.

(d) The county shall sell the land to the adjoining landowner to remedy an inadvertent trespass.

Sec. 26. **PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyances must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. The conveyances must include any easements or deed restrictions specified in paragraph (c).

(c) The lands to be sold are located in St. Louis County and are described as:

(1) an undivided 1369/68040 interest, Lot 8, Section 16, Township 50 North, Range 17 West;

(2) an undivided 1470/10080 interest, Lot 5, Section 17, Township 50 North, Range 17 West;

(3) an undivided 23/288 interest, Northeast Quarter of the Northeast Quarter, Section 21, Township 50 North, Range 17 West;

(4) an undivided 23/288 interest, Northwest Quarter of the Northeast Quarter, Section 21, Township 50 North, Range 17 West; and

(5) that part of Lot 7 beginning at a point 530 feet East of the southwest corner; thence North 30 degrees East 208 feet; thence North 55 degrees East 198 feet; thence 10 feet more or less on the same line to the waters edge; thence South along the waters edge to the south boundary line of Lot 7; thence 10 feet West; thence West on the same line 198 feet to the point of beginning, Section 5, Township 62 North, Range 16 West. The conveyance must include a deed restriction prohibiting

buildings, structures, tree cutting, removal of vegetation, and shoreland alterations across a 75-foot strip from the ordinary high water mark.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 27. **PUBLIC OR PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County may sell by public or private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as: Lot 5, Block 1, Williams Lakeview, town of Great Scott, Section 34, Township 60 North, Range 19 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 28. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; SHERBURNE COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Sherburne County and is described as: the Northeast Quarter of the Southwest Quarter, Section 16, Township 33 North, Range 27 West, containing 40 acres, more or less.

(d) The land borders Elk River and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 29. **PRIVATE SALE OF SURPLUS LAND BORDERING PUBLIC WATER; TODD COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c). Notwithstanding Minnesota Statutes, section 97A.135, subdivision 2a, the surplus land described in paragraph (c) is vacated from the Grey Eagle Wildlife Management Area upon sale.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Todd County and is described as: the East 50.00 feet of the South 165.00 feet of Government Lot 3, Section 16, Township 127 North, Range 33 West,

Todd County, Minnesota, containing 0.19 acres, more or less.

(d) The sale would resolve an unintentional trespass by the adjacent owner. While Lot 3 of Section 16, Township 127 North, Range 33 West, borders Bunker Lake, the portion of Lot 3 to be sold does not border public waters. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 30. **PRIVATE SALE OF SURPLUS STATE LAND; WASHINGTON COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale to Afton Alps the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and may be for consideration less than the appraised value of the land. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land to be sold is located in Washington County and is described as:

(1) that part of the Southwest Quarter of the Southeast Quarter of Section 3, Township 27, Range 20, Washington County, Minnesota that lies South of the North 800 feet thereof and North of the following described line: Commencing at a point 800 feet South of the northwest corner of said Southwest Quarter of the Southeast Quarter; thence 154 feet East; thence 228 feet East; thence South 430 feet; thence East 930.58 feet; thence North 430 feet, to the point of beginning of the line to be described; thence West to the point of commencement and said line there terminating; and

(2) that part of the North 208 feet of the South 866 feet of the East 208 feet of the Southeast Quarter of the Southeast Quarter of Section 3, Township 27, Range 20, Washington County, Minnesota that lies northwesterly of the following described line: Commencing at the northwest corner of the Southeast Quarter of the Southeast Quarter of said Section 3; thence South along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 900 feet; thence easterly, at a right angle, a distance of 660 feet, to the point of beginning of the line to be described; thence northeasterly to a point on the east line of said Southeast Quarter of the Southeast Quarter distant 275 feet South of the northeast corner thereof, and said line there terminating.

(d) The Department of Natural Resources has determined that the state's land management interests would best be served if the land were conveyed to the adjacent landowner.

Sec. 31. **EFFECTIVE DATE.**

Sections 1 to 30 are effective the day following final enactment.

ARTICLE 5

FOREST AND TIMBER MANAGEMENT

Section 1. **APPRAISED VALUE TIMBER SALES; FISCAL YEARS 2010 AND 2011.**

(a) During fiscal years 2010 and 2011, the commissioner of natural resources shall increase the amount of timber products sold from state lands under permits based solely on the appraiser's estimate of the timber volume described in the permit, as provided in Minnesota Statutes, section 90.14, paragraph (c).

(b) The commissioner shall evaluate sales of timber under paragraph (a) and other methods used to sell cut forest products from state lands to identify the method, or combination of methods, that is most efficient and effective in protecting the fiduciary interest of the state, including the permanent school fund.

(c) By January 15, 2011, the commissioner shall report to the house and senate natural resources policy and finance committees and divisions on the findings of the evaluation process completed under paragraph (b).

Sec. 2. **FOREST MANAGEMENT LEASE-PILOT PROJECT.**

(a) Notwithstanding the permit procedures of Minnesota Statutes, chapter 90, the commissioner of natural resources may lease up to 10,000 acres of state-owned forest lands for forest management purposes for a term not to exceed 21 years. No person or entity may lease more than 3,000 acres. The lease shall provide:

(1) that the lessee must comply with timber harvesting and forest management guidelines developed under Minnesota Statutes, section 89A.05, and landscape-level plans under Minnesota Statutes, section 89A.06, that have been adopted by the Minnesota Forest Resources Council, and in effect at the time of any management activity; and

(2) for public access for hunting, fishing, and motorized and nonmotorized recreation to the leased land that is the same as would be available under state management.

(b) For the purposes of this section, the term "state-owned forest lands" may include school trust lands as defined in Minnesota Statutes, section 92.025, or university land granted to the state by Acts of Congress.

(c) By December 15, 2009, the commissioner of natural resources shall provide a report to the house and senate natural resources policy and finance committees and divisions on the pilot project. The report will detail a plan for the implementation of the pilot project with a starting date that is no later than July 1, 2010.

(d) Upon implementation of the pilot project, the commissioner shall provide an annual report to the house and senate natural resources policy and finance committees and divisions on the progress of the project, including the acres leased, a breakdown of the types of forest land, and amounts harvested by species. The report shall include a net revenue analysis comparing the lease revenue with the estimated net revenue that would be obtained through state management and silvicultural practices cost savings the state realizes through leasing.

(e) Nothing in this section supersedes the duties of the commissioner of natural resources to properly manage forest lands under the authority of the commissioner, as defined in Minnesota Statutes, section 89.001, subdivision 13."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying certain definitions; modifying wild rice provisions; providing for off-highway vehicle forfeiture; modifying off-highway motorcycle, all-terrain vehicle, and watercraft operating provisions; modifying state park permit requirements; eliminating liquor service at John A. Latsch State Park; modifying cost-share program; modifying commissioner's authority; modifying state trails and establishing a new state trail; providing for

certain public hearings; providing for placement of a veterans cemetery; providing for establishment of boater waysides; providing for appeals and enforcement of certain civil penalties; modifying Water Law; providing certain exemptions from local ordinances; approving consumptive use of water for certain uses; classifying data; modifying refund provisions; modifying publication requirements; modifying restrictions in migratory feeding and resting areas; modifying game and fish laws; modifying wild animal and fish taking, possession, and licensing requirements; authorizing certain fees; modifying certain fees and accounts; authorizing acquisition of and granting of certain easements; modifying management authority for and apportionment of proceeds from the sale of tax-forfeited lands; adding to and deleting from certain state parks; authorizing public and private sales and exchanges of state land; modifying previously enacted land descriptions and sales authorization; requiring wind energy lease; requiring increase in appraised estimates for timber sales; requiring forest lease pilot project; requiring rulemaking and modifying rulemaking authority; providing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 13.7931, by adding a subdivision; 17.4981; 17.4988, subdivision 3; 84.027, subdivision 13; 84.0273; 84.105; 84.66, subdivision 2; 84.788, subdivision 11; 84.793, subdivision 1; 84.798, subdivision 10; 84.82, subdivision 11; 84.83, subdivision 3; 84.92, subdivision 8; 84.922, subdivision 12; 84.928, subdivision 1a; 85.0115; 85.015, subdivisions 2, 13, by adding a subdivision; 85.053, subdivision 3; 85.054, by adding subdivisions; 85.055, subdivision 1; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 86B.415, subdivision 11; 97A.015, by adding a subdivision; 97A.051, subdivision 2; 97A.075, subdivisions 1, 5; 97A.095, subdivision 2; 97A.137, by adding subdivisions; 97A.321; 97A.331, subdivision 2; 97A.405, subdivision 4; 97A.421, subdivision 1; 97A.441, subdivision 7; 97A.445, subdivision 1, by adding a subdivision; 97A.451, subdivision 2, by adding a subdivision; 97A.465, subdivision 1b; 97A.473, subdivision 1, by adding subdivisions; 97A.4742, subdivision 1; 97A.475, subdivisions 2, 3, 7, 11, 12, 29; 97A.525, subdivision 1; 97B.035, subdivision 2; 97B.045, subdivision 2, by adding a subdivision; 97B.051; 97B.055, subdivision 3; 97B.081; 97B.086; 97B.111, subdivision 1; 97B.328, subdivision 3; 97B.651; 97B.811, subdivisions 2, 3; 97B.931, subdivision 1; 97C.081, subdivisions 2, 3, 4, 6, 9; 97C.335; 97C.345, subdivision 2; 97C.355, subdivision 2; 97C.371, by adding a subdivision; 97C.375; 97C.395, subdivision 1; 103B.101, subdivisions 1, 2; 103B.3355; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.321, by adding a subdivision; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 282.04, subdivision 1; Laws 1996, chapter 407, section 32, subdivision 3; Laws 2007, chapter 131, article 2, section 38; Laws 2008, chapter 368, article 1, sections 21, subdivisions 4, 5; 34; article 2, section 25; proposing coding for new law in Minnesota Statutes, chapters 84; 97B; 97C; repealing Minnesota Statutes 2008, sections 84.796; 84.805; 84.929; 85.0505, subdivision 2; 97A.525, subdivision 2; 97B.301, subdivisions 7, 8; 97C.405; 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530; 8400.3560."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Kent Eken, David Dill, Rick Hansen, John Persell, Jenifer Loon

Senate Conferees: (Signed) Satveer Chaudhary, Dan Skogen, Lisa Fobbe, Bill Ingebrigtsen, Mee Moua

Senator Chaudhary moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1237 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1237 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 51 and nays 13, as follows:

Those who voted in the affirmative were:

Bakk	Erickson Ropes	Kubly	Olson, G.	Sieben
Berglin	Fischbach	Langseth	Olson, M.	Skoe
Betzold	Fobbe	Latz	Pariseau	Skogen
Carlson	Frederickson	Limmer	Pogemiller	Sparks
Chaudhary	Gerlach	Lourey	Prettner Solon	Vandeveer
Clark	Gimse	Lynch	Robling	Vickerman
Cohen	Hann	Metzen	Rosen	Wiger
Dahle	Ingebrigtsen	Michel	Saltzman	
Day	Johnson	Moua	Saxhaug	
Dibble	Jungbauer	Murphy	Senjem	
Dille	Kelash	Olseen	Sheran	

Those who voted in the negative were:

Anderson	Foley	Koering	Scheid	Torres Ray
Bonoff	Higgins	Pappas	Stumpf	
Doll	Koch	Rest	Tomassoni	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2251, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2251 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2251

A bill for an act relating to state government finance; providing federal stimulus oversight funding for certain state agencies; establishing a fiscal stabilization account; appropriating money.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2251 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 2251 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **SUMMARY OF APPROPRIATIONS.**

The amount shown in this section summarizes direct appropriations, by fund, made in this act.

		2009
General	**$**	**1,084,000**

Sec. 2. **APPROPRIATIONS.**

The sums shown in the column marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the general fund. The figure "2009" used in this act means that the appropriations listed under it are available for the fiscal year ending June 30, 2009.

	APPROPRIATIONS Available for the Year Ending June 30	
		2009
Sec. 3. **FINANCE**	**$**	**700,000**

Federal Stimulus Money Reporting and Oversight

This appropriation is to provide for staff, computers, professional and technical services, and other operating expenses necessary to comply with the reporting, monitoring, and financial control and transparency requirements of the American Recovery and Reinvestment Act (ARRA) of 2009. This appropriation may be used to cover costs incurred by other state agencies

and financial partners working in cooperation with the commissioner of finance to comply with the ARRA transparency requirements, including local units of government, higher education institutions, and nonprofit organizations. This appropriation must not be used to support the costs of administering specific programs funded by the ARRA. This is a onetime appropriation and is available until June 30, 2011.

Sec. 4. **STATE AUDITOR** **$** **384,000**

Federal Stimulus Money Reporting and Oversight

This appropriation is to provide temporary funding for staff, computers, and other operating expenses necessary to conduct special investigations and other oversight related to ensuring compliance with the reporting, monitoring, and financial control and transparency requirements of the American Recovery and Reinvestment Act (ARRA) of 2009. This is a onetime appropriation and is available until June 30, 2011.

Sec. 5. **LOCAL SHARE PAYMENT MODIFICATION REQUIRED FOR ARRA COMPLIANCE.**

Effective retroactively from October 1, 2008, through June 30, 2009, the state shall reduce Hennepin County's monthly contribution to the nonfederal share of medical assistance costs to the percentage required on September 1, 2008, to meet federal requirements for enhanced federal match under the American Reinvestment and Recovery Act of 2009. Notwithstanding the requirements of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (d), for the period beginning October 1, 2008, to June 30, 2009, Hennepin County's monthly payment under that provision is reduced to $434,688.

Sec. 6. **CAPITATION PAYMENTS.**

Effective retroactively from October 1, 2008, through December 31, 2010, and notwithstanding the requirements of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (c), the commissioner of human services shall increase capitation payments made to the Metropolitan Health Plan under Minnesota Statutes 2008, section 256B.69, by $6,800,000. The increased amount includes federal matching funds.

Sec. 7. **COUNTY CD SHARE OF MA COSTS FOR ARRA COMPLIANCE.**

Notwithstanding the provisions of Minnesota Statutes 2008, chapter 254B, for chemical

dependency services provided during the period October 1, 2008, to June 30, 2009, and reimbursed by medical assistance at the enhanced federal matching rate provided under the American Recovery and Reinvestment Act of 2009, the county share is 30 percent of the nonfederal share.

Sec. 8. **DEER RIVER SCHOOL CLOSING.**

Independent School District No. 317, Deer River, is eligible for sparsity revenue calculated under Minnesota Statutes, section 126C.10, subdivision 8a, for fiscal years 2010 and later if the board has adopted the required written resolution at any time prior to the start of the 2009-2010 school year.

Sec. 9. Laws 2009, chapter 95, article 1, section 1, is amended to read:

Section 1. **SUMMARY OF APPROPRIATIONS.**

Subdivision 1. **Summary By Fund.** The amounts shown in this subdivision summarize direct appropriations, by fund, made in this article.

SUMMARY BY FUND

	2010	2011	Total
General	$ ~~1,426,422,000~~ 1,426,639,000	$ ~~1,532,467,000~~ 1,532,170,000	$ 2,958,889,000
Health Care Access	2,157,000	2,157,000	4,314,000
Federal	137,943,000	0	137,943,000
State Government Special Revenue	93,000	17,000	110,000
Total	**$ ~~1,566,615,000~~ 1,566,832,000**	**$ ~~1,534,641,000~~ 1,534,344,000**	**$ 3,101,256,000**

Subd. 2. **Summary By Agency - All Funds.** The amounts shown in this subdivision summarize direct appropriations, by agency, made in this article.

SUMMARY BY AGENCY - ALL FUNDS

	2010	2011	Total
Minnesota Office of Higher Education	$ 187,753,000	$ 187,547,000	$ 375,300,000
Mayo Medical Foundation	1,300,000	1,351,000	2,651,000
Board of Trustees of the Minnesota State Colleges and Universities	~~677,845,000~~ 678,062,000	~~666,258,000~~ 665,961,000	1,344,103,000
Board of Regents of the University of Minnesota	699,624,000	679,468,000	1,379,092,000
Board of Dentistry	93,000	17,000	110,000
Total	**$ ~~1,566,615,000~~ 1,566,832,000**	**$ ~~1,534,641,000~~ 1,534,344,000**	**$ 3,101,256,000**

Sec. 10. Laws 2009, chapter 95, article 1, section 4, is amended to read:

Sec. 4. **BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES**

Subdivision 1. **Total Appropriation**		**~~677,845,000~~** **678,062,000**	**$**	**~~666,258,000~~** **665,961,000**

Appropriations by Fund

	2010	2011
	~~613,952,000~~	~~666,258,000~~
General	614,169,000	665,961,000
Federal	63,893,000	0

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

Subd. 2. **American Recovery and Reinvestment Act of 2009**	63,893,000	0

(a) This appropriation is from the fiscal stabilization account in the federal fund and may be used for modernization, renovation, or repair of facilities that are primarily used for instruction, research, or student housing but may not be used for maintenance of systems, equipment, or facilities. Amounts in this subdivision must not be allocated to modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public and must not be allocated to any facility used for sectarian instruction or religious worship or in which a substantial portion of the functions of the facilities are subsumed in a religious mission. No amount from this appropriation may be allocated to increase endowment funds.

(b) Appropriations under this subdivision must be used as a bridge for budget reductions in the biennium ending June 30, 2013. These appropriations may be used for, but are not limited to the following purposes: education

and general expenses; to retain faculty and staff jobs; to provide severance and for early retirement incentives; to mitigate the rising costs of attendance through minimizing tuition increases; and for the support of student employment opportunities.

(c) The legislature intends that the tuition increase for a Minnesota resident undergraduate student in the Minnesota State Colleges and Universities, must not exceed five percent per year for the biennium ending June 30, 2011. Federal stimulus money under this subdivision must be used to buy down the tuition increase in fiscal year 2010 to no more than three percent ~~per year~~ for a net increase of ~~six~~ eight percent.

(d) An additional $15,273,000 is appropriated in fiscal year 2009 from the fiscal stabilization account in the federal fund.

Subd. 3. **Central Office and Shared Services Unit**	47,328,000	47,328,000
For the Office of the Chancellor and the Shared Services Division.		
	~~561,824,000~~	~~614,130,000~~
Subd. 4. **Operations and Maintenance**	562,041,000	613,833,000

(a) It is the intention of the legislature to increase the amount of funding distributed to colleges and universities through the allocation model to provide direct support of instruction and related functions necessary to protect the core mission of educating students.

(b) The Board of Trustees shall submit expenditure reduction plans by March 15, 2010, to the committees of the legislature with responsibility for higher education finance to achieve the 2012-2013 base established in this section at the central office and at each institution. The plan submitted by the board must be based on plans developed at each institution detailing reductions to achieve lower base allocations at that institution. Each plan must focus on protecting direct

instruction.

(c) For the biennium ending June 30, 2011, expenditures under this subdivision must not exceed $40,000,000 for technology initiatives, including technology infrastructure improvements.

(d) ~~$40,000 each year is for the Cook County Higher Education Board to provide educational programs and academic support services.~~

~~(e)~~ $1,000,000 each year is for the Northeast Minnesota Higher Education District and high schools in its area. Students from area high schools may also access the facilities and faculty of the Northeast Minnesota Higher Education District for state-of-the-art technical education opportunities, including MnSCU's 2+2 Pathways initiative.

~~(f)~~ (e) $225,000 each year is to enhance eFolio Minnesota and for a center to provide on-site and Internet-based support and technical assistance to users of the state's eFolio Minnesota system to promote workforce and economic development and to enable access to workforce information generated through the eFolio Minnesota system.

~~(g)~~ (f) For fiscal years 2012 and 2013 the base for operations and maintenance is $602,759,000 each year.

Subd. 5. **Learning Network of Minnesota**	4,800,000	4,800,000

Subd. 6. **System Improvements**

To increase efficiencies and equity for faculty and staff, the Board of Trustees is encouraged to place a priority on identifying and implementing measures to improve the human resources system used by the Minnesota State Colleges and Universities. One of the goals of improving the human resources system is to provide seamless information on faculty and employees to facilitate transfers between institutions.

Sec. 11. Laws 2009, chapter 95, article 1, section 5, subdivision 4, is amended to read:

Subd. 4. **American Recovery and Reinvestment Act of 2009**	74,050,000	0

(a) This appropriation is from the fiscal stabilization account in the federal fund and may be used for modernization, renovation, or repair of facilities that are primarily used for instruction, research, or student housing but may not be used for maintenance of systems, equipment, or facilities. Amounts in this subdivision must not be allocated to modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public and must not be allocated to any facility used for sectarian instruction or religious worship or in which a substantial portion of the functions of the facilities are subsumed in a religious mission. No amount from this appropriation may be allocated to increase endowment funds.

(b) Appropriations under this subdivision must be used as a bridge for budget reductions in the biennium ending June 30, 2013. These appropriations may be used for, but are not limited to the following purposes: education and general expenses; to retain faculty and staff jobs; to provide severance and for early retirement incentives; to mitigate the rising costs of attendance through minimizing tuition increases; and for the support of student employment opportunities.

(c) The legislature intends that the net tuition increase for a Minnesota resident undergraduate student at the University of Minnesota must not exceed $300 ~~per year for the biennium ending June 30,~~ in fiscal year 2010 and $450 in fiscal year 2011. Appropriations of federal stimulus money under this subdivision must be used toward accomplishing this goal.

(d) An additional $15,273,000 is appropriated

in fiscal year 2009 from the stabilization account in the federal fund.

Sec. 12. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to government finance; providing federal stimulus oversight funding for certain state agencies; conforming Minnesota law to the requirements necessary to receive federal stimulus money for medical assistance; modifying Hennepin County's 2009 nonfederal share of medical assistance costs to comply with federal requirements to receive enhanced FMAP; authorizing eligibility for sparsity revenue for the Deer River School District; adjusting higher education limits on tuition increases; modifying funding for the Minnesota State Colleges and Universities; appropriating money; amending Laws 2009, chapter 95, article 1, sections 1; 4; 5, subdivision 4."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Loren Solberg, Lyndon Carlson, Tim Faust, Kathy Brynaert, Larry Howes

Senate Conferees: (Signed) Richard Cohen, Tarryl Clark, Linda Berglin, Sandra Pappas, Dennis Frederickson

Senator Cohen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2251 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2251 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 59 and nays 8, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Koering	Olson, M.	Senjem
Bakk	Doll	Kubly	Pappas	Sheran
Berglin	Erickson Ropes	Langseth	Pariseau	Sieben
Betzold	Fischbach	Lourey	Pogemiller	Skoe
Bonoff	Fobbe	Lynch	Prettner Solon	Skogen
Carlson	Foley	Marty	Rest	Sparks
Chaudhary	Frederickson	Metzen	Robling	Stumpf
Clark	Gimse	Michel	Rosen	Tomassoni
Cohen	Higgins	Moua	Rummel	Torres Ray
Dahle	Ingebrigtsen	Murphy	Saltzman	Vickerman
Day	Johnson	Olseen	Saxhaug	Wiger
Dibble	Kelash	Olson, G.	Scheid	

Those who voted in the negative were:

Gerlach	Jungbauer	Latz	Ortman
Hann	Koch	Limmer	Vandeveer

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2323, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2323 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 18, 2009

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2323

A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, enforcement, collection, refund, clarifying, and other changes to income, franchise, property, sales and use, estate, gift, cigarette, tobacco, liquor, motor vehicle, gross receipts, minerals, tax increment financing and other taxes and tax-related provisions; requiring certain additions; conforming to federal section 179 expensing allowances; adding Minnesota development subsidies to corporate taxable income; disallowing certain subtractions; allowing certain nonrefundable credits; allowing a refundable Minnesota child credit; repealing various credits; conforming to certain federal tax provisions; expanding definition of domestic corporation to include tax havens; modifying income tax rates; expanding and increasing credit for research activities; accelerating single sales apportionment; modifying minimum fees; allowing county local sales tax; eliminating certain existing local sales taxes; adjusting county program aid; modifying levy limits; making changes to residential homestead market value credit; providing flexibility and mandate reduction provisions; making changes to various property tax and local government aid-related provisions; providing temporary suspension of new or increased maintenance of effort and matching fund requirements; modifying county support of libraries; establishing the Council on Local Results and Innovation; providing property tax system benchmarks, critical indicators, and principles; establishing a property tax work group; creating the Legislative Commission on Mandate Reform; making changes to certain administrative procedures; modifying mortgage registry tax payments; modifying truth in taxation provisions; providing clarification for eligibility for property tax exemption for institutions of purely public charity; making changes to property tax refund and senior citizen property tax deferral programs; providing property tax exemptions; providing a property valuation reduction for certain land constituting a riparian buffer; providing a partial valuation exclusion for disaster damaged homes; extending deadline for special service district and housing improvement districts; requiring a fiscal disparity study; extending emergency medical service special taxing district; providing emergency debt certificates; providing and modifying local taxes; expanding county authorization to abate certain improvements; providing municipal street improvement districts; establishing a seasonal recreational property tax deferral program; expanding sales and use tax base; defining

solicitor for purposes of nexus; providing a bovine tuberculosis testing grant; modifying tax preparation services law; modifying authority of municipalities to issue bonds for certain other postemployment benefits; allowing use of increment to offset state aid reductions; allowing additional authority to spend increments for housing replacement district plans; modifying and authorizing certain tax increment financing districts; providing equitable funding health and human services reform; modifying JOBZ provisions; repealing international economic development and biotechnology and health science industry zones; modifying basic sliding fee program funding; providing appointments; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 3.842, subdivision 4a; 3.843; 16C.28, subdivision 1a; 40A.09; 84.82, subdivision 10; 84.922, subdivision 11; 86B.401, subdivision 12; 123B.10, subdivision 1; 134.34, subdivisions 1, 4; 245.4932, subdivision 1; 253B.045, subdivision 2; 254B.04, subdivision 1; 270C.12, by adding a subdivision; 270C.445; 270C.56, subdivision 3; 272.02, subdivision 7, by adding subdivisions; 272.029, subdivision 6; 273.111, by adding a subdivision; 273.1231, subdivision 1; 273.1232, subdivision 1; 273.124, subdivision 1; 273.13, subdivisions 25, 34; 273.1384, subdivisions 1, 4, by adding a subdivision; 273.1393; 275.025, subdivisions 1, 2; 275.065, subdivisions 1, 1a, 1c, 3, 6; 275.07, subdivisions 1, 4, by adding a subdivision; 275.70, subdivisions 3, 5; 275.71, subdivisions 2, 4, 5; 276.04, subdivision 2; 279.10; 282.08; 287.08; 289A.02, subdivision 7, as amended; 289A.11, subdivision 1; 289A.20, subdivision 4; 289A.31, subdivision 5; 290.01, subdivisions 5, 19, as amended, 19a, as amended, 19b, 19c, as amended, 19d, as amended, 29, 31, as amended, by adding subdivisions; 290.014, subdivision 2; 290.06, subdivisions 2c, 2d, by adding subdivisions; 290.0671, subdivision 1; 290.068, subdivisions 1, 3, 4; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 1, 3, by adding a subdivision; 290.17, subdivisions 2, 4; 290.191, subdivisions 2, 3; 290A.03, subdivision 15, as amended; 290A.04, subdivision 2; 290B.03, subdivision 1; 290B.04, subdivisions 3, 4; 290B.05, subdivision 1; 291.005, subdivision 1, as amended; 291.03, subdivision 1; 295.75, subdivision 2; 297A.61, subdivisions 3, 4, 5, 6, 10, 14a, 17a, 21, 38, by adding subdivisions; 297A.62, by adding a subdivision; 297A.63; 297A.64, subdivision 2; 297A.66, subdivision 1, by adding a subdivision; 297A.67, subdivisions 15, 23; 297A.815, subdivision 3; 297A.83, subdivision 3; 297A.94; 297A.99, subdivisions 1, 6; 297B.02, subdivision 1; 297F.01, by adding a subdivision; 297F.05, subdivisions 1, 3, 4, by adding a subdivision; 297G.03, subdivision 1; 297G.04; 298.001, by adding a subdivision; 298.018, subdivisions 1, 2, by adding a subdivision; 298.227; 298.24, subdivision 1; 298.28, subdivisions 2, 11, by adding a subdivision; 306.243, by adding a subdivision; 344.18; 365.28; 375.194, subdivision 5; 383A.75, subdivision 3; 428A.101; 428A.21; 429.011, subdivision 2a; 429.021, subdivision 1; 429.041, subdivisions 1, 2; 446A.086, subdivision 8; 465.719, subdivision 9; 469.015; 469.174, subdivision 22; 469.175, subdivisions 1, 6; 469.176, subdivisions 3, 6, by adding a subdivision; 469.1763, subdivisions 2, 3; 469.178, subdivision 7; 469.315; 469.3192; 473.13, subdivision 1; 473H.04, by adding a subdivision; 473H.05, subdivision 1; 475.51, subdivision 4; 475.52, subdivision 6; 475.58, subdivision 1; 477A.011, subdivision 36; 477A.0124, by adding a subdivision; 477A.013, subdivision 9, by adding a subdivision; 477A.03, subdivisions 2a, 2b; 641.12, subdivision 1; Laws 1986, chapter 396, section 4, subdivision 3; by adding a subdivision; Laws 1986, chapter 400, section 44, as amended; Laws 1991, chapter 291, article 8, section 27, subdivision 3, as amended; Laws 1993, chapter 375, article 9, section 46, subdivision 2, as amended, by adding a subdivision; Laws 1995, chapter 264, article 5, sections 44, subdivision 4, as amended; 45, subdivision 1, as amended; Laws 1996, chapter 471, article 2, section 30; Laws 1998, chapter 389, article 8, section 37, subdivision 1; Laws 2001, First Special Session chapter 5, article 3, section 8, as amended; Laws 2002, chapter 377, article 3, section 25; Laws 2006, chapter 259, article 3, section 12, subdivision 3; Laws 2008, chapter 366, article 5, section 34;

article 6, sections 9; 10; article 7, section 16, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3; 6; 14; 17; 256E; 270C; 272; 273; 275; 290; 292; 297A; 435; 475; 477A; proposing coding for new law as Minnesota Statutes, chapter 290D; repealing Minnesota Statutes 2008, sections 245.4835; 245.714; 246.54; 254B.02, subdivision 3; 256B.19, subdivision 1; 256I.08; 272.02, subdivision 83; 273.113; 275.065, subdivisions 5a, 6b, 6c, 8, 9, 10; 289A.50, subdivision 10; 290.01, subdivision 6b; 290.06, subdivisions 24, 28, 30, 31, 32, 33, 34; 290.067, subdivisions 1, 2, 2a, 2b, 3, 4; 290.0672; 290.0674; 290.0679; 290.0802; 290.0921, subdivision 7; 290.191, subdivision 4; 290.491; 297A.61, subdivision 45; 297A.68, subdivisions 38, 41; 469.316; 469.317; 469.321; 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328; 469.329; 469.330; 469.331; 469.332; 469.333; 469.334; 469.335; 469.336; 469.337; 469.338; 469.339; 469.340; 469.341; 477A.0124, subdivisions 3, 4, 5; 477A.03, subdivision 5; Laws 2009, chapter 3, section 1; Laws 2009, chapter 12, article 1, section 8.

May 18, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2323 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. 2323 be further amended as follows:

Delete everything after the enacting clause and insert:

"**ARTICLE 1**

EDUCATION SHIFTS

Section 1. Minnesota Statutes 2008, section 123B.54, as amended by Laws 2009, chapter 96, article 4, section 1, is amended to read:

123B.54 DEBT SERVICE APPROPRIATION.

(a) $9,109,000 in fiscal year 2009, ~~$7,948,000~~ $6,608,000 in fiscal year 2010, ~~$9,275,000~~ $9,012,000 in fiscal year 2011, ~~$9,574,000~~ $9,547,000 in fiscal year 2012, and ~~$8,904,000~~ $9,033,000 in fiscal year 2013 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Sec. 2. Minnesota Statutes 2008, section 123B.75, is amended by adding a subdivision to read:

Subd. 1a. **Definition.** For the purpose of this section, "school district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

Sec. 3. Minnesota Statutes 2008, section 123B.75, subdivision 5, is amended to read:

Subd. 5. **Levy recognition.** (a) ~~"School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.~~

~~(b) For fiscal year 2004 and later years,~~ In June of ~~each year~~ 2009, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; and

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6.

(b) For fiscal year 2010 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) the greater of 49.1 percent of the referendum levy certified according to section 126C.17 in the prior calendar year, or 31 percent of the referendum levy certified according to section 126C.17 in calendar year 2000; plus

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6; plus

(iii) 49.1 percent of the amount of the levy certified in the prior calendar year for the school district's general and community service funds, plus or minus auditor's adjustments, not including the levy portions that are assumed by the state, that remains after subtracting the referendum levy certified according to section 126C.17 and the amount recognized according to item (ii).

Sec. 4. Minnesota Statutes 2008, section 126C.48, subdivision 7, is amended to read:

Subd. 7. **Reporting.** For each tax settlement, the county auditor shall report to each school district by fund, the district tax settlement revenue defined in section 123B.75, subdivision ~~5, paragraph (a)~~ 1a, on the form specified in section 276.10. The county auditor shall send to the district a copy of the spread levy report specified in section 275.124.

Sec. 5. Minnesota Statutes 2008, section 127A.441, is amended to read:

127A.441 AID REDUCTION; LEVY REVENUE RECOGNITION CHANGE.

Each year, the state aids payable to any school district for that fiscal year that are recognized as revenue in the school district's general and community service funds shall be adjusted by an amount equal to (1) the amount the district recognized as revenue for the prior fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b), minus (2) the amount the district recognized as revenue for the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b). For purposes of making the aid adjustments under this section, the amount the district recognizes as revenue for either the prior fiscal year or the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (b), shall not include any amount levied pursuant to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6. Payment from the permanent school fund shall not be adjusted pursuant to this section. The school district shall be notified of the amount of the adjustment made to each payment pursuant to this section.

Sec. 6. Minnesota Statutes 2008, section 127A.45, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) ~~The term~~ "Other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) ~~The term~~ "Cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) ~~The term~~ "Payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

(d) The current year aid payment percentage equals ~~90~~ 73.

Sec. 7. Minnesota Statutes 2008, section 127A.45, subdivision 3, is amended to read:

Subd. 3. **Payment dates and percentages.** (a) ~~For fiscal year 2004 and later,~~ The commissioner shall pay to a district on the dates indicated an amount computed as follows: the cumulative amount guaranteed minus the sum of ~~(a)~~ (1) the district's other district receipts through the current payment,

and ~~(b)~~ (2) the aid and credit payments through the immediately preceding payment. For purposes of this computation, the payment dates and the cumulative disbursement percentages are as follows:

	Payment date	Percentage
Payment 1	July 15:	5.5
Payment 2	July 30:	8.0
Payment 3	August 15:	17.5
Payment 4	August 30:	20.0
Payment 5	September 15:	22.5
Payment 6	September 30:	25.0
Payment 7	October 15:	27.0
Payment 8	October 30:	30.0
Payment 9	November 15:	32.5
Payment 10	November 30:	36.5
Payment 11	December 15:	42.0
Payment 12	December 30:	45.0
Payment 13	January 15:	50.0
Payment 14	January 30:	54.0
Payment 15	February 15:	58.0
Payment 16	February 28:	63.0
Payment 17	March 15:	68.0
Payment 18	March 30:	74.0
Payment 19	April 15:	78.0
Payment 20	April 30:	85.0
Payment 21	May 15:	90.0
Payment 22	May 30:	95.0
Payment 23	June 20:	100.0

(b) ~~In addition to the amounts paid under paragraph (a), for fiscal year 2004, the commissioner shall pay to a district on the dates indicated an amount computed as follows:~~

~~Payment 3~~ ~~August 15: the final adjustment for the prior fiscal year for the state-paid property tax credits established in section 273.1392~~

~~Payment 4~~ ~~August 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state-paid property tax credits~~

~~Payment 6~~ ~~September 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state-paid property tax credits~~

~~Payment 8~~ ~~October 30: one-third of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits~~

~~(c)~~ In addition to the amounts paid under paragraph (a), ~~for fiscal year 2005 and later,~~ the commissioner shall pay to a district on the dates indicated an amount computed as follows:

Payment 3	August 15: the final adjustment for the prior fiscal year for the state paid property tax credits established in section 273.1392
Payment 4	August 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 6	September 30: 40 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits
Payment 8	October 30: 30 percent of the final adjustment for the prior fiscal year for all aid entitlements except state paid property tax credits

Sec. 8. Minnesota Statutes 2008, section 127A.45, is amended by adding a subdivision to read:

Subd. 7b. **Advance final payment.** (a) Notwithstanding subdivisions 3 and 7, a school district or charter school exceeding its expenditure limitations under section 123B.83 as of June 30 of the prior fiscal year may receive a portion of its final payment for the current fiscal year on June 20, if requested by the district or charter school. The amount paid under this subdivision must not exceed the lesser of:

(1) the difference between 90 percent and the current year payment percentage in subdivision 2, paragraph (d), in the current fiscal year times the sum of the district or charter school's general education aid plus the aid adjustment in section 127A.50 for the current fiscal year; or

(2) the amount by which the district's or charter school's net negative unreserved general fund balance as of June 30 of the prior fiscal year exceeds 2.5 percent of the district or charter school's expenditures for that fiscal year.

(b) The state total advance final payment under this subdivision for any year must not exceed $7,500,000. If the amount request exceeds $7,500,000, the advance final payment for each eligible district must be reduced proportionately.

Sec. 9. Minnesota Statutes 2008, section 127A.45, subdivision 13, is amended to read:

Subd. 13. **Aid payment percentage.** Except as provided in subdivisions 11, 12, 12a, and 14, each fiscal year, all education aids and credits in this chapter and chapters 120A, 120B, 121A, 122A, 123A, 123B, 124D, 125A, 125B, 126C, 134, and section 273.1392, shall be paid at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. ~~For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 for fiscal year 2005 equals 70 percent of the district's entitlement for the second prior fiscal year.~~ For the purposes of this subdivision, a district's estimated entitlement for special education excess cost aid under section 125A.79 for fiscal year 2006 and later equals 74.0 percent of the district's entitlement for the current fiscal year. The final adjustment payment, according to subdivision 9, must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement.

ARTICLE 2

EDUCATION APPROPRIATION ADJUSTMENTS

Section 1. Laws 2009, chapter 96, article 1, section 24, subdivision 2, is amended to read:

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

$	~~5,195,504,000~~ 3,752,648,000	.....	2010
$	~~5,626,994,000~~ 5,503,377,000	.....	2011

The 2010 appropriation includes $555,864,000 for 2009 and ~~$4,639,640,000~~ $3,196,784,000 for 2010.

The 2011 appropriation includes ~~$500,976,000~~ $1,943,838,000 for 2010 and ~~$5,126,018,000~~ $3,559,539,000 for 2011.

Sec. 2. Laws 2009, chapter 96, article 1, section 24, subdivision 4, is amended to read:

Subd. 4. **Abatement revenue.** For abatement aid under Minnesota Statutes, section 127A.49:

$	~~1,175,000~~ 980,000	.....	2010
$	~~1,034,000~~ 1,056,000	.....	2011

The 2010 appropriation includes $140,000 for 2009 and ~~$1,035,000~~ $840,000 for 2010.

The 2011 appropriation includes ~~$115,000~~ $310,000 for 2010 and ~~$919,000~~ $746,000 for 2011.

Sec. 3. Laws 2009, chapter 96, article 1, section 24, subdivision 5, is amended to read:

Subd. 5. **Consolidation transition.** For districts consolidating under Minnesota Statutes, section 123A.485:

$	~~854,000~~ 693,000	.....	2010
$	~~927,000~~ 931,000	.....	2011

The 2010 appropriation includes $0 for 2009 and ~~$854,000~~ $693,000 for 2010.

The 2011 appropriation includes ~~$94,000~~ $255,000 for 2010 and ~~$833,000~~ $676,000 for 2011.

Sec. 4. Laws 2009, chapter 96, article 1, section 24, subdivision 6, is amended to read:

Subd. 6. **Nonpublic pupil education aid.** For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

	~~17,250,000~~		
$	14,303,000	.....	2010
	~~17,889,000~~		
$	17,785,000	.....	2011

The 2010 appropriation includes $1,647,000 for 2009 and ~~$15,603,000~~ $12,656,000 for 2010.

The 2011 appropriation includes ~~$1,733,000~~ $4,680,000 for 2010 and ~~$16,156,000~~ $13,105,000 for 2011.

Sec. 5. Laws 2009, chapter 96, article 1, section 24, subdivision 7, is amended to read:

Subd. 7. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

	~~22,159,000~~		
$	18,366,000	.....	2010
	~~22,712,000~~		
$	22,636,000	.....	2011

The 2010 appropriation includes $2,077,000 for 2009 and ~~$20,082,000~~ $16,289,000 for 2010.

The 2011 appropriation includes ~~$2,231,000~~ $6,024,000 for 2010 and ~~$20,481,000~~ $16,612,000 for 2011.

Sec. 6. Laws 2009, chapter 96, article 2, section 67, subdivision 2, is amended to read:

Subd. 2. **Charter school building lease aid.** For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

	~~40,453,000~~		
$	33,512,000	.....	2010
	~~44,775,000~~		
$	44,030,000	.....	2011

The 2010 appropriation includes $3,704,000 for 2009 and ~~$36,749,000~~ $29,808,000 for 2010.

The 2011 appropriation includes ~~$4,083,000~~ $11,024,000 for 2010 and ~~$40,692,000~~ $33,006,000 for 2011.

Sec. 7. Laws 2009, chapter 96, article 2, section 67, subdivision 3, is amended to read:

Subd. 3. **Charter school startup aid.** For charter school startup cost aid under Minnesota Statutes, section 124D.11:

	~~1,488,000~~		
$	1,245,000	.....	2010
	~~1,064,000~~		
$	1,133,000	.....	2011

The 2010 appropriation includes $202,000 for 2009 and ~~$1,286,000~~ $1,043,000 for 2010.

The 2011 appropriation includes ~~$142,000~~ $385,000 for 2010 and ~~$922,000~~ $748,000 for 2011.

Sec. 8. Laws 2009, chapter 96, article 2, section 67, subdivision 4, is amended to read:

Subd. 4. **Integration aid.** For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

$	~~65,358,000~~ 54,167,000	.....	2010
$	~~65,484,000~~ 65,549,000	.....	2011

The 2010 appropriation includes $6,110,000 for 2009 and ~~$59,248,000~~ $48,057,000 for 2010.

The 2011 appropriation includes ~~$6,583,000~~ $17,774,000 for 2010 and ~~$58,901,000~~ $47,775,000 for 2011.

Sec. 9. Laws 2009, chapter 96, article 2, section 67, subdivision 7, is amended to read:

Subd. 7. **Success for the future.** For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

$	~~2,137,000~~ 1,774,000	.....	2010
$	2,137,000	.....	2011

The 2010 appropriation includes $213,000 for 2009 and ~~$1,924,000~~ $1,561,000 for 2010.

The 2011 appropriation includes ~~$213,000~~ $576,000 for 2010 and ~~$1,924,000~~ $1,561,000 for 2011.

Sec. 10. Laws 2009, chapter 96, article 2, section 67, subdivision 9, is amended to read:

Subd. 9. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

$	~~2,030,000~~ 1,683,000	.....	2010
$	~~2,211,000~~ 2,179,000	.....	2011

The 2010 appropriation includes $191,000 for 2009 and ~~$1,839,000~~ $1,492,000 for 2010.

The 2011 appropriation includes ~~$204,000~~ $551,000 for 2010 and ~~$2,007,000~~ $1,628,000 for 2011.

Sec. 11. Laws 2009, chapter 96, article 3, section 21, subdivision 2, is amended to read:

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section

125A.75:

$	~~734,071,000~~ 609,003,000	.....	2010
$	~~781,497,000~~ 772,845,000	.....	2011

The 2010 appropriation includes $71,947,000 for 2009 and ~~$662,124,000~~ $537,056,000 for 2010.

The 2011 appropriation includes ~~$73,569,000~~ $198,637,000 for 2010 and ~~$707,928,000~~ $574,208,000 for 2011.

Sec. 12. Laws 2009, chapter 96, article 3, section 21, subdivision 4, is amended to read:

Subd. 4. **Travel for home-based services.** For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

$	~~258,000~~ 214,000	.....	2010
$	~~282,000~~ 278,000	.....	2011

The 2010 appropriation includes $24,000 for 2009 and ~~$234,000~~ $190,000 for 2010.

The 2011 appropriation includes ~~$26,000~~ $70,000 for 2010 and ~~$256,000~~ $208,000 for 2011.

Sec. 13. Laws 2009, chapter 96, article 3, section 21, subdivision 5, is amended to read:

Subd. 5. **Special education; excess costs.** For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

$	~~110,871,000~~ 96,926,000	.....	2010
$	~~110,877,000~~ 110,871,000	.....	2011

The 2010 appropriation includes $37,046,000 for 2009 and ~~$73,825,000~~ $59,880,000 for 2010.

The 2011 appropriation includes ~~$37,022,000~~ $50,967,000 for 2010 and ~~$73,855,000~~ $59,904,000 for 2011.

Sec. 14. Laws 2009, chapter 96, article 4, section 12, subdivision 2, is amended to read:

Subd. 2. **Health and safety revenue.** For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

$	~~161,000~~ 132,000	.....	2010
$	~~160,000~~ 162,000	.....	2011

The 2010 appropriation includes $10,000 for 2009 and ~~$151,000~~ $122,000 for 2010.

The 2011 appropriation includes ~~$16,000~~ $45,000 for 2010 and ~~$144,000~~ $117,000 for 2011.

Sec. 15. Laws 2009, chapter 96, article 4, section 12, subdivision 3, is amended to read:

Subd. 3. **Debt service equalization.** For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

$	~~7,948,000~~ 6,608,000	.....	2010
$	~~9,275,000~~ 9,012,000	.....	2011

The 2010 appropriation includes $851,000 for 2009 and ~~$7,097,000~~ $5,757,000 for 2010.

The 2011 appropriation includes ~~$788,000~~ $2,128,000 for 2010 and ~~$8,487,000~~ $6,884,000 for 2011.

Sec. 16. Laws 2009, chapter 96, article 4, section 12, subdivision 4, is amended to read:

Subd. 4. **Alternative facilities bonding aid.** For alternative facilities bonding aid, according to Minnesota Statutes, section 123B.59, subdivision 1:

$	~~19,287,000~~ 16,008,000	.....	2010
$	19,287,000	.....	2011

The 2010 appropriation includes $1,928,000 for 2009 and ~~$17,359,000~~ $14,080,000 for 2010.

The 2011 appropriation includes ~~$1,928,000~~ $5,207,000 for 2010 and ~~$17,359,000~~ $14,080,000 for 2011.

Sec. 17. Laws 2009, chapter 96, article 4, section 12, subdivision 6, is amended to read:

Subd. 6. **Deferred maintenance aid.** For deferred maintenance aid, according to Minnesota Statutes, section 123B.591, subdivision 4:

$	~~2,302,000~~ 1,916,000	.....	2010
$	~~2,073,000~~ 2,110,000	.....	2011

The 2010 appropriation includes $260,000 for 2009 and ~~$2,042,000~~ $1,656,000 for 2010.

The 2011 appropriation includes ~~$226,000~~ $612,000 for 2010 and ~~$1,847,000~~ $1,498,000 for 2011.

Sec. 18. Laws 2009, chapter 96, article 5, section 13, subdivision 6, is amended to read:

Subd. 6. **Basic system support.** For basic system support grants under Minnesota Statutes, section 134.355:

	~~13,570,000~~		
$	11,264,000	.....	2010
$	13,570,000	.....	2011

The 2010 appropriation includes $1,357,000 for 2009 and ~~$12,213,000~~ $9,907,000 for 2010.

The 2011 appropriation includes ~~$1,357,000~~ $3,663,000 for 2010 and ~~$12,213,000~~ $9,907,000 for 2011.

Sec. 19. Laws 2009, chapter 96, article 5, section 13, subdivision 7, is amended to read:

Subd. 7. **Multicounty, multitype library systems.** For grants under Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

	~~1,300,000~~		
$	1,079,000	.....	2010
$	1,300,000	.....	2011

The 2010 appropriation includes $130,000 for 2009 and ~~$1,170,000~~ $949,000 for 2010.

The 2011 appropriation includes ~~$130,000~~ $351,000 for 2010 and ~~$1,170,000~~ $949,000 for 2011.

Sec. 20. Laws 2009, chapter 96, article 5, section 13, subdivision 9, is amended to read:

Subd. 9. **Regional library telecommunications aid.** For regional library telecommunications aid under Minnesota Statutes, section 134.355:

	~~2,300,000~~		
$	1,909,000	.....	2010
$	2,300,000	.....	2011

The 2010 appropriation includes $230,000 for 2009 and ~~$2,070,000~~ $1,679,000 for 2010.

The 2011 appropriation includes ~~$230,000~~ $621,000 for 2010 and ~~$2,070,000~~ $1,679,000 for 2011.

Sec. 21. Laws 2009, chapter 96, article 6, section 11, subdivision 2, is amended to read:

Subd. 2. **School readiness.** For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

	~~10,095,000~~		
$	8,379,000	.....	2010
$	10,095,000	.....	2011

The 2010 appropriation includes $1,009,000 for 2009 and ~~$9,086,000~~ $7,370,000 for 2010.

The 2011 appropriation includes ~~$1,009,000~~ $2,725,000 for 2010 and ~~$9,086,000~~ $7,370,000 for 2011.

Sec. 22. Laws 2009, chapter 96, article 6, section 11, subdivision 3, is amended to read:

Subd. 3. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

$	~~22,955,000~~ 19,189,000	.....	2010
$	~~22,547,000~~ 22,473,000	.....	2011

The 2010 appropriation includes $3,020,000 for 2009 and ~~$19,935,000~~ $16,169,000 for 2010.

The 2011 appropriation includes ~~$2,214,000~~ $5,980,000 for 2010 and ~~$20,333,000~~ $16,493,000 for 2011.

Sec. 23. Laws 2009, chapter 96, article 6, section 11, subdivision 4, is amended to read:

Subd. 4. **Health and developmental screening aid.** For health and developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

$	~~3,694,000~~ 3,066,000	.....	2010
$	~~3,800,000~~ 3,780,000	.....	2011

The 2010 appropriation includes $367,000 for 2009 and ~~$3,327,000~~ $2,699,000 for 2010.

The 2011 appropriation includes ~~$369,000~~ $997,000 for 2010 and ~~$3,431,000~~ $2,783,000 for 2011.

Sec. 24. Laws 2009, chapter 96, article 6, section 11, subdivision 8, is amended to read:

Subd. 8. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

$	~~585,000~~ 488,000	.....	2010
$	~~467,000~~ 486,000	.....	2011

The 2010 appropriation includes $73,000 for 2009 and ~~$512,000~~ $415,000 for 2010.

The 2011 appropriation included ~~$56,000~~ $153,000 for 2010 and ~~$411,000~~ $333,000 for 2011.

Sec. 25. Laws 2009, chapter 96, article 6, section 11, subdivision 9, is amended to read:

Subd. 9. **Adults with disabilities program aid.** For adults with disabilities programs under Minnesota Statutes, section 124D.56:

$	~~710,000~~ 590,000	.....	2010
$	710,000	.....	2011

The 2010 appropriation includes $71,000 for 2009 and ~~$639,000~~ $519,000 for 2010.

The 2011 appropriation includes ~~$71,000~~ $191,000 for 2010 and ~~$639,000~~ $519,000 for 2011.

Sec. 26. Laws 2009, chapter 96, article 6, section 11, subdivision 12, is amended to read:

Subd. 12. **Adult basic education aid.** For adult basic education aid under Minnesota Statutes, section 124D.531:

$	~~42,975,000~~ 35,648,000	.....	2010
$	~~44,258,000~~ 44,039,000	.....	2011

The 2010 appropriation includes $4,187,000 for 2009 and ~~$38,788,000~~ $31,461,000 for 2010.

The 2011 appropriation includes ~~$4,309,000~~ $11,636,000 for 2010 and ~~$39,949,000~~ $32,403,000 for 2011.

ARTICLE 3

PERMANENT REVENUE

Section 1. **[116J.8737] INVESTMENT TAX CREDIT.**

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

(b) "Qualified new business venture" means a business that satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) the business is engaged in, or is committed to engage in:

(i) using advanced technology to add value to a product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field;

(ii) conducting research in and development of a product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field;

(iii) developing a new product, process, or service in a qualified high-technology field or qualified biotechnology or medical device field; or

(iv) qualified green manufacturing;

(4) the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees, and, if the business has more than five employees, the business must pay its employees annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four, and must pay any remaining employees annual wages of at least 110 percent of the federal poverty guideline for a family of four;

(6) the business has not been in operation for more than ten consecutive years;

(7) the business has not received more than $1,000,000 in investments that have qualified for and received tax credits under this section;

(8) the business has less than $2,000,000 in annual gross sales receipts for the previous year;

(9) the business is not a subsidiary or an affiliate of a business that employs more than 100 employees or has gross sales receipts for the previous year of more than $2,000,000, computed by aggregating all of the employees and gross sales receipts of the business entities affiliated with the business; and

(10) the business has not previously received private equity investments of more than $2,000,000.

(c) "Qualified high-technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, and telecommunications, but excludes a business qualifying under the definitions in paragraphs (h) and (i).

(d) "Qualified biotechnology or medical device field" means the business of manufacturing, processing, assembling, researching, or developing biotechnology or medical device products, including biotechnology and device products used in agriculture.

(e) "Qualified green manufacturing" means a business whose primary business activity is production of products, processes, methods, technologies, or services intended to do one or more of the following:

(1) increase the use of energy from renewable sources, as defined in section 216B.1691;

(2) increase the energy efficiency of the electric utility infrastructure system or to increase energy conservation related to electricity use, as provided in sections 216B.2401 and 216B.241;

(3) reduce greenhouse gas emissions, as defined in section 216H.01, subdivision 2, or to mitigate greenhouse gas emissions through, but not limited to, carbon capture, storage, or sequestration;

(4) monitor, protect, restore, and preserve the quality of surface waters; and

(5) expand use of biofuels, including expanding the feasibility or reducing the cost of producing biofuels or the types of equipment, machinery, and vehicles that can use biofuels.

(f) "Qualified taxpayer" means:

(1) an accredited investor, within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), whether part of a pass-through entity or not, who:

(i) does not own, control, or hold power to vote 20 percent or more of the outstanding securities

of the qualified new business venture in which the eligible investment is proposed; or

(ii) does not receive more than 50 percent of the gross annual income from the qualified new business venture in which the eligible investment is proposed; and

(2) a member of the immediate family of a taxpayer disqualified by this subdivision is not eligible for a credit under this section. For purposes of this subdivision, "immediate family" means the taxpayer's spouse, parent, sibling, or child, or the spouse of any person listed in this paragraph.

Subd. 2. **Credit allowed, holding period, limitations, and carryover.** (a) A qualified taxpayer is allowed a credit against the tax imposed under chapter 290 for investments made in a qualified new business venture. The credit equals 25 percent of the qualified taxpayer's investment in the business, but not to exceed the lesser of:

(1) the liability for tax under chapter 290, including the applicable alternative minimum tax, but excluding the minimum fee under section 290.0922; and

(2) the amount of the certificate provided to the qualified taxpayer under subdivision 3, paragraph (c).

(b) No taxpayer may receive more than $50,000 in provisional credits under this section in any one year.

(c) A qualified taxpayer must claim the credit in the fourth tax year after which the investment in the qualified new business venture was made. The credit is allowed only for investments made in a qualified new business venture that remains invested for at least four years and that are made after the qualified taxpayer has been certified by the commissioner under subdivision 3.

(d) The four-year investment holding period required by paragraph (c) does not apply if:

(1) the investment by the qualified taxpayer becomes worthless before the end of the four-year period; or

(2) the qualified new business venture is sold before the end of the four-year period.

(e) If the amount of the credit under this subdivision for any taxable year exceeds the limitations under paragraph (a), the excess is a credit carryover to each of the ten succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried. The amount of the unused credit that may be added under this paragraph may not exceed the taxpayer's liability for tax less the credit for the taxable year.

Subd. 3. **Certification of qualified taxpayers.** (a) Qualified taxpayers may apply to the commissioner of employment and economic development for certification. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $250. Fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) The commissioner shall provide provisional credit certificates to qualified taxpayers, upon a showing by the qualified taxpayer of investments of at least $12,500 in qualified new business ventures. The commissioner may not issue more than $50,000 in provisional credit certificates per qualified taxpayer per year. In awarding provisional certificates under this paragraph, the

commissioner must award them to taxpayers in the order in which the applications are received. The commissioner may not issue a total of more than $10,000,000 per year in provisional credit certificates to qualified taxpayers in fiscal years 2010, 2011, 2012, and 2013.

(c) The commissioner shall provide a final credit certificate to the qualified taxpayer upon a showing by the taxpayer that the holding requirements of subdivision 2, paragraph (c), have been met, that the qualified new business venture continues to satisfy the conditions of subdivision 1, paragraph (b), clauses (1) to (4), and (5) related to annual wage standards, and that the taxpayer is otherwise eligible for the credit.

Subd. 4. **Rulemaking.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedures Act contained in chapter 14, and are not subject to section 14.386.

EFFECTIVE DATE. This section is effective July 1, 2009, for taxable years beginning after December 31, 2008, and only applies to investments made after the qualified taxpayer has been certified by the commissioner of employment and economic development.

Sec. 2. Minnesota Statutes 2008, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

(1) on the first ~~$25,680~~ $33,220, 5.35 percent;

(2) on all over ~~$25,680~~ $33,220, but not over ~~$102,030~~ $131,970, 7.05 percent;

(3) on all over ~~$102,030~~ $131,970, but not over $250,000, 7.85 percent~~.~~; and

(4) on all over $250,000, nine percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

(1) on the first ~~$17,570~~ $22,730, 5.35 percent;

(2) on all over ~~$17,570~~ $22,730, but not over ~~$57,710~~ $74,650, 7.05 percent;

(3) on all over ~~$57,710~~ $74,650, but not over $141,250, 7.85 percent~~.~~; and

(4) on all over $141,250, nine percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

(1) on the first ~~$21,630~~ $27,980, 5.35 percent;

(2) on all over ~~$21,630~~ $27,980, but not over ~~$86,910~~ $112,420, 7.05 percent;

(3) on all over ~~$86,910~~ $112,420, but not over $212,500, 7.85 percent~~.~~; and

(4) on all over $212,500, nine percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than $100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to $1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), and (13) and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15), and (16), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), and (13) and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), and (16).

(f) For taxable years beginning after December 31, 2013, the maximum tax rate under this subdivision is 7.85 percent, if the commissioner of finance estimates in the February 2013 economic forecast that the unrestricted general fund balance at the end of fiscal year 2013 equals or exceeds $500,000,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 3. Minnesota Statutes 2008, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. **Inflation adjustment of brackets.** (a) For taxable years beginning after December 31, ~~2000~~ 2009, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, ~~1999~~ 2008, and before January 1, ~~2001~~ 2010. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to

reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest $10 amount. If the rate bracket ends in $5, it must be rounded up to the nearest $10 amount.

(b) The commissioner shall adjust the rate brackets and by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that:

(1) in section 1(f)(2)(A) the words "increasing or decreasing" shall be substituted for the word "increasing";

(2) in section 1(f)(3)(A) the words "differs from" shall be substituted for the word "exceeds"; and

(3) in section 1(f)(3)(B) the word ~~"1999"~~ "2008" shall be substituted for the word "1992." For ~~2001~~ 2010, the commissioner shall then determine the percent change from the 12 months ending on August 31, ~~1999~~ 2008, to the 12 months ending on August 31, ~~2000~~ 2009, and in each subsequent year, from the 12 months ending on August 31, ~~1999~~ 2008, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 4. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **Investment tax credit.** A taxpayer is allowed a credit as determined under section 116J.8737 against the tax imposed by this chapter. Notwithstanding the certification eligibility issued by the commissioner of the Department of Employment and Economic Development under section 116J.8737, the commissioner may utilize any audit and examination powers under chapters 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess for the amount of any improperly claimed credit.

EFFECTIVE DATE. This section is effective July 1, 2009, for taxable years beginning after December 31, 2008, and only applies to investments made after the qualified taxpayer has been certified by the commissioner of employment and economic development.

Sec. 5. **[290.094] SURTAX ON CERTAIN INTEREST INCOME.**

Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that a different meaning is intended, for the purposes of this section, the following terms have the meanings given them.

(b) "Annual percentage rate" has the meaning given the term in Code of Federal Regulations, title 12, parts 226.14 and 226.22, related to open-end and closed-end credit.

(c) "Borrower" means a debtor under a loan or a purchaser of debt under a credit sale contract.

(d) "Cardholder" means a person to whom a credit card is issued or who has agreed with the financial institution to pay obligations arising from the issuance to or use of the card by another

person.

(e) "Consumer loan" means a loan made by a financial institution in which:

(1) the debtor is a person other than an organization;

(2) the debt is incurred primarily for a personal, family, or household purpose; and

(3) the debt is payable in installments or a finance charge is made.

(f) "Credit" means the right granted by a financial institution to a borrower to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment.

(g) "Credit card" means a card or device issued under an arrangement under which a financial institution gives to a cardholder the privilege of obtaining credit from the financial institution or other person in purchasing or leasing property or services, obtaining loans, or otherwise. A transaction is "pursuant to a credit card" only if credit is obtained according to the terms of the arrangement by transmitting information contained on the card or device orally, in writing, by mechanical or electronic methods, or in any other manner. A transaction is not "pursuant to a credit card" if the card or device is used solely in that transaction to:

(1) identify the cardholder or evidence the cardholder's creditworthiness and credit is not obtained according to the terms of the arrangement;

(2) obtain a guarantee of payment from the cardholder's deposit account, whether or not the payment results in a credit extension to the cardholder by the financial institution; or

(3) effect an immediate transfer of funds from the cardholder's deposit account by electronic or other means, whether or not the transfer results in a credit extension to the cardholder by the financial institution.

(h) "Credit sale contract" means a contract evidencing a credit sale. "Credit sale" means a sale of goods or services, or an interest in land, in which:

(1) credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind; and

(2) the debt is payable in installments or a finance charge is made.

(i) "Financial institution" means a state or federally chartered bank, a state or federally chartered bank and trust, a trust company with banking powers, a state or federally chartered savings association, an industrial loan and thrift company organized under chapter 53, a regulated lender organized under chapter 56, or an operating subsidiary of any such institution.

(j) "Loan" means:

(1) the creation of debt by the financial institution's payment of money to the borrower or a third person for the account of the borrower;

(2) the creation of debt pursuant to a credit card in any manner, including a cash advance or the financial institution's honoring a draft or similar order for the payment of money drawn or accepted by the borrower, paying or agreeing to pay the borrower's obligation, or purchasing or otherwise acquiring the borrower's obligation from the obligee or the borrower's assignee;

(3) the creation of debt by a cash advance to a borrower pursuant to an overdraft line of credit arrangement;

(4) the creation of debt by a credit to an account with the financial institution upon which the borrower is entitled to draw immediately;

(5) the forbearance of debt arising from a loan; and

(6) the creation of debt pursuant to open-end credit.

Loan does not include the forbearance of debt arising from a sale or lease, a credit sale contract, or an overdraft from a person's deposit account with a financial institution which is not pursuant to a written agreement to pay overdrafts with the right to defer repayment thereof.

(k) "Organization" means a corporation, government, government subdivision or agency, trust, estate, partnership, joint venture, cooperative, limited liability company, limited liability partnership, or association.

(l) "Person" means a natural person or an organization.

(m) "Principal" means the total of:

(1) the amount paid to, received by, or paid or repayable for the account of, the borrower; and

(2) to the extent that payment is deferred:

(i) the amount actually paid or to be paid by the financial institution for additional charges permitted under this section; and

(ii) prepaid finance charges.

Subd. 2. **Scope.** (a) Any person or organization conducting a trade or business in this state who is subject to the truth in lending requirements under Code of Federal Regulations, title 12, part 226 (Federal Regulation Z), and who charges interest on the credit issued shall be subject to a surtax on each transaction as prescribed by this chapter. Transactions include any open-end and closed-end credit transactions subject to Federal Regulation Z such as loans, consumer loans, credit sale contracts, extensions of credit, and credit issued pursuant to a credit card. A transferee or assignee of a transaction subject to the surtax under this section is also subject to the tax under this section.

(b) The tax shall be determined for each transaction subject to the requirements of this section that occurs during the calendar year.

Subd. 3. **Surtax rate.** The surtax shall be imposed at the rate of 30 percent on any income attributable to interest collected from the portion of an annual percentage rate that exceeds 15 percent on transactions subject to Code of Federal Regulations, title 12, part 226 (Federal Regulation Z).

Subd. 4. **Collection and administration.** The tax imposed by this section shall be paid annually to the commissioner of revenue and is subject to the same collection, enforcement, and penalty provisions as other taxes imposed by this chapter.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2008.

Sec. 6. Minnesota Statutes 2008, section 297A.68, subdivision 5, is amended to read:

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt. ~~The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.~~

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used primarily to electronically transmit results retrieved by a customer of an online computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property;

(7) machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;

(8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

(9) machinery or equipment used in the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. This clause does not apply to machinery or equipment used to blend petroleum or biodiesel fuel as defined in section 239.77; or

(10) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

(5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(7) "Mining" means the extraction of minerals, ores, stone, or peat.

(8) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

(11) This subdivision does not apply to telecommunications equipment as provided in subdivision 35, and does not apply to wire, cable, fiber, poles, or conduit for telecommunications services.

EFFECTIVE DATE. This section is effective for sales and purchases after December 31, 2009.

Sec. 7. Minnesota Statutes 2008, section 297A.75, subdivision 1, as amended by Laws 2009, chapter 88, article 4, section 7, is amended to read:

Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

(1) ~~capital equipment exempt under section 297A.68, subdivision 5;~~

~~(2)~~ building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;

~~(3)~~ (2) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;

~~(4)~~ (3) building materials for correctional facilities under section 297A.71, subdivision 3;

~~(5)~~ (4) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;

~~(6)~~ (5) elevators and building materials exempt under section 297A.71, subdivision 12;

~~(7)~~ (6) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17;

~~(8)~~ (7)materials and supplies for qualified low-income housing under section 297A.71, subdivision 23;

~~(9)~~ (8) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;

~~(10)~~ (9) equipment and materials used for the generation, transmission, and distribution of

electrical energy and an aerial camera package exempt under section 297A.68, subdivision 37;

~~(11)~~ (10) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 41;

~~(12)~~ (11) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, clause (11);

~~(13)~~ (12) materials, supplies, and equipment for construction or improvement of projects and facilities under section 297A.71, subdivision 40; and

~~(14)~~ (13) materials, supplies, and equipment for construction or improvement of a meat processing facility exempt under section 297A.71, subdivision 41.

EFFECTIVE DATE. This section is effective for sales and purchases after December 31, 2009.

Sec. 8. Minnesota Statutes 2008, section 297A.75, subdivision 2, as amended by Laws 2009, chapter 88, article 4, section 8, is amended to read:

Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

(1) for subdivision 1, clauses (1) ~~to (3)~~ and (2), the applicant must be the purchaser;

(2) for subdivision 1, clauses ~~(4)~~ (3) and ~~(7)~~ (6), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause ~~(5)~~ (4), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

(4) for subdivision 1, clause ~~(6)~~ (5), the applicant must be the owner of the homestead property;

(5) for subdivision 1, clause ~~(8)~~ (7), the owner of the qualified low-income housing project;

(6) for subdivision 1, clause ~~(9)~~ (8), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities;

(7) for subdivision 1, clauses (9), (10), ~~(11),~~ and ~~(14)~~ (13), the owner of the qualifying business; and

(8) for subdivision 1, clauses (11) and (12) ~~and (13)~~, the applicant must be the governmental entity that owns or contracts for the project or facility.

EFFECTIVE DATE. This section is effective for sales and purchases made after December 31, 2009.

Sec. 9. Minnesota Statutes 2008, section 297A.75, subdivision 3, is amended to read:

Subd. 3. **Application.** (a) The application must include sufficient information to permit the commissioner to verify the tax paid. If the tax was paid by a contractor, subcontractor, or builder, under subdivision 1, clause (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (13), ~~or (14),~~ the contractor, subcontractor, or builder must furnish to the refund applicant a statement including the cost of the exempt items and the taxes paid on the items unless otherwise specifically provided

by this subdivision. The provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

~~(b) An applicant may not file more than two applications per calendar year for refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.~~

~~(c)~~ (b) Total refunds for purchases of items in section 297A.71, subdivision 40, must not exceed $5,000,000 in fiscal years 2010 and 2011. Applications for refunds for purchases of items in sections 297A.70, subdivision 3, paragraph (a), clause (11), and 297A.71, subdivision 40, must not be filed until after June 30, 2009.

EFFECTIVE DATE. This section is effective for sales and purchases made after December 31, 2009.

Sec. 10. Minnesota Statutes 2008, section 295.75, subdivision 2, is amended to read:

Subd. 2. **Gross receipts tax imposed.** A tax is imposed on each liquor retailer equal to ~~2.5~~ five percent of gross receipts from retail sales in Minnesota of liquor.

EFFECTIVE DATE. This section is effective for gross receipts received after June 30, 2009.

Sec. 11. Minnesota Statutes 2008, section 297G.03, subdivision 1, is amended to read:

Subdivision 1. **General rate; distilled spirits and wine.** The following excise tax is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	$ ~~5.03~~ 9.31 per gallon	$ ~~1.33~~ 2.46 per liter
(b) Wine containing 14 percent or less alcohol by volume (except cider as defined in section 297G.01, subdivision 3a)	$ ~~.30~~ .81 per gallon	$ ~~.08~~ .22 per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	$ ~~.95~~ 1.46 per gallon	$ ~~.25~~ .39 per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	$ ~~1.82~~ 2.33 per gallon	$ ~~.48~~ .62 per liter
(e) Wine containing more than 24 percent alcohol by volume	$ ~~3.52~~ 4.03 per gallon	$ ~~.93~~ 1.07 per liter
(f) Natural and artificial sparkling wines containing alcohol	$ ~~1.82~~ 2.33 per gallon	$ ~~.48~~ .62 per liter
(g) Cider as defined in section 297G.01, subdivision 3a	$ ~~.15~~ .66 per gallon	$ ~~.04~~ .18 per liter
(h) Low alcohol dairy cocktails	$ .08 per gallon	$ .02 per liter

In computing the tax on a package of distilled spirits or wine, a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

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

Sec. 12. Minnesota Statutes 2008, section 297G.04, is amended to read:

297G.04 FERMENTED MALT BEVERAGES; RATE OF TAX.

Subdivision 1. **Tax imposed.** The following excise tax is imposed on all fermented malt beverages that are imported, directly or indirectly sold, or possessed in this state:

(1) on fermented malt beverages containing not more than 3.2 percent alcohol by weight, ~~$2.40~~ $10.67 per 31-gallon barrel; and

(2) on fermented malt beverages containing more than 3.2 percent alcohol by weight, ~~$4.60~~ $12.87 per 31-gallon barrel.

For fractions of a 31-gallon barrel, the tax rate is calculated proportionally.

Subd. 2. **Tax credit.** A qualified brewer producing fermented malt beverages is entitled to a tax credit of ~~$4.60~~ $12.87 per barrel on 25,000 barrels sold in any fiscal year beginning July 1, regardless of the alcohol content of the product. Qualified brewers may take the credit on the 18th day of each month, but the total credit allowed may not exceed in any fiscal year the lesser of:

(1) the liability for tax; or

(2) ~~$115,000~~ $322,200.

For purposes of this subdivision, a "qualified brewer" means a brewer, whether or not located in this state, manufacturing less than 100,000 barrels of fermented malt beverages in the calendar year immediately preceding the calendar year for which the credit under this subdivision is claimed. In determining the number of barrels, all brands or labels of a brewer must be combined. All facilities for the manufacture of fermented malt beverages owned or controlled by the same person, corporation, or other entity must be treated as a single brewer.

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

Sec. 13. **APPROPRIATIONS.**

Subdivision 1. **Tax compliance.** (a) $1,194,300 the first year and $2,350,200 the second year are appropriated from the general fund to the commissioner of revenue for additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of $7,948,700 for the biennium ending June 30, 2011.

(b) The department must report to the chairs of the house of representatives Ways and Means and senate Finance Committees by March 1, 2010, and January 15, 2011, on the following performance indicators:

(1) the number of corporations noncompliant with the corporate tax system each year and the percentage and dollar amounts of valid tax liabilities collected;

(2) the number of businesses noncompliant with the sales and use tax system and the percentage and dollar amount of the valid tax liabilities collected; and

(3) the number of individual noncompliant cases resolved and the percentage and dollar amounts of valid tax liabilities collected.

Subd. 2. **Debt collection management.** $364,800 the first year and $750,700 the second year are appropriated from the general fund to the commissioner of revenue for additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of $10,691,300 for the biennium ending June 30, 2011."

Delete the title and insert:

"A bill for an act relating to the financing of state and local government; making changes to income, sales and use, liquor, gross receipts, and other tax-related provisions; providing a surtax on certain interest income; modifying capital equipment exemption; providing an investment tax credit; creating tax compliance initiative; creating a property tax recognition shift; adjusting the education aid payment schedule; appropriating money; amending Minnesota Statutes 2008, sections 123B.54, as amended; 123B.75, subdivision 5, by adding a subdivision; 126C.48, subdivision 7; 127A.441; 127A.45, subdivisions 2, 3, 13, by adding a subdivision; 290.06, subdivisions 2c, 2d, by adding a subdivision; 295.75, subdivision 2; 297A.68, subdivision 5; 297A.75, subdivisions 1, as amended, 2, as amended, 3; 297G.03, subdivision 1; 297G.04; Laws 2009, chapter 96, article 1, section 24, subdivisions 2, 4, 5, 6, 7; article 2, section 67, subdivisions 2, 3, 4, 7, 9; article 3, section 21, subdivisions 2, 4, 5; article 4, section 12, subdivisions 2, 3, 4, 6; article 5, section 13, subdivisions 6, 7, 9; article 6, section 11, subdivisions 2, 3, 4, 8, 9, 12; proposing coding for new law in Minnesota Statutes, chapters 116J; 290."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Ann Lenczewski, Paul Marquart, Lyle Koenen, Diane Loeffler

Senate Conferees: (Signed) Thomas Bakk, Rod Skoe, D. Scott Dibble

Senator Bakk moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2323 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on H.F. No. 2323. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 2323 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 35 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lynch	Pogemiller	Sieben
Berglin	Foley	Marty	Prettner Solon	Skoe
Betzold	Higgins	Metzen	Rest	Stumpf
Bonoff	Kelash	Moua	Saltzman	Tomassoni
Clark	Langseth	Murphy	Saxhaug	Torres Ray
Cohen	Latz	Olseen	Scheid	Vickerman
Dahle	Lourey	Pappas	Sheran	Wiger

Those who voted in the negative were:

Sparks

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Thursday, February 4, 2010.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 43 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Pogemiller	Skogen
Bakk	Dille	Lynch	Prettner Solon	Sparks
Berglin	Erickson Ropes	Marty	Rummel	Stumpf
Betzold	Fobbe	Metzen	Saltzman	Tomassoni
Bonoff	Higgins	Moua	Saxhaug	Torres Ray
Carlson	Kelash	Murphy	Scheid	Vickerman
Clark	Kubly	Olseen	Sheran	Wiger
Cohen	Langseth	Olson, M.	Sieben	
Dahle	Latz	Pappas	Skoe	

The motion prevailed. So the Senate was adjourned.

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

INDEX TO DAILY JOURNAL

Monday, May 18, 2009

EXECUTIVE AND OFFICIAL COMMUNICATIONS

CHAPTER LAWS

MESSAGES FROM THE HOUSE AND FIRST READING OF HOUSE FILES

CONCURRENCE AND REPASSAGE

SUSPENSION OF RULES

REPORTS OF COMMITTEES AND SECOND READINGS

MOTIONS AND RESOLUTIONS

CONFERENCE COMMITTEE REPORTS AND THIRD READINGS

CALENDAR

SPECIAL ORDERS

APPOINTMENTS TO CONFERENCE COMMITTEES

INTRODUCTION AND FIRST READING OF SENATE BILLS