

SEVENTY-SEVENTH DAY

St. Paul, Minnesota, Monday, March 22, 2010

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Pastor John Stiles.

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 19, 2010

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 Act of the 2010 Session of the State Legislature has been received from the Office of the Governor and is 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 2010	Date Filed 2010
	2856	190	7:31 a.m. March 19	March 19

Sincerely,
Mark Ritchie
Secretary of State

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 3274 and 3251. The motion prevailed.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred

S.F. No. 2925: A bill for an act relating to metropolitan government; modifying provisions for the allocation of treatment works and interceptors reserved capacity costs; amending Minnesota Statutes 2008, section 473.517, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 473.517, subdivision 3, is amended to read:

Subd. 3. **Allocation of treatment, interceptor costs; reserved capacity.** (a) In preparing each budget the council shall estimate the current costs of acquisition, betterment, and debt service, only, of the treatment works in the metropolitan disposal system which will not be used to total capacity during the budget year, and the percentage of such capacity which will not be used, and shall deduct the same percentage of such treatment works costs from the current costs allocated under subdivision 1. The council shall also estimate the current costs of acquisition, betterment, and debt service, only, of the interceptors in the metropolitan disposal system that will not be used to total capacity during the budget year, shall estimate the percentage of the total capacity that will not be used, and shall deduct the same percentage of interceptor costs from the current costs allocated under subdivision 1. The total amount so deducted with respect to all treatment works and interceptors in the system shall be allocated among and paid by the respective local government units in the metropolitan area ~~for which system capacity unused each year is reserved for future use, in proportion to the amounts of such capacity reserved for each of them.~~ through a metropolitan sewer availability charge for

each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit. Amounts collected through the metropolitan sewer availability charge (SAC) must be deposited in the council's wastewater reserve capacity fund. Each fiscal year an amount from the wastewater reserve capacity fund shall be transferred to the wastewater operating fund for the reserved capacity costs described in this paragraph. For the purposes of this subdivision, the amount transferred from the wastewater reserve capacity fund to the wastewater operating fund shall be referred to as the "SAC transfer amount."

(b) If, after appropriate study and a public hearing, the council determines for the next fiscal year that a reduction of the SAC transfer amount is necessary or desirable to ensure adequate funds remain in the wastewater reserve capacity fund, based on a goal of maintaining at least the next year's estimated SAC transfer amount in the wastewater reserve capacity fund, the council may reduce the SAC transfer amount for that fiscal year. If the council reduces the SAC transfer amount for the next fiscal year, the council must then increase the metropolitan sewer availability charge not less than the greater of six percent or the annual percentage change in the Consumer Price Index for the metropolitan region for the previous year plus three percentage points. For the purposes of this subdivision, any reduction in the SAC transfer amount shall be referred to as the "SAC transfer deficit." The provisions of this paragraph expire at the end of calendar year 2015.

(c) The council will record on a cumulative basis the total SAC transfer deficit. In any year that the wastewater reserve capacity fund has a year-end balance of at least two years' estimated SAC transfer amount, the council shall increase the subsequent annual SAC transfer amount in excess of the amount required by paragraph (a) with the goal of eliminating the cumulative total SAC transfer deficit. The annual amount by which the council increases the SAC transfer amount shall be determined by the council after appropriate study and a public hearing.

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

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred

S.F. No. 3013: A bill for an act relating to tourism; amending council membership requirements; amending Minnesota Statutes 2008, section 116U.25.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred

S.F. No. 3005: A bill for an act relating to metropolitan government; authorizing Metropolitan Council best value contracts and procurement for transit vehicles; amending Minnesota Statutes 2008, section 473.129, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 20, insert:

"**EFFECTIVE DATE.** This section is effective the day following final enactment, and applies retroactively from September 1, 2009, to eligible procurement in which the Metropolitan Council has issued a request for proposals that complies with this section and the deadline for a vendor or contractor to submit a best and final offer is after the day following final enactment."

Page 2, delete section 3

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was referred

S.F. No. 2918: A bill for an act relating to retirement; volunteer fire relief associations; making various technical corrections; revising break-in-service return to firefighting authorizations; authorizing Minnesota deferred compensation plan service pension transfers; revising payout defaults in survivor benefits; authorizing corrections of certain special fund deposits; amending Minnesota Statutes 2008, section 356A.06, subdivision 8; Minnesota Statutes 2009 Supplement, sections 69.772, subdivision 6; 69.773, subdivision 6; 424A.01, subdivisions 1, 6; 424A.015, by adding a subdivision; 424A.016, subdivisions 4, 7; 424A.02, subdivisions 9, 10; 424A.05, subdivision 3, by adding a subdivision; repealing Minnesota Statutes 2009 Supplement, section 424A.001, subdivision 6; Laws 2009, chapter 169, article 10, section 32.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

FINANCIAL SUSTAINABILITY PROVISIONS

Section 1. Minnesota Statutes 2008, section 3A.02, subdivision 4, is amended to read:

Subd. 4. **Deferred annuities augmentation.** (a) The deferred retirement allowance of any former legislator must be augmented as provided herein.

(b) The required reserves applicable to the deferred retirement allowance, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest assumption of six percent, must be augmented from the first of the month following the termination of active service, or July 1, 1973, whichever is later, to the first day of the month in which the allowance begins to accrue, at the following annually compounded rate or rates:

(1) five percent until January 1, 1981;

(2) three percent from January 1, 1981, or from the first day of the month following the termination of active service, whichever is later, until January 1 of the year in which the former legislator attains age 55 or until January 1, 2011, whichever is earlier; and

(3) five percent from the period end date under clause (2) ~~to~~ until the effective date of retirement or until January 1, 2011, whichever is earlier; and

(4) two percent after December 31, 2010.

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

Sec. 2. Minnesota Statutes 2008, section 352.113, subdivision 1, is amended to read:

Subdivision 1. **Age and service requirements.** (a) An employee covered by the system, who is less than normal retirement age and who becomes totally and permanently disabled after three or more years of allowable service if employed before July 1, 2010, or after five or more years of allowable service if employed after June 30, 2010, is entitled to a disability benefit in an amount provided in subdivision 3.

(b) If the disabled employee's state service has terminated at any time, the employee must have at least two years of allowable service after last becoming a state employee covered by the system.

(c) Refunds may be repaid under section 352.23 before the effective accrual date of the disability benefit under subdivision 2.

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

Sec. 3. Minnesota Statutes 2008, section 352.115, subdivision 1, is amended to read:

Subdivision 1. **Age and service requirements.** After separation from state service, any employee (1) who has attained the age of at least 55 years and who is entitled to credit for at least three years allowable service if employed before July 1, 2010, or after five or more years of allowable service if employed after June 30, 2010, or (2) who has received credit for at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

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

Sec. 4. Minnesota Statutes 2008, section 352.12, subdivision 2, is amended to read:

Subd. 2. **Surviving spouse benefit.** (a) If an employee or former employee has credit for at least three years allowable service if the employee was employed before July 1, 2010, or for at least five years of allowable service if the employee was employed after June 30, 2010, and dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest under subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee or former employee could have qualified for on the date of death.

(b) If the employee was under age 55 and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse on the date of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1, paragraph (a), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the employee was under age 55 and has credit for at least three years of allowable service credit on the date of death if the employee was employed before July 1, 2010, or for at least five years of allowable service if the employee was employed after June 30, 2010, but did not yet qualify for retirement, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse at the time of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1 or 1a, to age 55 and

one-half of the early retirement reduction from age 55 to the age payment begins.

(d) The surviving spouse eligible for benefits under paragraph (a) may apply for the annuity at any time after the date on which the employee or former employee would have attained the required age for retirement based on the allowable service earned. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for the annuity at any time after the employee's death. The annuity must be computed under sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse, or upon expiration of a term certain benefit payment to a surviving spouse under subdivision 2a. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's or former employee's last designated beneficiary or, if none, as specified under subdivision 1.

(e) Any employee or former employee may request in writing, with the signed consent of the spouse, that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

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

Sec. 5. Minnesota Statutes 2008, section 352.22, subdivision 2, is amended to read:

Subd. 2. **Amount of refund.** Except as provided in subdivision 3, the refund payable to a person who ceased to be a state employee by reason of a termination of state service is an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded daily from the date that the contribution was made until June 30, 2011, or until the date on which the refund is paid, whichever is earlier, and at the rate of four percent per year compounded daily from the date that the contribution was made or from July 1, 2011, whichever is later, until the date on which the refund is paid. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment.

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

Sec. 6. Minnesota Statutes 2008, section 352.22, subdivision 3, is amended to read:

Subd. 3. **Deferred annuity.** (a) An employee who has at least three years of allowable service if employed before July 1, 2010, or who has at least five years of allowable service if employed after June 30, 2010, when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. The annuity must be computed under the law in effect when state service terminated, on the basis of the allowable service credited to the person before the termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, and who does not return to state service must have an annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the employee's last working day.

(c) No application for a deferred annuity may be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred

annuity begins to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date on which the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position which is not covered by the retirement system.

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time following the date of the termination of service.

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

Sec. 7. Minnesota Statutes 2008, section 352.72, subdivision 1, is amended to read:

Subdivision 1. **Entitlement to annuity.** (a) Any person who has been an employee covered by a retirement system listed in paragraph (b) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals three or more years if employed before July 1, 2010, or totals five or more years if employed after June 30, 2010.

(b) This section applies to the Minnesota State Retirement System, the Public Employees Retirement Association including the Public Employees Retirement Association police and fire fund, the Teachers Retirement Association, the State Patrol Retirement Association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph (c).

(c) This section does not apply to other funds providing benefits for police officers or firefighters.

(d) No portion of the allowable service upon which the retirement annuity from one fund is based shall be again used in the computation for benefits from another fund. No refund may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~three~~ a specific number of years of allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals ~~three or more years~~ at least the longest period of allowable service of any of the applicable retirement plans.

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

Sec. 8. Minnesota Statutes 2008, section 352.72, subdivision 2, is amended to read:

Subd. 2. **Computation of deferred annuity.** (a) The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, must be computed as provided in section 352.22, subdivision 3, on the basis of allowable service before termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity must be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose must be five percent compounded annually until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former employee attains age 55 or until January 1, 2011, whichever is earlier, and from ~~that date~~ the January 1 next following the attainment of age 55 to

the effective date of retirement or until January 1, 2011, whichever is earlier, ~~the rate is five percent compounded annually if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually until January 1, 2011, if the employee becomes an employee after June 30, 2006, and two percent compounded annually after December 31, 2010, irrespective of when the employee became a state employee.~~ If a person has more than one period of uninterrupted service, the required reserves related to each period must be augmented by interest under this subdivision. The sum of the augmented required reserves so determined is the present value of the annuity. "Uninterrupted service" for the purpose of this subdivision means periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refund, the service restored by the repayment must be considered continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service must be those applicable to a new employee. The mortality table and interest assumption used to compute the annuity must be those in effect when the employee files application for annuity. This section does not reduce the annuity otherwise payable under this chapter.

(b) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former state employee who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and the tables adopted by the board and approved by the actuary retained under section 356.214.

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

Sec. 9. Minnesota Statutes 2009 Supplement, section 352.75, subdivision 4, is amended to read:

Subd. 4. **Existing deferred retirees.** Any former member of the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund is entitled to a retirement annuity from the Minnesota State Retirement System if the employee:

(1) is not an active employee of the Transit Operating Division of the former Metropolitan Transit Commission on July 1, 1978; (2) has at least ten years of active continuous service with the Transit Operating Division of the former Metropolitan Transit Commission as defined by the former Metropolitan Transit Commission-Transit Operating Division employees retirement plan document in effect on December 31, 1977; (3) has not received a refund of contributions; (4) has not retired or begun receiving an annuity or benefit from the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund; (5) is at least 55 years old; and (6) submits a valid application for a retirement annuity to the executive director of the Minnesota State Retirement System.

The person is entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document in effect on December 31, 1977, subject to an early retirement reduction or adjustment in amount on account of retirement before the normal retirement age specified in that former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document.

The deferred retirement annuity of any person to whom this subdivision applies must be augmented. The required reserves applicable to the deferred retirement annuity, determined as

of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, must be augmented by interest at the rate of five percent per year compounded annually from January 1, 1978, to January 1, 1981, and three percent per year compounded annually from January 1, 1981, until the date that the annuity begins to accrue or June 30, 2010, whichever is earlier, and two percent after June 30, 2010, to the first day of the month in which the annuity begins to accrue. After the commencement of the retirement annuity, the annuity is eligible for postretirement adjustments under section 356.415. On applying for a retirement annuity under this subdivision, the person is entitled to elect a joint and survivor optional annuity under section 352.116, subdivision 3.

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

Sec. 10. Minnesota Statutes 2008, section 352.93, subdivision 1, is amended to read:

Subdivision 1. **Basis of annuity; when to apply.** After separation from state service, an employee covered under section 352.91 who has reached age 55 years and has credit for at least three years of covered correctional service or a combination of covered correctional service and general state employees state retirement plan allowable service if first employed as a state employee before July 1, 2010, or has credit for at least ten years of covered correctional service or a combination of covered correctional service and general state employees retirement plan allowable service if first employed as a state employee after June 30, 2010, is entitled upon application to a retirement annuity under this section, based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

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

Sec. 11. Minnesota Statutes 2008, section 352.93, subdivision 2a, is amended to read:

Subd. 2a. **Early retirement.** Any covered correctional employee who becomes at least 50 years old and who has at least three years of allowable service if first employed as a correctional state employee before July 1, 2010, or has credit for at least ten years of allowable service if first employed as a correctional state employee after June 30, 2010, is entitled upon application to a reduced retirement annuity equal to the annuity calculated under subdivision 2, reduced by two-tenths of one percent for each month that the correctional employee is under age 55 at the time of retirement if first employed as a correctional state employee before July 1, 2010, and if retired before July 1, 2015, or reduced by 0.417 percent for each month that the correctional employee is under age 55 at the time of retirement if first employed as a correctional state employee after June 30, 2010, or if first employed as a correctional state employee before July 1, 2010, and if retired after June 30, 2015.

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

Sec. 12. Minnesota Statutes 2008, section 352.93, subdivision 3a, is amended to read:

Subd. 3a. **Optional annuities.** The board may establish optional annuity forms to pay a higher amount from the date of retirement until an employee is first eligible to draw Social Security benefits, reaches age 65, or up to reaches the age the employee is eligible to receive unreduced Social Security benefits, at which time the monthly benefits must be reduced. The optional annuity forms must be actuarially equivalent to the normal single life annuity form provided in subdivision 2. The optional

annuity forms must be ~~approved~~ certified as actuarially equivalent by the actuary retained under section 356.214.

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

Sec. 13. Minnesota Statutes 2008, section 352.931, subdivision 1, is amended to read:

Subdivision 1. **Surviving spouse benefit.** (a) If the correctional employee was at least age 50, has credit for at least three years of allowable service if first employed as a correctional state employee before July 1, 2010, or has credit for at least ten years of allowable service if first employed as a correctional state employee after June 30, 2010, and dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund under section 352.12, subdivision 1, an annuity for life equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The election may be made at any time after the date of death of the employee. The surviving spouse benefit begins to accrue as of the first of the month next following the date on which the application for the benefit was filed.

(b) If the employee was under age 50, dies, and had credit for at least three years of allowable service ~~credit~~ on the date of death if first employed as a correctional state employee before July 1, 2010, or had credit for at least ten years of allowable service on the date of death if first employed as a correctional state employee after June 30, 2010, but did not yet qualify for retirement, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse at the time of death. The annuity is payable using the early retirement reduction under section 352.93, subdivision 2a, to age 50, and one-half of the early retirement reduction from age 50 to the age payment begins. The surviving spouse eligible for surviving spouse benefits under this paragraph may apply for the annuity at any time after the employee's death. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision.

(c) The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. Any employee may request in writing, with the signed consent of the spouse, that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

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

Sec. 14. Minnesota Statutes 2009 Supplement, section 352.95, subdivision 2, is amended to read:

Subd. 2. **Regular disability; computation of benefit.** A covered correctional employee who was hired before July 1, 2009, after rendering at least one year of covered correctional service, or a covered correctional employee who was first hired after June 30, 2009, after rendering at least three years of covered correctional plan service if first employed as a correctional state employee before July 1, 2010, or after rendering at least ten years of covered correctional plan service if first employed as a correctional state employee after June 30, 2010, and who is determined to have a regular disability, physical or psychological, as defined under section 352.01, subdivision 17c, is entitled to a regular disability benefit. The regular disability benefit must be based on covered correctional service only. The regular disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2. The regular disability benefit of a covered correctional employee who

was first hired before July 1, 2009, and who is determined to have a regular disability, physical or psychological, under this subdivision must be computed as though the employee had at least 15 years of covered correctional service.

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

Sec. 15. Minnesota Statutes 2008, section 352B.02, as amended by Laws 2009, chapter 101, article 2, section 109; and Laws 2009, chapter 169, article 1, section 23; article 2, section 16; and article 4, sections 3 and 4, is amended to read:

352B.02 STATE PATROL RETIREMENT FUND.

Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is established. Its membership consists of all persons defined in section 352B.011, subdivision 10.

Subd. 1a. **Member contributions.** (a) The member contribution is ~~10.40 percent~~ the following percentage of the member's salary:

<u>(1) before the first day of the first pay period beginning after July 1, 2011</u>	<u>10.40 percent</u>
<u>(2) on or after the first day of the first pay period beginning after July 1, 2011</u>	<u>11.20 percent</u>

(b) These contributions must be made by deduction from salary as provided in section 352.04, subdivision 4.

Subd. 1b. **Salary deductions.** Member contribution amounts must be deducted each pay period by the department head, who shall have the total amount of the deductions paid to the commissioner of management and budget for deposit in the State Patrol retirement fund, and have a detailed report of all deductions made each pay period to the executive director of the Minnesota State Retirement System.

Subd. 1c. **Employer contributions.** (a) In addition to member contributions, department heads shall pay a sum equal to ~~15.60 percent~~ the specified percentage of the salary upon which deductions were made, which constitutes the employer contribution to the fund; as follows:

<u>(1) before the first day of the first pay period beginning after July 1, 2011</u>	<u>15.60 percent</u>
<u>(2) on or after the first day of the first pay period beginning after July 1, 2011</u>	<u>16.80 percent</u>

(b) Department contributions must be paid out of money appropriated to departments for this purpose.

Subd. 1d. **Additional employer contributions.** (a) In addition to the regular employer contribution under subdivision 1c, department heads shall pay a sum equal to ten percent of the salary upon which member contribution deductions were made, which is the additional employer contribution to the fund.

(b) Department additional employer contributions must be paid from departmental

appropriations or revenue.

Subd. ~~4d~~ 1e. Fund revenue and expenses. The amounts provided for in this section must be credited to the State Patrol retirement fund. All money received must be deposited by the commissioner of management and budget in the State Patrol retirement fund. The fund must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities provided in this chapter.

Subd. ~~4e~~ 1f. Audit; regular actuarial valuation; supplemental valuations. (a) The legislative auditor shall audit the fund.

(b) Any actuarial valuation of the fund required under section 356.215 must be prepared by the actuary retained under section 356.214.

(c) Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuation or experience studies must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

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

Sec. 16. Minnesota Statutes 2008, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. **Eligibility; when to apply; accrual.** (a) Every member who is credited with three or more years of allowable service if first employed before July 1, 2010, or with at least five years of allowable service if first employed after June 30, 2010, is entitled to separate from state service and upon becoming 50 years old, is entitled to receive a life annuity, upon separation from state service.

(b) Members ~~shall~~ must apply for an annuity in a form and manner prescribed by the executive director.

(c) No application may be made more than 90 days before the date the member is eligible to retire by reason of both age and service requirements.

(d) An annuity begins to accrue no earlier than 180 days before the date the application is filed with the executive director.

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

Sec. 17. Minnesota Statutes 2008, section 352B.08, subdivision 2a, is amended to read:

Subd. 2a. **Early retirement.** Any member who has become at least 50 years old and who has at least three years of allowable service if first employed before July 1, 2010, or who has at least five years of allowable service if first employed after June 30, 2010, is entitled upon application to a reduced retirement annuity equal to the annuity calculated under subdivision 2, reduced by one-tenth of one percent for each month that the member is under age 55 at the time of retirement if first employed before July 1, 2010, or reduced by two-tenths of one percent for each month that the member is under age 55 at the time of retirement if first employed after June 30, 2010.

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

Sec. 18. Minnesota Statutes 2008, section 352B.11, subdivision 2b, is amended to read:

Subd. 2b. **Surviving spouse benefit eligibility.** (a) If an active member with three or more years of allowable service if first employed before July 1, 2010, or with at least five years of allowable service if first employed after June 30, 2010, dies before attaining age 55, the surviving spouse is entitled to the benefit specified in subdivision 2c, paragraph (b).

(b) If an active member with less than three years of allowable service if first employed before July 1, 2010, or with fewer than five years of allowable service if first employed after June 30, 2010, dies at any age, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (c).

(c) If an active member with three or more years of allowable service if first employed before July 1, 2010, or with at least five years of allowable service if first employed after June 30, 2010, dies on or after attaining exact age 55, the surviving spouse is entitled to receive the benefits specified in subdivision 2c, paragraph (d).

(d) If a disabiltant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (b).

(e) If a former member with three or more years of allowable service if first employed before July 1, 2010, or with at least five years of allowable service if first employed after June 30, 2010, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this chapter, dies, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (e).

(f) If a former member with less than three years of allowable service if first employed before July 1, 2010, or with fewer than five years of allowable service if first employed after June 30, 2010, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse is entitled to receive the refund specified in subdivision 2c, paragraph (f).

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

Sec. 19. Minnesota Statutes 2008, section 352B.30, subdivision 1, is amended to read:

Subdivision 1. **Entitlement to annuity.** Any person who has been an employee covered by the Minnesota State Retirement System, or a member of the Public Employees Retirement Association including the Public Employees Retirement Association Police and Fire Fund, or the Teachers Retirement Association, or the State Patrol retirement fund, or any other public employee retirement system in Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~three or more~~ the number of years of allowable service required by the applicable retirement plan with the longest vesting period for the person. No part of the allowable service upon which the retirement annuity from one fund is based may again be used in the computation for benefits from another fund. The member must not have taken a refund from any one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each

fund must be determined by the appropriate law except that the requirement that a person must have at least ~~three~~ a specific number of years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals ~~three or more~~ the number of years of allowable service required by the applicable retirement plan with the longest vesting period for the person.

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

Sec. 20. Minnesota Statutes 2008, section 352B.30, subdivision 2, is amended to read:

Subd. 2. **Computation of deferred annuity.** Deferred annuities must be computed according to this chapter on the basis of allowable service before termination of service and augmented as provided in this chapter. The required reserves applicable to a deferred annuity must be augmented by interest compounded annually from the first day of the month following the month in which the member terminated service, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose ~~shall~~ must be five percent per year compounded annually until January 1, 1981, ~~and after that date~~ three percent per year compounded annually after January 1, 1981, until January 1, 2011, if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006, and two percent per year compounded annually after December 31, 2010, irrespective of when the employee was first employed. The mortality table and interest assumption used to compute the annuity ~~shall~~ must be those in effect when the member files application for annuity.

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

Sec. 21. Minnesota Statutes 2008, section 352F.07, is amended to read:

352F.07 EFFECT ON REFUND.

Notwithstanding any provision of chapter 352 to the contrary, terminated hospital employees may receive a refund of employee accumulated contributions plus interest ~~at the rate of six percent per year compounded annually~~ in accordance with ~~Minnesota Statutes 1994, section 352.22, subdivision 2,~~ at any time after the transfer of employment to Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians. If a terminated hospital employee has received a refund from a pension plan enumerated in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with section 356.30, subdivision 2.

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

Sec. 22. Minnesota Statutes 2008, section 353.01, is amended by adding a subdivision to read:

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

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

(1) a member who first became a public employee before July 1, 2010, is vested when the person

has accrued credit for not less than three years of allowable service as defined under subdivision 16; and

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

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

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

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

- (i) 50 percent after five years;
- (ii) 60 percent after six years;
- (iii) 70 percent after seven years;
- (iv) 80 percent after eight years;
- (v) 90 percent after nine years; and
- (vi) 100 percent after ten years.

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

Sec. 23. Minnesota Statutes 2009 Supplement, section 353.27, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For a basic member, the employee contribution is 9.10 percent of salary. For a coordinated member, the employee contribution is ~~six percent~~ the following percentage of salary plus any contribution rate adjustment under subdivision 3b-:

<u>Effective before January 1, 2011</u>	<u>6.00</u>
<u>Effective after December 31, 2010</u>	<u>6.25</u>

(b) These contributions must be made by deduction from salary as defined in section 353.01, subdivision 10, in the manner provided in subdivision 4. If any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the total salary received by the member from all sources.

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

Sec. 24. Minnesota Statutes 2009 Supplement, section 353.27, subdivision 3, is amended to read:

Subd. 3. **Employer contribution.** (a) For a basic member, the employer contribution is 9.10 percent of salary. For a coordinated member, the employer contribution is ~~six percent~~ the following percentage of salary plus any contribution rate adjustment under subdivision 3b-:

<u>Effective before January 1, 2011</u>	<u>6.00</u>
<u>Effective after December 31, 2010</u>	<u>6.25</u>

(b) This contribution must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

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

Sec. 25. Minnesota Statutes 2008, section 353.27, subdivision 3b, is amended to read:

Subd. 3b. **Change in employee and employer contributions in certain instances.** (a) For purposes of this section,;

(1) a contribution sufficiency exists if the total of the employee contribution under subdivision 2, the employer contribution under subdivision 3, the additional employer contribution under subdivision 3a, and any additional contribution previously imposed under this subdivision exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement. ~~For purposes of this section,;~~ and

(2) a contribution deficiency exists if the total of the employee contributions under subdivision 2, the employer contributions under subdivision 3, the additional employer contribution under subdivision 3a, and any additional contribution previously imposed under this subdivision is less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) Employee and employer contributions under subdivisions 2 and 3 must be adjusted:

(1) if, on or after July 1, 2010, the regular actuarial valuations valuation of the general employees retirement plan of the Public Employees Retirement Association under section 356.215 indicate indicates that there is a contribution sufficiency under paragraph (a) ~~equal to or~~ greater than 0.5 one percent of covered payroll and that the sufficiency has existed for at least two consecutive years, the coordinated program employee and employer contribution rates must be decreased as determined under paragraph (c) to a level such that the sufficiency ~~equals~~ is no more greater than 0.25 one percent of covered payroll based on the most recent actuarial valuation; or

(2) if, on or after July 1, 2010, the regular actuarial valuations valuation of the general employees retirement plan of the Public Employees Retirement Association under section 356.215 indicate indicates that there is a contribution deficiency equal to or greater than 0.5 percent of covered payroll and that the deficiency has existed for at least two consecutive years, the coordinated program employee and employer contribution rates must be increased as determined under paragraph ~~(e)~~ (d) to a level such that no deficiency exists based on the most recent actuarial valuation.

(c) ~~The contribution rate increase or decrease must be determined by the executive director of the Public Employees Retirement Association, must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the~~

Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution exceeds or is less than the total support provided by the combined employee and employer contribution rates under subdivisions 2, 3, and 3a, by more than 0.5 one percent of covered payroll, the coordinated program employee and employer contribution rates under subdivisions 2 and 3 must be adjusted decreased incrementally over one or more years by no more than 0.25 percent of pay each for employee and employer matching contribution rates to a level such that there remains a contribution sufficiency of no more than 0.25 at least one percent of covered payroll. No contribution rate decrease may be made until at least two years have elapsed since any adjustment under this subdivision has been fully implemented.

(d) No If the actuarially required contribution exceeds the total support provided by the combined employee and employer contribution rates under subdivisions 2, 3, and 3a, the employee and matching employer contribution rates must be increased equally to eliminate that contribution deficiency. If the contribution deficiency is:

(1) less than two percent, the incremental adjustment increase may exceed be up to 0.25 percent for either the coordinated program employee and matching employer contribution rates per year in which any adjustment is implemented. A contribution rate adjustment under this subdivision must not be made until at least two years have passed since fully implementing a previous adjustment under this subdivision.;

(2) greater than 1.99 percent and less than 4.01 percent, the incremental increase may be up to 0.5 percent for the employee and matching employer contribution rates; or

(3) greater than four percent, the incremental increase may be up to 0.75 percent for the employee and matching employer contribution.

(e) Any recommended adjustment to the contribution rates must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement by January 15 following receipt of the most recent annual actuarial valuation prepared under section 356.215. If the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, the recommended adjustment becomes effective on the first day of the first full payroll period in the fiscal year following receipt of the most recent actuarial valuation that gave rise to the adjustment.

(f) A contribution sufficiency of up to one percent of covered payroll must be held in reserve to be used to offset any future actuarially required contributions that are more than the total combined employee and employer contributions under subdivisions 2, 3, and 3a.

(g) Before any reduction in contributions to eliminate a sufficiency in excess of one percent of covered pay may be recommended, the executive director must review any need for a change in actuarial assumptions, as recommended by the actuary retained under section 356.214 in the most recent experience study of the general employees retirement plan prepared under section 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement that may result in an increase in the actuarially required contribution and must report to the Legislative Commission on Pensions and Retirement any recommendation by the board to use the sufficiency exceeding one percent of covered payroll to offset the impact of an actuarial

assumption change recommended by the actuary retained under section 356.214, subdivision 1, and reviewed by the actuary retained by the commission under section 356.214, subdivision 4.

(h) No contribution sufficiency in excess of one percent of covered pay may be proposed to be used to increase benefits, and no benefit increase may be proposed that would initiate an automatic adjustment to increase contributions under this subdivision. Any proposed benefit improvement must include a recommendation, prepared by the actuary retained under section 356.214, subdivision 1, and reviewed by the actuary retained by the Legislative Commission on Pensions and Retirement as provided under section 356.214, subdivision 4, on how the benefit modification will be funded.

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

Sec. 26. Minnesota Statutes 2008, section 353.29, subdivision 1, is amended to read:

Subdivision 1. **Age and allowable service requirements.** Upon termination of membership, a person who has attained normal retirement age and who ~~received credit for not less than three years of allowable service~~ is vested under section 353.01, subdivision 47, is entitled upon application to a retirement annuity. The retirement annuity is known as the "normal" retirement annuity.

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

Sec. 27. Minnesota Statutes 2008, section 353.30, subdivision 1c, is amended to read:

Subd. 1c. **Pre-July 1, 1989, members: early retirement.** Upon termination of public service, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, who has become at least 55 years old but not normal retirement age, and ~~has received credit for at least three years of allowable service~~ is vested under section 353.01, subdivision 47, is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivision 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement.

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

Sec. 28. Minnesota Statutes 2008, section 353.32, subdivision 1, is amended to read:

Subdivision 1. **Before retirement.** If a member or former member who terminated public service dies before retirement or before receiving any retirement annuity and no other payment of any kind is or may become payable to any person, a refund ~~shall be paid~~ is payable to the designated beneficiary or, if there be none, to the surviving spouse, or, if none, to the legal representative of the decedent's estate. ~~Such~~ The refund ~~shall~~ must be in an amount equal to accumulated deductions plus annual compound interest thereon at the rate of ~~six percent per annum compounded annually~~ specified in section 353.34, subdivision 2, and less the sum of any disability or survivor benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits ~~pursuant to~~ under section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 18 years may only be waived ~~pursuant to~~ under an order of the district court.

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

Sec. 29. Minnesota Statutes 2008, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. **Surviving spouse optional annuity.** (a) If a member or former member who ~~has credit for not less than three years of allowable service~~ is vested under section 353.01, subdivision

47, and who dies before the annuity or disability benefit begins to accrue under section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest under subdivision 1, or surviving spouse benefits otherwise payable under section 353.31, an annuity equal to a 100 percent joint and survivor annuity computed consistent with section 353.30, subdivision 1a, 1c, or 5, whichever is applicable.

(b) If a member first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity computed using section 353.30, subdivision 1b, except that the early retirement reduction under that provision will be applied from age 62 back to age 55 and one-half of the early retirement reduction from age 55 back to the age payment begins.

(c) If a member who was under age 55 and ~~has credit for at least three years of allowable service~~ who is vested under section 353.01, subdivision 47, dies, but did not qualify for retirement on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity computed using section 353.30, subdivision 1c or 5, as applicable, except that the early retirement reduction specified in the applicable subdivision will be applied to age 55 and one-half of the early retirement reduction from age 55 back to the age payment begins.

(d) Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a marriage dissolution decree, but not a monthly surviving spouse optional annuity, despite the terms of a marriage dissolution decree filed with the association.

(e) The surviving spouse eligible for surviving spouse benefits under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for an annuity any time after the member's death.

(f) Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision.

(g) An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the surviving spouse's estate.

(h) A member may specify in writing, with the signed consent of the spouse, that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter. The waiver of a surviving spouse annuity under this section does not make a dependent child eligible for benefits under subdivision 1c.

(i) If the deceased member or former member first became a public employee or a member of a public pension plan listed in section 356.30, subdivision 3, on or after July 1, 1989, a survivor annuity computed under paragraph (a) or (c) must be computed as specified in section 353.30, subdivision

5, except for the revised early retirement reduction specified in paragraph (c), if paragraph (c) is the applicable provision.

(j) For any survivor annuity determined under this subdivision, the payment is to be based on the total allowable service that the member had accrued as of the date of death and the age of the member and surviving spouse on that date.

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

Sec. 30. Minnesota Statutes 2009 Supplement, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **Age, service, and salary requirements.** (a) A coordinated or basic member who ~~has at least three years of allowable service~~ is vested under section 353.01, subdivision 47, and who becomes totally and permanently disabled before normal retirement age, upon application as defined under section 353.031, is entitled to a disability benefit in an amount determined under subdivision 3.

(b) If the disabled person's public service has terminated at any time, at least two of the ~~required three years of allowable service~~ required to be vested under section 353.01, subdivision 47, must have been rendered after last becoming an active member.

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

Sec. 31. Minnesota Statutes 2008, section 353.34, subdivision 1, is amended to read:

Subdivision 1. **Refund or deferred annuity.** (a) A former member is entitled to either a refund of accumulated employee deductions under subdivision 2, or to a deferred annuity under subdivision 3. Application for a refund may not be made before the date of termination of public service. Except as specified in paragraph (b), a refund must be paid within 120 days following receipt of the application unless the applicant has again become a public employee required to be covered by the association.

(b) If an individual was placed on layoff under section 353.01, subdivision 12 or 12c, a refund is not payable before termination of service under section 353.01, subdivision 11a.

(c) An individual who terminates public service covered by the Public Employees Retirement Association general employees retirement plan, the Public Employees Retirement Association police and fire retirement plan, or the public employees local government ~~corrections~~ correctional service retirement plan, and who is employed by a different employer and who becomes an active member covered by one of the other two plans, may receive a refund of employee contributions plus ~~six percent~~ annual compound interest ~~compounded annually~~ from the plan from which the member terminated service at the applicable rate specified in subdivision 2.

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

Sec. 32. Minnesota Statutes 2008, section 353.34, subdivision 2, is amended to read:

Subd. 2. **Refund with interest.** (a) Except as provided in subdivision 1, any person who ceases to be a public employee ~~shall~~ is entitled to receive a refund in an amount equal to accumulated deductions with annual compound interest to the first day of the month in which the refund is processed ~~at the rate of six percent compounded annually based on fiscal year balances.~~

(b) For a person who ceases to be a public employee before July 1, 2011, the refund interest is

at the rate of six percent to June 30, 2011, and at the rate of four percent after June 30, 2011. For a person who ceases to be a public employee after July 1, 2011, the refund interest is at the rate of four percent.

(c) If a person repays a refund and subsequently applies for another refund, the repayment amount, including interest, is added to the fiscal year balance in which the repayment was made.

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

Sec. 33. Minnesota Statutes 2008, section 353.34, subdivision 3, is amended to read:

Subd. 3. **Deferred annuity; eligibility; computation.** (a) ~~A member with at least three years of allowable service~~ who is vested under section 353.01, subdivision 47, when termination of public service or termination of membership occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 1a, 1b, 1c, or 5.

(b) The deferred annuity must be computed under section 353.29, subdivision 3, on the basis of the law in effect on the date of termination of public service or termination of membership, whichever is earlier, and must be augmented as provided in section 353.71, subdivision 2.

(c) A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

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

Sec. 34. Minnesota Statutes 2009 Supplement, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** The employee contribution is 9.4 percent of the salary of the member in calendar year 2010 and is 9.6 percent of the salary of the member in each calendar year after 2010. This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

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

Sec. 35. Minnesota Statutes 2009 Supplement, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution.** The employer contribution is 14.1 percent of the salary of the member in calendar year 2010 and is 14.4 percent of the salary of the member in each calendar year after 2010. This contribution must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

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

Sec. 36. Minnesota Statutes 2008, section 353.651, subdivision 1, is amended to read:

Subdivision 1. **Age and allowable service requirements.** Upon separation from public service, any police officer or firefighter member who has attained the age of at least 55 years and who received credit for not less than three years of allowable service is vested under section 353.01, subdivision

47, is entitled upon application to a retirement annuity. ~~Such retirement annuity is~~ known as the "normal" retirement annuity.

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

Sec. 37. Minnesota Statutes 2008, section 353.651, subdivision 4, is amended to read:

Subd. 4. **Early retirement.** (a) A person who becomes a police and fire plan member after June 30, 2007, or a former member who is reinstated as a member of the plan after that date, who is at least 50 years of age ~~with at least three years of allowable service~~ and who is vested under section 353.01, subdivision 47, upon the termination of public service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced by two-tenths of one percent for each month that the member is under age 55 at the time of retirement.

(b) Upon the termination of public service, any police and fire plan member not specified in paragraph (a), upon attaining at least 50 years of age with at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced by one-tenth of one percent for each month that the member is under age 55 at the time of retirement.

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

Sec. 38. Minnesota Statutes 2008, section 353.657, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) In the event that a member of the police and fire fund dies from any cause before retirement or before becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, as defined in section 353.01, subdivision 20, and to a dependent child or children, as defined in section 353.01, subdivision 15, except that if the death is not a line of duty death, the member must ~~have accrued at least three years of credited service~~ be vested under section 353.01, subdivision 47.

(b) Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The spouse and child or children are entitled to monthly benefits as provided in subdivisions 2 to 4.

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

Sec. 39. Minnesota Statutes 2008, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. **Death while eligible survivor benefit.** (a) If a member or former member who has attained the age of at least 50 years and ~~has credit for not less than three years allowable service~~ either who is vested under section 353.01, subdivision 47, or who has credit for at least 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit becomes payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit.

(b) Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the death while eligible survivor benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a death while eligible survivor benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The benefit may be elected instead of a refund with interest under section 353.32, subdivision 1, or surviving spouse benefits otherwise payable under subdivisions 1 and 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3.

(d) The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision.

(e) No payment accrues beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member.

(f) Any member may request in writing, with the signed consent of the spouse, that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

(g) For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.

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

Sec. 40. Minnesota Statutes 2008, section 353.71, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** Any person who has been a member of a defined benefit retirement plan administered by the Public Employees Retirement Association, or a retirement plan administered by the Minnesota State Retirement System, or the Teachers Retirement Association, or any other public retirement system in the state of Minnesota having a like provision, except a fund retirement plan providing benefits for police officers or firefighters governed by sections 69.77 or 69.771 to 69.776, shall be is entitled, when qualified, to an annuity from each fund retirement plan if the total allowable service in all funds retirement plans or in any two of these funds retirement plans totals three or more years the number of years of allowable service required to receive a normal retirement annuity for that retirement plan, provided that no portion of the allowable service upon which the retirement annuity from one fund retirement plan is based is again used in the computation for benefits from another fund retirement plan and provided further that the person has not taken a refund from any one of these funds retirement plans since the person's

membership in that association or system last terminated. The annuity from each fund ~~shall~~ must be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~three years~~ a specific minimum period of allowable service in the respective association or system ~~shall~~ does not apply for the purposes of this section provided if the combined service in two or more of these funds retirement plans equals three or more the number of years of allowable service required to receive a normal retirement annuity for that retirement plan.

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

Sec. 41. Minnesota Statutes 2008, section 353.71, subdivision 2, is amended to read:

Subd. 2. **Deferred annuity computation; augmentation.** (a) The deferred annuity accruing under subdivision 1, or under sections 353.34, subdivision 3, and 353.68, subdivision 4, must be computed on the basis of allowable service prior to the termination of public service and augmented as provided in this ~~paragraph~~ subdivision. The required reserves applicable to a deferred annuity, or to any deferred segment of an annuity must be determined as of the first day of the month following the month in which the former member ceased to be a public employee, or July 1, 1971, whichever is later. ~~These~~

(b) For a person who became a public employee before July 1, 2006, whose period of deferral began after June 30, 1971, and who terminated public employment before January 1, 2011, the required reserves of the deferred annuity must be augmented at the following applicable rate of or rates:

(1) five percent ~~annually compounded annually~~ annual compound interest until January 1, 1981, and at the rate of;

(2) three percent ~~thereafter~~ annual compound interest after January 1, 1981, or until the earlier of December 31, 2010, or after the date of the termination of public service or the termination of membership, whichever is later, until January 1 of the year following the year in which the former member attains age 55 and;

(3) five percent annual compound interest from that date to the effective date of retirement, the rate is five percent compounded annually if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an January 1 of the year following the year in which the former member attains age 55, or until December 31, 2010, whichever is earlier; and

(4) one percent annual compound interest from January 1, 2011.

(c) For a person who became a public employee after June 30, 2006, and who terminated public employment before January 1, 2011, the required reserves of the deferred annuity must be augmented at 2.5 percent annual compound interest from the date of termination of public service or termination of membership, whichever is earlier, until December 31, 2010, and one percent annual compound interest after December 31, 2010.

(d) For a person who terminates public employment after December 31, 2010, the required reserves of the deferred annuity must not be augmented.

(e) If a person has more than one period of uninterrupted service, the required reserves related to each period must be augmented as specified in this paragraph. The sum of the augmented required

reserves is the present value of the annuity. Uninterrupted service for the purpose of this subdivision means periods of covered employment during which the employee has not been separated from public service for more than two years. If a person repays a refund, the restored service must be considered as continuous with the next period of service for which the employee has credit with this association. This section must not reduce the annuity otherwise payable under this chapter. This paragraph applies to individuals who become deferred annuitants on or after July 1, 1971. For a member who became a deferred annuitant before July 1, 1971, the paragraph applies from July 1, 1971, if the former active member applies for an annuity after July 1, 1973.

~~(b)~~ (f) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former member who terminated service before July 1, 1997, or the survivor benefit payable on behalf of a basic or police and fire member who was receiving disability benefits before July 1, 1997, which is first payable after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board and approved by the actuary retained under section 356.214.

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

Sec. 42. Minnesota Statutes 2008, section 353E.04, subdivision 1, is amended to read:

Subdivision 1. **Eligibility requirements.** After termination of public employment, an employee covered under section 353E.02 who has attained the age of at least 55 years and ~~has credit for not less than three years of coverage~~ who is vested under section 353.01, subdivision 47, in the local government correctional service plan is entitled, upon application, to a normal retirement annuity. Instead of a normal retirement annuity, a retiring employee may elect to receive the optional annuity provided in section 353.30, subdivision 3.

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

Sec. 43. Minnesota Statutes 2008, section 353E.04, subdivision 4, is amended to read:

Subd. 4. **Early retirement.** An employee covered under section 353E.02 who has attained the age of at least 50 years and ~~has credit for not less than three years of coverage~~ who is vested under section 353.01, subdivision 47, in the local government correctional service plan is entitled, upon application, to a reduced retirement annuity equal to the annuity calculated under subdivision 3, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue until age 55.

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

Sec. 44. Minnesota Statutes 2008, section 353E.07, subdivision 1, is amended to read:

Subdivision 1. **Member at least age 50.** If a member or former member of the local government correctional service retirement plan who has attained the age of at least 50 years and ~~has credit for not less than three years of allowable service~~ who is vested under section 353.01, subdivision 47, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, a surviving spouse annuity equal to the 100 percent joint and survivor annuity for which the member could have qualified had the member terminated service

on the date of death.

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

Sec. 45. Minnesota Statutes 2008, section 353E.07, subdivision 2, is amended to read:

Subd. 2. **Member not yet age 50.** If the member was under age 50, dies, and ~~had credit for not less than three years of allowable service~~ was vested under section 353.01, subdivision 47, on the date of death but did not yet qualify for retirement, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and the surviving spouse at the time of death. The annuity is payable using the early retirement reduction under section 353E.04, subdivision 4, to age 50 and one-half the early retirement reduction from age 50 to the age payment begins. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision.

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

Sec. 46. Minnesota Statutes 2008, section 353F.03, is amended to read:

353F.03 VESTING RULE FOR CERTAIN EMPLOYEES.

Notwithstanding any provision of chapter 353 to the contrary, a terminated medical facility or other public employing unit employee is eligible to receive a retirement annuity under section 353.29 of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, without regard to the requirement ~~for three years of allowable service~~ specified in section 353.01, subdivision 47.

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

Sec. 47. Minnesota Statutes 2009 Supplement, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For a basic member, the employee contribution to the fund is ~~9.0 percent~~ the following percentage of the member's salary:-

<u>before July 1, 2011</u>	<u>9.0 percent</u>
<u>from July 1, 2011, until June 30, 2012</u>	<u>9.5 percent</u>
<u>from July 1, 2012, until June 30, 2013</u>	<u>10.0 percent</u>
<u>from July 1, 2013, until June 30, 2014</u>	<u>10.5 percent</u>
<u>after June 30, 2014</u>	<u>11.0 percent</u>

(b) For a coordinated member, the employee contribution is ~~5.5 percent~~ the following percentage of the member's salary:-

<u>before July 1, 2011</u>	<u>5.5 percent</u>
<u>from July 1, 2011, until June 30, 2012</u>	<u>6.0 percent</u>
<u>from July 1, 2012, until June 30, 2013</u>	<u>6.5 percent</u>
<u>from July 1, 2013, until June 30, 2014</u>	<u>7.0 percent</u>
<u>after June 30, 2014</u>	<u>7.5 percent</u>

(c) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(d) After June 30, 2015, if a contribution rate revision is required under subdivisions 4a, 4b, and 4c, the employee contributions under paragraphs (a) and (b) must be adjusted accordingly.

~~(b)~~ (e) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

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

Sec. 48. Minnesota Statutes 2008, section 354.42, subdivision 3, is amended to read:

Subd. 3. **Employer.** (a) ~~The regular employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, and before July 1, 2007, is an amount equal to 5.0 percent of the salary of each of its teachers who is a coordinated member and 9.0 percent of the salary of each of its teachers who is a basic member. After July 1, 2007, the regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to 5.5 percent the applicable following percentage of salary of each coordinated member and 9.5 percent the applicable following percentage of salary of each basic member.:~~

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>before July 1, 2011</u>	<u>5.5 percent</u>	<u>9.5 percent</u>
<u>from July 1, 2011, until June 30, 2012</u>	<u>6.0 percent</u>	<u>10.0 percent</u>
<u>from July 1, 2012, until June 30, 2013</u>	<u>6.5 percent</u>	<u>10.5 percent</u>
<u>from July 1, 2013, until June 30, 2014</u>	<u>7.0 percent</u>	<u>11.0 percent</u>
<u>after June 30, 2014</u>	<u>7.5 percent</u>	<u>11.5 percent</u>

The additional employer contribution to the fund by Special School District No. 1, Minneapolis, ~~after July 1, 2006,~~ is an amount equal to 3.64 percent of the salary of each teacher who is a coordinated member or is a basic member.

(b) ~~The employer contribution to the fund for every other employer is an amount equal to 5.0 percent the applicable following percentage of the salary of each coordinated member and 9.0 percent the applicable following percentage of the salary of each basic member before July 1, 2007, and 5.5 percent of the salary of each coordinated member and 9.5 percent of the salary of each basic member after June 30, 2007.:~~

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>before July 1, 2011</u>	<u>5.5 percent</u>	<u>9.5 percent</u>
<u>from July 1, 2011, until June 30, 2012</u>	<u>6.0 percent</u>	<u>10.0 percent</u>
<u>from July 1, 2012, until June 30, 2013</u>	<u>6.5 percent</u>	<u>10.5 percent</u>
<u>from July 1, 2013, until June 30, 2014</u>	<u>7.0 percent</u>	<u>11.0 percent</u>
<u>after June 30, 2014</u>	<u>7.5 percent</u>	<u>11.5 percent</u>

(c) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(d) After June 30, 2015, if a contribution rate revision is made under subdivisions 4a, 4b, and 4c, the employer contributions under paragraphs (a) and (b) must be adjusted accordingly.

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

Sec. 49. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4a. **Determination.** (a) For purposes of this section, a contribution sufficiency exists if the total of the employee contributions, the employer contributions, and any additional employer contributions, if applicable, exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the approved actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) For purposes of this section, a contribution deficiency exists if the total of the employee contributions, the employer contributions, and any additional employer contributions are less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the approved actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

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

Sec. 50. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4b. **Contribution rate revision.** Notwithstanding the contribution rate provisions under subdivisions 2 and 3, the employee and employer contribution rates may be adjusted as follows:

(1) if, after June 30, 2015, the regular actuarial valuation of the plan under section 356.215 indicates that there is a contribution sufficiency under subdivision 4a equal to or greater than one percent of covered payroll and the sufficiency has existed for at least two consecutive years, the employee and employer contribution rates for the plan may each be decreased to a level such that the sufficiency equals no more than one percent of covered payroll based on the most recent actuarial valuation; or

(2) if, after June 30, 2015, the regular valuation of the plan under section 356.215 indicates that there is a deficiency equal to or greater than 0.25 percent of covered payroll and the deficiency has existed for at least two consecutive years, the employee and employer contribution rates for the applicable plan may each be increased by:

(i) 0.25 percent if the deficiency is less than 2.00 percent of covered payroll;

(ii) 0.5 percent if the deficiency is equal to or greater than 2.00 percent of covered payroll and less than or equal to four percent; and

(iii) 0.75 percent if the deficiency is greater than four percent.

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

Sec. 51. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4c. **Contribution sufficiency measures.** (a) A contribution sufficiency of up to one percent of covered payroll must be held in reserve to be used to offset any future actuarially required contributions that are more than the total combined employee and employer contributions being collected.

(b) Before any reduction in contributions to eliminate a sufficiency in excess of one percent of covered pay may be recommended, the executive director must review any need for a change in actuarial assumptions, as recommended by the actuary retained under section 356.214 in the most recent experience study of the retirement plan, that may result in an increase in the actuarially required contribution and must report to the Legislative Commission on Pensions and Retirement any recommendation by the board to use the sufficiency exceeding one percent of covered payroll to offset the impact of an actuarial assumption change recommended by the actuary retained under section 356.214, subdivision 1, and reviewed by the actuary retained by the commission under section 356.214, subdivision 4.

(c) A contribution sufficiency in excess of one percent of covered pay must not be used to increase benefits, and a benefit increase must not be proposed that would initiate an automatic adjustment under this section to increase contributions. A proposed benefit improvement must include a recommendation, prepared by the actuary retained under section 356.214, subdivision 1, and reviewed by the actuary retained by the Legislative Commission on Pensions and Retirement, as provided under section 356.214, subdivision 4, on the manner in which the benefit modification is to be funded.

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

Sec. 52. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4d. **Reporting; commission review.** A contribution rate increase or decrease under subdivision 4b, as determined by the executive director of the Teachers Retirement Association, must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1 and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency exists based on the most recent actuarial valuation under section 356.215.

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

Sec. 53. Minnesota Statutes 2009 Supplement, section 354.47, subdivision 1, is amended to read:

Subdivision 1. **Death before retirement.** (a) If a member dies before retirement and is covered under section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit under section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death of the member. If the designated beneficiary is a minor, interest must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(b) If a member dies before retirement and is covered under section 354.44, subdivision 6, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, then the designated beneficiary is entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death of the member, the member's accumulated deductions plus six percent interest compounded annually. a refund equal to the accumulated deductions credited to the member's account plus interest compounded annually until the member's date of death using the following interest rates:

- (1) before July 1, 1957, no interest accrues;
- (2) July 1, 1957, to June 30, 2011, six percent; and
- (3) after June 30, 2011, four percent.

(c) If the designated beneficiary under paragraph (b) is a minor, any interest credited under that paragraph must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(d) The amount of any refund payable under this subdivision must be reduced by any permanent disability payment under section 354.48 received by the member.

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

Sec. 54. Minnesota Statutes 2009 Supplement, section 354.49, subdivision 2, is amended to read:

Subd. 2. **Calculation.** (a) Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, is entitled to receive a refund in an amount equal to the accumulated deductions credited to the account ~~as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually.~~ plus interest compounded annually using the following interest rates:

- (1) before July 1, 1957, no interest accrues;
- (2) July 1, 1957, to June 30, 2011, six percent; and
- (3) after June 30, 2011, four percent.

For the purpose of this subdivision, interest must be computed on fiscal year end balances to the first day of the month in which the refund is issued.

(b) If the person has received permanent disability payments under section 354.48, the refund amount must be reduced by the amount of those payments.

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

Sec. 55. Minnesota Statutes 2009 Supplement, section 354.55, subdivision 11, is amended to read:

Subd. 11. **Deferred annuity; augmentation.** (a) Any person covered under section 354.44, subdivision 6, who ceases to render teaching service, may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement.

(b) The amount of the deferred retirement annuity is determined by section 354.44, subdivision 6, and augmented as provided in this subdivision. The required reserves for the annuity which had accrued when the member ceased to render teaching service must be augmented, as further specified in this subdivision, by the applicable interest rate compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement.

(c) No augmentation is not creditable if the deferral period is less than three months or if deferral commenced before July 1, 1971.

(d) For persons who became covered employees before July 1, 2006, with a deferral period commencing after June 30, 1971, the annuity must be augmented using as follows:

(1) five percent interest compounded annually until January 1, 1981, and;

(2) three percent interest compounded annually thereafter from January 1, 1981, until January 1 of the year following the year in which the deferred annuitant attains age 55;

From that date (3) five percent interest compounded annually from the date established in clause (2) to the effective date of retirement, the rate is five percent compounded annually, or until June 30, 2011, whichever is earlier; and

(4) two percent interest compounded annually after June 30, 2011.

(e) For persons who become covered employees after June 30, 2006, the interest rate used to augment the deferred annuity is 2.5 percent interest compounded annually until June 30, 2011, or until the effective date of retirement, whichever is earlier, and two percent interest compounded annually after June 30, 2011.

(f) If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period must be augmented as specified in this subdivision. The sum of the augmented required reserves is the present value of the annuity. For the purposes of this subdivision, "period of uninterrupted service" means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(g) If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has allowable service credit in the Teachers Retirement Association.

(h) If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service must be those applicable to new members.

(i) The mortality table and interest rate actuarial assumption used to compute the annuity must be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate actuarial assumption under section 356.215 in effect when the member retires.

(j) In no case may the annuity payable under this subdivision be less than the amount of annuity payable under section 354.44, subdivision 6.

(k) The requirements and provisions for retirement before normal retirement age contained

in section 354.44, subdivision 6, also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

(l) The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

(m) The augmentation provided by this subdivision does not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

(n) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former teacher who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board as recommended by an approved actuary and approved by the actuary retained under section 356.214.

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

Sec. 56. Minnesota Statutes 2008, section 354A.12, subdivision 1, is amended to read:

Subdivision 1. **Employee contributions.** (a) The contribution required to be paid by each member of a teachers retirement fund association ~~shall not be less than~~ is the percentage of total salary specified below for the applicable association and program:

Association and Program	Percentage of Total Salary
Duluth Teachers Retirement Fund Association	
old law and new law	
coordinated programs	5.5 percent
<u>before July 1, 2011</u>	<u>5.5 percent</u>
<u>effective July 1, 2011</u>	<u>6.0 percent</u>
<u>effective July 1, 2012</u>	<u>6.5 percent</u>
St. Paul Teachers Retirement Fund Association	
basic program <u>before July 1, 2010</u>	8 percent
<u>basic program after June 30, 2010</u>	<u>8.5 percent</u>
<u>basic program after June 30, 2011</u>	<u>9.0 percent</u>
coordinated program <u>before July 1, 2010</u>	5.5 percent
<u>coordinated program after June 30, 2010</u>	<u>6.0 percent</u>
<u>coordinated program after June 30, 2011</u>	<u>6.5 percent</u>

(b) Contributions shall be made by deduction from salary and must be remitted directly to the respective teachers retirement fund association at least once each month.

(c) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid by the employer with the first payroll cycle reported.

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

Sec. 57. Minnesota Statutes 2009 Supplement, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional contributions.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
<u>before July 1, 2011</u>	<u>5.79 percent</u>
<u>effective July 1, 2011</u>	<u>6.29 percent</u>
<u>effective July 1, 2012</u>	<u>6.79 percent</u>
St. Paul Teachers Retirement Fund Association	
<u>before July 1, 2010</u>	<u>4.50 percent</u>
<u>after June 30, 2010</u>	<u>5.0 percent</u>
<u>after June 30, 2011</u>	<u>5.5 percent</u>
<u>after June 30, 2013</u>	<u>6.5 percent</u>

(2) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to ~~8.00 percent of the salary of the basic member;~~ according to the schedule below:

<u>before July 1, 2010</u>	<u>8.0 percent of the salary of the basic member</u>
<u>before July 1, 2011</u>	<u>8.5 percent of the salary of the basic member</u>
<u>before July 1, 2012</u>	<u>9.0 percent of the salary of the basic member</u>
<u>before July 1, 2013</u>	<u>9.5 percent of the salary of the basic member</u>
<u>before July 1, 2014</u>	<u>10.0 percent of the salary of the basic member</u>

(3) for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

(4) for a coordinated member of ~~a teachers retirement fund association in a city of the first class~~ the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
--	-------------------------

St. Paul Teachers Retirement
Fund Association

3.84 percent

(b) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

(c) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

(d) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid by the employer with the first payroll cycle reported.

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

Sec. 58. Minnesota Statutes 2008, section 354A.12, subdivision 3c, is amended to read:

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

~~(b) If the St. Paul Teachers Retirement Fund Association is funded at an amount equal to or greater than the funding ratio applicable to the Teachers Retirement Association, then any future state aid under subdivision 3a is payable to the Teachers Retirement Association.~~

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

Sec. 59. Minnesota Statutes 2008, section 354A.27, subdivision 5, is amended to read:

Subd. 5. **Calculation Eligibility for and payment of postretirement adjustments.** (a) Annually, after June 30, the board of trustees of the Duluth Teachers Retirement Fund Association determines the amount of any postretirement adjustment using the procedures in this subdivision and subdivision 6 or 7, whichever is applicable.

(b) Each person who has been receiving an annuity or benefit under the articles of incorporation, bylaws, or under this section for at least 12 months as of the date of the postretirement adjustment

shall be eligible for a postretirement adjustment. The postretirement adjustment shall be payable each January 1. The postretirement adjustment shall be ~~equal to two percent of a permanent percentage increase as specified under subdivision 6 or 7, whichever is applicable, applied to the annuity or benefit to which the person is entitled one month prior to the payment of the postretirement adjustment.~~

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

Sec. 60. Minnesota Statutes 2008, section 354A.27, subdivision 6, is amended to read:

Subd. 6. **Additional increase Calculation of postretirement adjustments; transitional provision.** ~~(a) In addition to the postretirement increases granted under subdivision 5, an additional percentage increase must be computed and paid under this subdivision.~~

~~(b) The board of trustees shall determine the number of annuitants or benefit recipients who have been receiving an annuity or benefit for at least 12 months as of the current June 30. These recipients are entitled to receive the surplus investment earnings additional postretirement increase.~~

~~(c) Annually, as of each June 30, the board shall determine the five-year annualized rate of return attributable to the assets of the Duluth Teachers Retirement Fund Association under the formula or formulas specified in section 11A.04, clause (11).~~

~~(d) The board shall determine the amount of excess five-year annualized rate of return over the preretirement interest assumption as specified in section 356.215.~~

~~(e) The additional percentage increase must be determined by multiplying the quantity one minus the rate of contribution deficiency, as specified in the most recent actuarial report of the actuary retained under section 356.214, times the rate of return excess as determined in paragraph (d).~~

~~(f) The additional increase is payable to all eligible annuitants or benefit recipients on the following January 1.~~

(a) For purposes of computing postretirement adjustments after the effective date of this section for eligible benefit recipients of the Duluth Teachers Retirement Fund Association, the funding ratio of the plan, as determined by dividing the market value of assets by the actuarial accrued liability as reported in the most recent actuarial valuation prepared under sections 356.214 and 356.215, determines the postretirement increase as follows:

<u>Funding Ratio</u>	<u>Postretirement Increase</u>
<u>less than 80 percent</u>	<u>0 percent</u>
<u>at least 80 percent but less than 90 percent</u>	<u>1 percent</u>
<u>at least 90 percent</u>	<u>2 percent</u>

(b) If the funding ratio of the plan based on actuarial value, rather than market value, is at least 90 percent as reported in the most recent actuarial valuation prepared under sections 356.214 and 356.215, this subdivision expires and subsequent postretirement increases must be paid as specified under subdivision 7.

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

Sec. 61. Minnesota Statutes 2008, section 354A.27, is amended by adding a subdivision to read:

Subd. 7. **Calculation of postretirement adjustments.** (a) This subdivision applies if subdivision 6 has expired.

(b) A percentage adjustment must be computed and paid under this subdivision to eligible persons under subdivision 5. This adjustment is determined by reference to the Consumer Price Index for urban wage earners and clerical workers all items index as reported by the Bureau of Labor Statistics within the United States Department of Labor each year as part of the determination of annual cost-of-living adjustments to recipients of federal old-age, survivors, and disability insurance. For calculations of cost-of-living adjustments under paragraph (c), the term "average third quarter Consumer Price Index value" means the sum of the monthly index values as initially reported by the Bureau of Labor Statistics for the months of July, August, and September, divided by 3.

(c) Before January 1 of each year, the executive director must calculate the amount of the cost-of-living adjustment by dividing the most recent average third quarter index value by the same average third quarter index value from the previous year, subtract one from the resulting quotient, and express the result as a percentage amount, which must be rounded to the nearest one-tenth of one percent.

(d) The amount calculated under paragraph (c) is the full cost-of-living adjustment to be applied as a permanent increase to the regular payment of each eligible member on January 1 of the next calendar year. For any eligible member whose effective date of benefit commencement occurred during the calendar year before the cost-of-living adjustment is applied, the full increase amount must be prorated on the basis of whole calendar quarters in benefit payment status in the calendar year prior to the January 1 on which the cost-of-living adjustment is applied, calculated to the third decimal place.

(e) The adjustment must not be less than zero nor greater than five percent.

(f) If the funding ratio of the plan as determined in the most recent actuarial valuation using the actuarial value of assets is less than 80 percent there will be no postretirement adjustment the following January 1.

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

Sec. 62. Minnesota Statutes 2008, section 354A.31, subdivision 1, is amended to read:

Subdivision 1. **Age and service requirements.** Any coordinated member or former coordinated member of the St. Paul Teachers Retirement Fund Association who has ceased to render teaching service for the school district in which the teachers retirement fund association exists and who has either attained the age of at least 55 years with not less than three years of allowable service credit or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity. Any coordinated member or former coordinated member of the Duluth Teachers Retirement Fund Association who has ceased to render teaching service for the school district in which the teacher retirement fund association exists and who has either attained the age of at least 55 years with not less than three years of allowable service credit if the member became an employee before July 1, 2010, or not less than five years of allowable service credit if the member became an employee after June 30, 2010, or received service credit for not less

than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.

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

Sec. 63. Minnesota Statutes 2008, section 354A.35, subdivision 1, is amended to read:

Subdivision 1. **Death before retirement; refund.** If a coordinated member or former coordinated member dies prior to retirement or prior to the receipt of any retirement annuity or other benefit payment which is or may be payable and a surviving spouse optional annuity is not payable pursuant to subdivision 2, a refund shall be paid to the person's surviving spouse, or if there is none, to the person's designated beneficiary, or if there is none, to the legal representative of the person's estate. For a coordinated member or former coordinated member of the St. Paul Teachers Retirement Fund Association, the refund shall be in an amount equal to the person's accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. For a coordinated member or former coordinated member of the Duluth Teachers Retirement Fund Association, the refund shall be in an amount equal to the person's accumulated employee contributions plus interest at the rate of six percent per annum compounded annually to July 1, 2010, and four percent per annum compounded annually thereafter.

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

Sec. 64. Minnesota Statutes 2008, section 354A.37, subdivision 2, is amended to read:

Subd. 2. **Eligibility for deferred retirement annuity.** (a) Any coordinated member who ceases to render teaching services for the school district in which the teachers retirement fund association is located, with sufficient allowable service credit to meet the minimum service requirements specified in section 354A.31, subdivision 1, shall be entitled to a deferred retirement annuity in lieu of a refund pursuant to subdivision 1. The deferred retirement annuity shall be computed pursuant to section 354A.31 and shall be augmented as provided in this subdivision. The deferred annuity shall commence upon application after the person on deferred status attains at least the minimum age specified in section 354A.31, subdivision 1.

(b) The monthly annuity amount that had accrued when the member ceased to render teaching service must be augmented from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There is no augmentation if this period is less than three months. For a member of the St. Paul Teachers Retirement Fund Association, the rate of augmentation is three percent compounded annually until January 1 of the year following the year in which the former member attains age 55, and five percent compounded annually after that date to the effective date of retirement if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. For a member of the Duluth Teachers Retirement Fund Association, the rate of augmentation is three percent compounded annually until January 1 of the year following the year in which the former member attains age 55, five percent compounded annually after that date to July 1, 2010, and two percent compounded annually after that date to the effective date of retirement if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually to July 1, 2010, and two percent compounded annually after that date to the effective date of retirement if the employee becomes an employee after June 30, 2006. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354A.31 must be used for each period, and the monthly annuity amount related to

each period must be augmented as provided in this subdivision. The sum of the augmented monthly annuity amounts determines the total deferred annuity payable. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with the fund. If a person does not render teaching services in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of resumption of teaching service are those applicable to new members. The mortality table and interest assumption used to compute the annuity are the table established by the fund to compute other annuities, and the interest assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purpose of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(c) The augmentation provided by this subdivision applies to the benefit provided in section 354A.35, subdivision 2. The augmentation provided by this subdivision does not apply to any period in which a person is on an approved leave of absence from an employer unit.

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

Sec. 65. Minnesota Statutes 2008, section 354A.37, subdivision 3, is amended to read:

Subd. 3. **Computation of refund amount.** A former coordinated member of the St. Paul Teachers Retirement Fund Association who qualifies for a refund pursuant to under subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated employee contributions with interest at the rate of six percent per annum compounded annually. A former coordinated member of the Duluth Teachers Retirement Fund Association who qualifies for a refund under subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated employee contributions with interest at the rate of six percent per annum compounded annually to July 1, 2010, and four percent per annum compounded annually thereafter.

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

Sec. 66. Minnesota Statutes 2008, section 354A.37, subdivision 4, is amended to read:

Subd. 4. **Certain refunds at normal retirement age.** Any coordinated member who has attained the normal retirement age with less than ten years of allowable service credit and has terminated active teaching service shall be entitled to a refund in lieu of a proportionate annuity pursuant to section 356.32. The refund for a member of the St. Paul Teachers Retirement Fund Association shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of six percent compounded annually. The refund for a member of the Duluth Teachers Retirement Fund Association shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of six percent compounded annually to July 1, 2010, and four percent per annum compounded annually thereafter.

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

Sec. 67. Minnesota Statutes 2008, section 356.215, subdivision 8, is amended to read:

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

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

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

(1) single rate future salary increase assumption

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

Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0

(2) modified single rate future salary increase assumption

plan	future salary increase assumption
Minneapolis employees retirement plan	the prior calendar year amount increased first by 1.0198 percent to prior fiscal year date and then increased by 4.0 percent annually for each future year

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

plan	future salary increase assumption
general state employees retirement plan	select calculation and assumption A
correctional state employees retirement plan	assumption <u>H</u> <u>G</u>
State Patrol retirement plan	assumption <u>G</u> <u>F</u>
general public employees retirement plan	select calculation and assumption B
public employees police and fire fund retirement plan	assumption <u>C</u> <u>B</u>
local government correctional service retirement plan	assumption <u>G</u> <u>F</u>
teachers retirement plan	assumption <u>D</u> <u>C</u>
Duluth teachers retirement plan	assumption <u>E</u> <u>D</u>
St. Paul teachers retirement plan	assumption <u>F</u> <u>E</u>

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

The ultimate future salary increase assumption is:

77TH DAY]

MONDAY, MARCH 22, 2010

8093

age	A	B	<u>C</u> <u>B</u>	<u>D</u> <u>C</u>	<u>E</u> <u>D</u>	<u>F</u> <u>E</u>	<u>G</u> <u>F</u>	<u>H</u> <u>G</u>
16	5.95%	5.95%	11.00%	7.70%	8.00%	6.90%	7.7500%	7.2500%
17	5.90	5.90	11.00	7.65	8.00	6.90	7.7500	7.2500
18	5.85	5.85	11.00	7.60	8.00	6.90	7.7500	7.2500
19	5.80	5.80	11.00	7.55	8.00	6.90	7.7500	7.2500
20	5.75	5.40	11.00	5.50	6.90	6.90	7.7500	7.2500
21	5.75	5.40	11.00	5.50	6.90	6.90	7.1454	6.6454
22	5.75	5.40	10.50	5.50	6.90	6.90	7.0725	6.5725
23	5.75	5.40	10.00	5.50	6.85	6.85	7.0544	6.5544
24	5.75	5.40	9.50	5.50	6.80	6.80	7.0363	6.5363
25	5.75	5.40	9.00	5.50	6.75	6.75	7.0000	6.5000
26	5.75	5.36	8.70	5.50	6.70	6.70	7.0000	6.5000
27	5.75	5.32	8.40	5.50	6.65	6.65	7.0000	6.5000
28	5.75	5.28	8.10	5.50	6.60	6.60	7.0000	6.5000
29	5.75	5.24	7.80	5.50	6.55	6.55	7.0000	6.5000
30	5.75	5.20	7.50	5.50	6.50	6.50	7.0000	6.5000
31	5.75	5.16	7.30	5.50	6.45	6.45	7.0000	6.5000
32	5.75	5.12	7.10	5.50	6.40	6.40	7.0000	6.5000
33	5.75	5.08	6.90	5.50	6.35	6.35	7.0000	6.5000
34	5.75	5.04	6.70	5.50	6.30	6.30	7.0000	6.5000
35	5.75	5.00	6.50	5.50	6.25	6.25	7.0000	6.5000
36	5.75	4.96	6.30	5.50	6.20	6.20	6.9019	6.4019
37	5.75	4.92	6.10	5.50	6.15	6.15	6.8074	6.3074
38	5.75	4.88	5.90	5.40	6.10	6.10	6.7125	6.2125
39	5.75	4.84	5.70	5.30	6.05	6.05	6.6054	6.1054
40	5.75	4.80	5.50	5.20	6.00	6.00	6.5000	6.0000
41	5.75	4.76	5.40	5.10	5.90	5.95	6.3540	5.8540
42	5.75	4.72	5.30	5.00	5.80	5.90	6.2087	5.7087
43	5.65	4.68	5.20	4.90	5.70	5.85	6.0622	5.5622
44	5.55	4.64	5.10	4.80	5.60	5.80	5.9048	5.4078
45	5.45	4.60	5.00	4.70	5.50	5.75	5.7500	5.2500
46	5.35	4.56	4.95	4.60	5.40	5.70	5.6940	5.1940
47	5.25	4.52	4.90	4.50	5.30	5.65	5.6375	5.1375
48	5.15	4.48	4.85	4.50	5.20	5.60	5.5822	5.0822

8094

JOURNAL OF THE SENATE

[77TH DAY

49	5.05	4.44	4.80	4.50	5.10	5.55	5.5404	5.0404
50	4.95	4.40	4.75	4.50	5.00	5.50	5.5000	5.0000
51	4.85	4.36	4.75	4.50	4.90	5.45	5.4384	4.9384
52	4.75	4.32	4.75	4.50	4.80	5.40	5.3776	4.8776
53	4.65	4.28	4.75	4.50	4.70	5.35	5.3167	4.8167
54	4.55	4.24	4.75	4.50	4.60	5.30	5.2826	4.7826
55	4.45	4.20	4.75	4.50	4.50	5.25	5.2500	4.7500
56	4.35	4.16	4.75	4.50	4.40	5.20	5.2500	4.7500
57	4.25	4.12	4.75	4.50	4.30	5.15	5.2500	4.7500
58	4.25	4.08	4.75	4.60	4.20	5.10	5.2500	4.7500
59	4.25	4.04	4.75	4.70	4.10	5.05	5.2500	4.7500
60	4.25	4.00	4.75	4.80	4.00	5.00	5.2500	4.7500
61	4.25	4.00	4.75	4.90	3.90	5.00	5.2500	4.7500
62	4.25	4.00	4.75	5.00	3.80	5.00	5.2500	4.7500
63	4.25	4.00	4.75	5.10	3.70	5.00	5.2500	4.7500
64	4.25	4.00	4.75	5.20	3.60	5.00	5.2500	4.7500
65	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
66	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
67	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
68	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
69	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
70	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
71	4.25	4.00		5.20				

(4) service-related ultimate future salary increase assumption

<u>service length</u>	<u>general employees retirement plan of the Public Employees Retirement Association</u>
<u>1</u>	<u>12.03%</u>
<u>2</u>	<u>8.90</u>
<u>3</u>	<u>7.46</u>
<u>4</u>	<u>6.58</u>
<u>5</u>	<u>5.97</u>
<u>6</u>	<u>5.52</u>
<u>7</u>	<u>5.16</u>

<u>8</u>	<u>4.87</u>
<u>9</u>	<u>4.63</u>
<u>10</u>	<u>4.42</u>
<u>11</u>	<u>4.24</u>
<u>12</u>	<u>4.08</u>
<u>13</u>	<u>3.94</u>
<u>14</u>	<u>3.82</u>
<u>15</u>	<u>3.70</u>
<u>16</u>	<u>3.60</u>
<u>17</u>	<u>3.51</u>
<u>18</u>	<u>3.50</u>
<u>19</u>	<u>3.50</u>
<u>20</u>	<u>3.50</u>
<u>21</u>	<u>3.50</u>
<u>22</u>	<u>3.50</u>
<u>23</u>	<u>3.50</u>
<u>24</u>	<u>3.50</u>
<u>25</u>	<u>3.50</u>
<u>26</u>	<u>3.50</u>
<u>27</u>	<u>3.50</u>
<u>28</u>	<u>3.50</u>
<u>29</u>	<u>3.50</u>
<u>30 or more</u>	<u>3.50</u>

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

plan	payroll growth assumption
general state employees retirement plan	4.50%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00

general public employees retirement plan <u>of the Public Employees Retirement Association</u>	4.50 <u>4.00</u>
public employees police and fire retirement plan	4.50
local government correctional service retirement plan	4.50
teachers retirement plan	4.50
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

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

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

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

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

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

Sec. 68. Minnesota Statutes 2009 Supplement, section 356.215, subdivision 11, is amended to read:

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

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

(c) For any retirement plan other than the Minneapolis Employees Retirement Fund and the general employees retirement plan of the Public Employees Retirement Association, if there has

been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by itself or by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

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

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

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

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

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

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

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

(d) For the Minneapolis Employees Retirement Fund, the established date for full funding is June 30, 2020.

(e) For the general employees retirement plan of the Public Employees Retirement Association,

the established date for full funding is June 30, 2031.

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

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

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

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

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

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

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

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

Sec. 69. Minnesota Statutes 2008, section 356.30, subdivision 1, is amended to read:

Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any provisions of the laws governing the retirement plans enumerated in subdivision 3, a person who has met the qualifications of paragraph (b) may elect to receive a retirement annuity from each enumerated retirement plan in which the person has at least one-half year of allowable service, based on the allowable service in each plan, subject to the provisions of paragraph (c).

(b) A person may receive, upon retirement, a retirement annuity from each enumerated retirement plan in which the person has at least one-half year of allowable service, and augmentation of a deferred annuity calculated at the appropriate rate under the laws governing each public pension plan or fund named in subdivision 3, based on the date of the person's initial entry into public employment from the date the person terminated all public service if:

(1) the person has allowable service ~~totaling an amount that allows the person to receive an annuity~~ in any two or more of the enumerated plans;

(2) the person has sufficient allowable service in total that equals or exceeds the applicable service credit vesting requirement of the retirement plan with the longest applicable service credit vesting requirement; and

~~(2)~~ (3) the person has not begun to receive an annuity from any enumerated plan or the person

has made application for benefits from each applicable plan and the effective dates of the retirement annuity with each plan under which the person chooses to receive an annuity are within a one-year period.

(c) The retirement annuity from each plan must be based upon the allowable service, accrual rates, and average salary in the applicable plan except as further specified or modified in the following clauses:

(1) the laws governing annuities must be the law in effect on the date of termination from the last period of public service under a covered retirement plan with which the person earned a minimum of one-half year of allowable service credit during that employment;

(2) the "average salary" on which the annuity from each covered plan in which the employee has credit in a formula plan must be based on the employee's highest five successive years of covered salary during the entire service in covered plans;

(3) the accrual rates to be used by each plan must be those percentages prescribed by each plan's formula as continued for the respective years of allowable service from one plan to the next, recognizing all previous allowable service with the other covered plans;

(4) the allowable service in all the plans must be combined in determining eligibility for and the application of each plan's provisions in respect to reduction in the annuity amount for retirement prior to normal retirement age; and

(5) the annuity amount payable for any allowable service under a nonformula plan of a covered plan must not be affected, but such service and covered salary must be used in the above calculation.

(d) This section does not apply to any person whose final termination from the last public service under a covered plan was before May 1, 1975.

(e) For the purpose of computing annuities under this section, the accrual rates used by any covered plan, except the public employees police and fire plan, the judges retirement fund, and the State Patrol retirement plan, must not exceed the percent specified in section 356.315, subdivision 4, per year of service for any year of service or fraction thereof. The formula percentage used by the judges retirement fund must not exceed the percentage rate specified in section 356.315, subdivision 8, per year of service for any year of service or fraction thereof. The accrual rate used by the public employees police and fire plan and the State Patrol retirement plan must not exceed the percentage rate specified in section 356.315, subdivision 6, per year of service for any year of service or fraction thereof. The accrual rate or rates used by the legislators retirement plan must not exceed 2.5 percent, but this limit does not apply to the adjustment provided under section 3A.02, subdivision 1, paragraph (c).

(f) Any period of time for which a person has credit in more than one of the covered plans must be used only once for the purpose of determining total allowable service.

(g) If the period of duplicated service credit is more than one-half year, or the person has credit for more than one-half year, with each of the plans, each plan must apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all plans for the period.

(h) If the period of duplicated service credit is less than one-half year, or when added to other service credit with that plan is less than one-half year, the service credit must be ignored and a refund of contributions made to the person in accord with that plan's refund provisions.

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

Sec. 70. Minnesota Statutes 2008, section 356.302, subdivision 3, is amended to read:

Subd. 3. **General employee plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

- (1) is less than the normal retirement age on the date of the application for the disability benefit;
- (2) has become totally and permanently disabled;
- (3) has credit for allowable service in any combination of general employee retirement plans totaling at least ~~three years~~ the number of years required by the applicable retirement plan with the longest service credit requirement for disability benefit receipt;
- (4) has credit for at least one-half year of allowable service with the current general employee retirement plan before the commencement of the disability;
- (5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and
- (6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

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

Sec. 71. Minnesota Statutes 2008, section 356.302, subdivision 4, is amended to read:

Subd. 4. **Public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

- (1) has become occupationally disabled;
- (2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least ~~one year~~ the minimum period of service credit required by the applicable retirement plan with the longest service credit eligibility requirement for the receipt of a duty-related disability benefit if the disability is duty-related or totaling at least ~~three years~~ the minimum period of service credit required by the applicable retirement plan with the longest service credit eligibility requirement for a disability benefit that is not duty-related if the disability is not duty-related;
- (3) has credit for at least one-half year of allowable service with the current public safety employee retirement plan before the commencement of the disability; and
- (4) was not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

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

Sec. 72. Minnesota Statutes 2008, section 356.302, subdivision 5, is amended to read:

Subd. 5. **General and public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of both a public safety employee retirement plan and general employee retirement plan must meet the qualifying requirements in subdivisions 3 and 4 to receive a combined service disability benefit from the applicable general employee and public safety employee retirement plans, except that the person need only be a member of a covered retirement plan at the time of the commencement of the disability, that the person must have allowable service credit for the applicable retirement plan with the longest service credit eligibility requirement for the receipt of a disability benefit, and that the minimum allowable service requirements of subdivisions 3, clauses (3) and (5), and 4, clauses (3) and (4), may be met in any combination of covered retirement plans.

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

Sec. 73. Minnesota Statutes 2008, section 356.303, subdivision 2, is amended to read:

Subd. 2. **Entitlement; eligibility.** Notwithstanding any provision of law to the contrary governing a covered retirement plan, a person who is the survivor of a deceased member of a covered retirement plan may receive a combined service survivor benefit from each covered retirement plan in which the deceased member had credit for at least one-half year of allowable service if the deceased member:

(1) had credit for sufficient allowable service in any combination of covered retirement plans to meet any the minimum allowable service credit requirement of the applicable covered retirement fund with the longest allowable service credit requirement for qualification for a survivor benefit or annuity;

(2) had credit for at least one-half year of allowable service with the most recent covered retirement plan before the date of death and was an active member of that covered retirement plan on the date of death; and

(3) was not receiving a retirement annuity from any covered retirement plan on the date of death.

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

Sec. 74. Minnesota Statutes 2008, section 356.315, subdivision 5, is amended to read:

Subd. 5. **Correctional plan members.** The applicable benefit accrual rate is 2.4 percent if employed as a correctional state employee before July 1, 2010, or 2.2 percent if employed as a correctional state employee after June 30, 2010.

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

Sec. 75. Minnesota Statutes 2009 Supplement, section 356.415, subdivision 1, is amended to read:

Subdivision 1. **Annual postretirement adjustments; generally.** (a) Except as otherwise provided in subdivision 1a, 1b, 1c, or 1d, retirement annuity, disability benefit, or survivor benefit recipients of a covered retirement plan are entitled to a postretirement adjustment annually on

January 1, as follows:

(1) a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 12 full months prior to the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit amount for at least one full month, an annual postretirement increase of 1/12 of 2.5 percent for each month that the person has been receiving an annuity or benefit must be applied, effective on January 1 following the calendar year in which the person has been retired for less than 12 months.

(b) The increases provided by this ~~section~~ subdivision commence on January 1, 2010.

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

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 353.29, subdivision 6, ~~or 354.35~~ must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6, ~~or age 62, 65, or normal retirement age, as selected by the member at retirement, for an annuity amount payable under section 354.35.~~ A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

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

Sec. 76. Minnesota Statutes 2009 Supplement, section 356.415, is amended by adding a subdivision to read:

Subd. 1a. Annual postretirement adjustments; Minnesota State Retirement System plans.

(a) Retirement annuity, disability benefit, or survivor benefit recipients of the legislators retirement plan, the general state employees retirement plan, the correctional state employees retirement plan, the State Patrol retirement plan, the elected state officers retirement plan, the unclassified state employees retirement program, and the judges retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of two percent must be applied each year, effective on January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months before the January 1 increase; and

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

(b) The increases provided by this subdivision commence on January 1, 2011. Increases under this subdivision for the general state employees retirement plan, the correctional state employees

retirement plan, the State Patrol retirement plan, or the judges retirement plan terminate on December 31 of the calendar year in which the actuarial valuation prepared by the approved actuary under sections 356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement indicates that the market value of assets of the retirement plan equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan and increases under subdivision 1 recommence after that date. Increases under this subdivision for the legislators retirement plan or the elected state officers retirement plan terminate on December 31 of the calendar year in which the actuarial valuation prepared by the approved actuary under sections 356.214 and 356.215 and the standards for actuarial work promulgated by the Legislative Commission on Pensions and Retirement indicates that the market value of assets of the general state employees retirement plan equals or exceeds 90 percent of the actuarial accrued liability of the retirement plan and increases under subdivision 1 recommence after that date.

(c) An increase in annuity or benefit payments under this subdivision must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the applicable covered retirement plan requesting that the increase not be made.

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

Sec. 77. Minnesota Statutes 2009 Supplement, section 356.415, is amended by adding a subdivision to read:

Subd. 1b. Annual postretirement adjustments; PERA; general employees retirement plan and local government correctional retirement plan. (a) Retirement annuity, disability benefit, or survivor benefit recipients of the general employees retirement plan of the Public Employees Retirement Association and the local government correctional service retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and each successive January 1 until funding stability is restored for the applicable retirement plan, a postretirement increase of one percent must be applied each year, effective on January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30;

(2) for January 1, 2011, and each successive January 1 until funding stability is restored for the applicable retirement plan, for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least one full month, but less than 12 full months as of the current June 30, an annual postretirement increase of 1/12 of one percent for each month the person has been receiving an annuity or benefit must be applied;

(3) for each January 1 following the restoration of funding stability for the applicable retirement plan, a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30; and

(4) for each January 1 following restoration of funding stability for the applicable retirement plan, for each annuity or benefit recipient who has been receiving an annuity or a benefit for at least one full month, but less than 12 full months as of the current June 30, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied.

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

(c) If, after applying the increase as provided for in paragraph (a), clauses (3) and (4), the market value of the applicable retirement plan is determined in the next subsequent actuarial valuation prepared under section 356.215 to be less than 90 percent of the actuarial accrued liability of any of the applicable Public Employees Retirement Association plans, the increase provided in paragraph (a), clauses (1) and (2), are to be applied as of the next successive January until funding stability is again restored.

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

(e) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment, as provided in section 353.29, subdivision 6, must be treated as the sum of a period-certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period-certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6. A postretirement adjustment granted on the period-certain retirement annuity must terminate when the period-certain retirement annuity terminates.

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

Sec. 78. Minnesota Statutes 2009 Supplement, section 356.415, is amended by adding a subdivision to read:

Subd. 1c. Annual postretirement adjustments; PERA-P&F. (a) Retirement annuity, disability benefit, or survivor benefit recipients of the public employees police and fire retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) for January 1, 2011, and for January 1, 2012, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to one percent in each year;

(2) for January 1, 2011, and for January 1, 2012, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of one percent in each year;

(3) for January 1, 2013, and each successive January 1 that follows the loss of funding stability as defined under paragraph (b) until funding stability as defined under paragraph (b) is again restored, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous, but not to exceed 1.5 percent;

(4) for January 1, 2013, and each successive January 1 that follows the loss of funding stability as

defined under paragraph (b) until funding stability as defined under paragraph (b) is again restored, for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous for each full month of annuity or benefit receipt, but not to exceed 1/12 of 1.5 percent for each full month of annuity or benefit receipt;

(5) for each January 1 following the restoration of funding stability as defined under paragraph (b) and during the continuation of funding stability as defined under paragraph (b), for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least 12 full months as of the immediate preceding June 30, an amount equal to the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous, but not to exceed 2.5 percent; and

(6) for each January 1 following the restoration of funding stability as defined under paragraph (b) and during the continuation of funding stability as defined under paragraph (b), for each annuitant or benefit recipient who has been receiving the annuity or benefit for at least one full month as of the immediate preceding June 30, an amount equal to 1/12 of the percentage increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor between the immediate preceding June 30 and the June 30 occurring 12 months previous for each full month of annuity or benefit receipt, but not to exceed 1/12 of 2.5 percent for each full month of annuity or benefit receipt.

(b) Funding stability is restored when the market value of assets of the public employees police and fire retirement plan equals or exceeds 90 percent of the actuarial accrued liabilities of the applicable plan in the most recent prior actuarial valuation prepared under section 356.215 and under the standards for actuarial work of the Legislative Commission on Pensions and Retirement by the approved actuary retained by the Public Employees Retirement Association under section 356.214.

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

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

Sec. 79. Minnesota Statutes 2009 Supplement, section 356.415, is amended by adding a subdivision to read:

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

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

(2) for January 1, 2013, and each successive January 1 until funding stability is restored, a postretirement increase of two percent must be applied each year, effective on January 1, to the

monthly annuity or benefit amount of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 18 full months prior to the January 1 increase;

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

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

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

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

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

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

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

Sec. 80. Minnesota Statutes 2008, section 356.47, subdivision 3, is amended to read:

Subd. 3. **Payment.** (a) Beginning one year after the reemployment withholding period ends relating to the reemployment that gave rise to the limitation, and the filing of a written application, the retired member is entitled to the payment, in a lump sum, of the value of the person's amount under subdivision 2, plus annual compound interest at. For the general state employees retirement plan, the correctional state employees retirement plan, the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, the local government correctional employees retirement plan, and the teachers retirement

plan, the annual interest rate is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until January 1, 2011, whichever is earlier, and no interest after January 1, 2011. For the Duluth Teachers Retirement Fund Association, the annual interest is six percent from the date on which the amount was deducted from the retirement annuity to the date of payment or until June 30, 2010, whichever is earlier, and no interest after June 30, 2010. For the St. Paul Teachers Retirement Fund Association, the annual interest is the ~~compound~~ annual rate of six percent from the date that the amount was deducted from the retirement annuity to the date of payment.

(b) The written application must be on a form prescribed by the chief administrative officer of the applicable retirement plan.

(c) If the retired member dies before the payment provided for in paragraph (a) is made, the amount is payable, upon written application, to the deceased person's surviving spouse, or if none, to the deceased person's designated beneficiary, or if none, to the deceased person's estate.

(d) In lieu of the direct payment of the person's amount under subdivision 2, on or after the payment date under paragraph (a), if the federal Internal Revenue Code so permits, the retired member may elect to have all or any portion of the payment amount under this section paid in the form of a direct rollover to an eligible retirement plan as defined in section 402(c) of the federal Internal Revenue Code that is specified by the retired member. If the retired member dies with a balance remaining payable under this section, the surviving spouse of the retired member, or if none, the deceased person's designated beneficiary, or if none, the administrator of the deceased person's estate may elect a direct rollover under this paragraph.

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

Sec. 81. Minnesota Statutes 2009 Supplement, section 423A.02, subdivision 3, is amended to read:

Subd. 3. **Reallocation of amortization or supplementary amortization state aid.** (a) Seventy percent of the difference between \$5,720,000 and the current year amortization aid and supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute 50 percent of the amounts derived under this paragraph to the Teachers Retirement Association, ten percent to the Duluth Teachers Retirement Fund Association, and 40 percent to the St. Paul Teachers Retirement Fund Association to fund the unfunded actuarial accrued liabilities of the respective funds. These payments shall be made on or before June 30 each fiscal year. If the St. Paul Teachers Retirement Fund Association becomes fully funded, its eligibility for this aid ceases. Amounts remaining in the undistributed balance account at the end of the biennium if aid eligibility ceases cancel to the general fund.

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

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

Sec. 82. LOCAL RETIREMENT FUND INVESTMENT AUTHORITIES STUDY.

A study group consisting of representatives from pension plans subject to Minnesota Statutes, section 356A.06, subdivision 6 or 7, shall be convened by the state auditor to study investment-related provisions, authorities, and limitations under Minnesota Statutes, chapter 356A, and related sections of other chapters. Administrative support for the study group shall be provided by the state auditor. The study group shall prepare a report to include an assessment of the effectiveness of current statutory prescriptions, options for change, and recommendations for consideration by the governor and the legislature during the 2011 legislative session. The report will be provided no later than January 15, 2011, to the executive director of the Legislative Commission on Pensions and Retirement, the chair and ranking minority caucus member of the

senate State and Local Government Operations and Oversight Committee, and the chair and ranking minority caucus member of the house State and Local Government Operations Reform, Technology and Elections Committee.

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

Sec. 83. **BYLAW AUTHORIZATION.**

Consistent with the requirements of Minnesota Statutes, section 354A.12, subdivision 4, the board of the Duluth Teachers Retirement Fund Association is authorized to revise the bylaws or articles of incorporation so that the requirements of this act apply to the old law coordinated program.

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

Sec. 84. **REPEALER.**

Minnesota Statutes 2008, section 354A.27, subdivision 1, is repealed.

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

ARTICLE 2

MSRS ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2008, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) "State employee" includes:

- (1) employees of the Minnesota Historical Society;
- (2) employees of the State Horticultural Society;
- (3) employees of the Minnesota Crop Improvement Association;
- (4) employees of the adjutant general ~~who~~ whose salaries are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (5) employees of the Minnesota State Colleges and Universities who are employed under the university or college activities program;
- (6) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
- (7) employees of the legislature who are appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- (8) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
- (9) employees of the Minnesota Safety Council;

(10) any employees who are on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission and who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;

(11) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, or Metropolitan Mosquito Control Commission, ~~or Metropolitan Radio Board~~ unless excluded under subdivision 2b or are covered by another public pension fund or plan under section 473.415, subdivision 3;

(12) judges of the Tax Court;

(13) personnel who were employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;

(14) personnel who are employed as seasonal help employees in the classified or unclassified service ~~employed by the Department of Revenue;~~

(15) persons who are employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4;

(16) employees of the University of Minnesota unless excluded under subdivision 2b, clause (3);

(17) employees of the Middle Management Association whose employment began after July 1, 2007, and to whom section 352.029 does not apply; and

(18) employees of the Minnesota Government Engineers Council to whom section 352.029 does not apply.

(b) Employees specified in paragraph (a), clause (13), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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

Sec. 2. Minnesota Statutes 2008, section 352.03, subdivision 4, is amended to read:

Subd. 4. **Duties and powers of board of directors.** (a) The board shall:

(1) elect a chair;

(2) appoint an executive director;

(3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law;

(4) consider and dispose of, or take any other action the board of directors deems appropriate concerning, denials of applications for annuities or disability benefits under this chapter, chapter 3A, 352B, 352C, 352D, or 490, and complaints of employees and others pertaining to the retirement of

employees and the operation of the system;

(5) oversee the administration of the ~~state~~ deferred compensation plan established in section 352.965; and

(6) oversee the administration of the health care savings plan established in section 352.98.

(b) The board shall advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control.

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

Sec. 3. Minnesota Statutes 2008, section 352.04, subdivision 9, is amended to read:

Subd. 9. **Erroneous deductions, canceled warrants.** (a) Deductions taken from the salary of an employee for the retirement fund in ~~error~~ excess of required amounts must, upon discovery and verification by the department making the deduction, be refunded to the employee.

(b) If a deduction for the retirement fund is taken from a salary warrant or check, and the check is canceled or the amount of the warrant or check returned to the funds of the department making the payment, the sum deducted, or the part of it required to adjust the deductions, must be refunded to the department or institution if the department applies for the refund on a form furnished by the director. The department's payments must likewise be refunded to the department.

~~(c) Employee deductions and employer contributions taken in error may be directly transferred, without interest, to another Minnesota public employee retirement plan by which the employee is actually covered.~~

~~For purposes of this subdivision, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.~~

(c) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the plan and any other plans specified in section 356.99, that section applies. If the employee should have been covered by the plan governed by chapter 352D, 353D, 354B, or 354D, the employee deductions and employer contributions taken in error must be directly transferred to the applicable employee's account in the correct retirement plan, with interest at the rate of 0.71 percent per month, compounded annually, from the first day of the month following the month in which coverage should have commenced in the correct defined contribution plan until the end of the month in which the transfer occurs.

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

Sec. 4. Minnesota Statutes 2008, section 352.115, subdivision 10, is amended to read:

Subd. 10. **Reemployment of annuitant.** (a) Except for salary or wages received as a temporary employee of the legislature during a legislative session, if any retired employee again becomes entitled to receive salary or wages from the state, or any employer who employs state employees as that term is defined in section 352.01, subdivision 2, other than salary or wages received as a temporary employee of the legislature during a legislative session in a position covered by this chapter, the annuity or retirement allowance shall must cease when the retired employee has earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program

as set by the secretary of health and human services under United States Code, title 42, section 403, in any calendar year. If the retired employee has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the retired employee ~~shall be~~ are equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) The balance of the annual retirement annuity after cessation must be handled or disposed of as provided in section 356.47.

(c) The annuity must be resumed when state service ends, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of that calendar year, and payment must again end when the retired employee has earned the applicable reemployment earnings maximum specified in this subdivision. If the retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance must be resumed during the period of sick leave.

(d) No payroll deductions for the retirement fund may be made from the earnings of a reemployed retired employee.

(e) No change ~~shall~~ may be made in the monthly amount of an annuity or retirement allowance because of the reemployment of an annuitant.

(f) If a reemployed annuitant whose annuity is suspended under paragraph (a) is having insurance premium amounts withheld under section 356.87, subdivision 2, insurance premium amounts must continue to be withheld and transferred from the suspended portion of the annuity. The balance of the annual retirement annuity after cessation, after deduction of the insurance premium amounts, must be treated as specified in paragraph (b).

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

Sec. 5. Minnesota Statutes 2008, section 352.91, is amended by adding a subdivision to read:

Subd. 6. **Correction of plan coverage errors.** If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the correctional state employees retirement plan and any other plan specified in section 356.99, that section applies.

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

Sec. 6. Minnesota Statutes 2008, section 352.965, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** (a) The Minnesota ~~state~~ deferred compensation plan is established. For purposes of this section, "plan" means the Minnesota ~~state~~ deferred compensation plan, unless the context clearly indicates otherwise. The Minnesota State Retirement System shall administer the plan.

(b) The purpose of the plan is to provide a means for a public employee to contribute a portion of the employee's compensation to a tax-deferred investment account. The plan is an eligible tax-deferred compensation plan under section 457(b) of the Internal Revenue Code, United States Code, title 26, section 457(b), and the applicable regulations under Code of Federal Regulations, title 26, parts 1.457-3 to 1.457-10.

(c) The board of directors of the Minnesota State Retirement System is the plan trustee and plan sponsor. The board's executive director is the plan administrator. Fiduciary activities of the plan

must be undertaken in a manner consistent with chapter 356A.

(d) The executive director, with the approval of the board of directors, shall adopt and amend, as required to maintain tax-qualified status, a written plan document specifying the material terms and conditions for eligibility, benefits, applicable limitations, and the time and form under which benefit distributions can be made. With the approval of the board of directors, the executive director may also establish policies and procedures necessary for the administration of the deferred compensation plan.

(e) The plan document ~~shall~~ must include provisions that are necessary to cause the plan to be an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code. The plan document may provide additional administrative and substantive provisions consistent with state law, provided that those provisions ~~will~~ do not cause the plan to fail to be an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code and may include provisions for certain optional features and services.

(f) The board of directors may authorize the executive director to establish and administer a Roth 457 plan if authorized by the Internal Revenue Code or a Roth individual retirement account as defined under section 408A of the Internal Revenue Code.

(g) All amounts contributed to the deferred compensation plan and all earnings on those amounts must be held in trust, in custodial accounts, or in qualifying annuity contracts for the exclusive benefit of the plan participants and beneficiaries, as required by section 457(g) of the Internal Revenue Code and in accordance with sections 356.001 and 356A.06, subdivision 1.

(h) The information and data maintained in the accounts of the participants and beneficiaries are private data and ~~shall~~ must not be disclosed to anyone other than the participant or beneficiary pursuant to a court order or ~~pursuant to~~ under section 356.49.

(i) The plan document is not subject to the rule adoption process under the Administrative Procedures Act, including section 14.386, but must conform with applicable federal and state laws.

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

Sec. 7. Minnesota Statutes 2008, section 352.965, subdivision 2, is amended to read:

Subd. 2. **Right to participate in deferred compensation plan.** (a) At the request of an officer or employee of the state, an officer or employee of a political subdivision, or an employee covered by a retirement fund in section 356.20, subdivision 2, the appointing authority shall defer the payment of part of the compensation of the public officer or employee through payroll deduction.

(b) The amount to be deferred must be as provided in ~~a written~~ an agreement between the officer or employee and the ~~public employer~~ plan sponsor. The agreement must be in a form specified by the executive director of the Minnesota State Retirement System and must be consistent with the requirements for an eligible plan under federal and state tax laws, regulations, and rulings.

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

Sec. 8. Minnesota Statutes 2009 Supplement, section 352B.011, subdivision 3, is amended to read:

Subd. 3. **Allowable service.** (a) "Allowable service" means:

(1) service in a month during which a member is paid a salary from which a member contribution is deducted, deposited, and credited in the State Patrol retirement fund;

(2) for members defined in subdivision 10, clause (1), service in any month for which payments have been made to the State Patrol retirement fund under law;~~and~~

(3) for members defined in subdivision 10, clauses (2) and (3), service for which payments have been made to the State Patrol retirement fund under law, service for which payments were made to the State Police officers retirement fund under law after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961;

(4) any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtains credit by payment to the fund under section 352B.013; and

(5) eligible periods of uniformed service for which the member obtained service credit by payment under section 352B.086 to the fund.

(b) Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or until the date of a return to employment.

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

Sec. 9. [352B.013] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT PURCHASE PROCEDURE.

Subdivision 1. Application. This section specifies the procedure for purchasing service credit in the state patrol retirement plan for authorized leaves of absence under section 352B.011, subdivision 3, unless an alternative payment procedure is specified in law for a particular form of leave or break in service.

Subd. 2. Purchase procedure. (a) An employee covered by the plan specified in this chapter may purchase credit for allowable service in the plan for a period specified in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the date the employee returned to work following the authorized leave, the payment amount is equal to the employee and employer contribution rates specified in section 352B.02 at the end of the leave period multiplied by the employee's hourly rate of salary on the date of return from the leave of absence and by the days and months of the leave of absence for which the employee is eligible for allowable service credit. The payment must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period until the last day of the month in which payment is received. If payment is received by the executive director after one year from the date the employee returned to work following the authorized leave, the payment amount is the amount determined under section 356.551. Payment under this paragraph must be made before the date of termination from public employment covered under this chapter.

(c) If the employee terminates employment covered by this chapter during the leave or following

the leave rather than returning to covered employment, payment must be received by the executive director within 30 days after the termination date. The payment amount is equal to the employee and employer contribution rates specified in section 352B.02 on the day prior to the termination date, multiplied by the employee's hourly rate of salary on that date and by the days and months of the leave of absence prior to termination.

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

Sec. 10. Minnesota Statutes 2008, section 352B.02, is amended by adding a subdivision to read:

Subd. 3. **Correction of plan coverage errors.** If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the state patrol retirement plan and any other plan specified in section 356.99, that section applies.

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

Sec. 11. Minnesota Statutes 2008, section 353.27, subdivision 7a, is amended to read:

Subd. 7a. **Deductions or contributions transmitted by error.** (a) If employee deductions and employer contributions were erroneously transmitted to the association, but should have been transmitted to another Minnesota public pension a plan covered by chapter 352D, 353D, 354B, or 354D, the executive director shall transfer the erroneous employee deductions and employer contributions to the appropriate retirement fund or individual account, as applicable, ~~without interest.~~ The time limitations specified in subdivisions 7 and 12 do not apply. The transfer to the applicable defined contribution plan account must include interest at the rate of 0.71 percent per month, compounded annually, from the first day of the month following the month in which coverage should have commenced in the defined contribution plan until the end of the month in which the transfer occurs.

~~(b) For purposes of this subdivision, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plans governed by chapters 353D and 354B.~~

(e) (b) A potential transfer under paragraph (a) that is reasonably determined to cause the plan to fail to be a qualified plan under section 401(a) of the federal Internal Revenue Code, as amended, must not be made by the executive director of the association. Within 30 days after being notified by the Public Employees Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan, or to the applicable individual account if the proper coverage is by a defined contribution plan. The association must provide the employing unit a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer. If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary.

(c) If erroneous employee deductions and employer contributions reflect a plan coverage error involving any Public Employees Retirement Association plan specified in section 356.99 and any other plan specified in that section, section 356.99 applies.

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

Sec. 12. Minnesota Statutes 2008, section 353.37, subdivision 3a, is amended to read:

Subd. 3a. **Disposition of suspension or reduction amount.** (a) The balance of the annual retirement annuity after suspension or the amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(b) If a reemployed annuitant whose annuity is suspended is having insurance premium amounts withheld under section 356.87, subdivision 2, insurance premium amounts must continue to be withheld and transferred from the suspended portion of the annuity. The balance of the annual retirement annuity after cessation, after deduction of the insurance premium amounts, must be treated as specified in paragraph (a).

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

Sec. 13. Minnesota Statutes 2008, section 354.42, subdivision 7, is amended to read:

Subd. 7. **Erroneous salary deductions or direct payments.** (a) Any deductions taken from the salary of an employee for the retirement fund in ~~error~~ excess of amounts required must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction. The corresponding excess employer contribution and excess additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension the plan covered by chapter 352D, 353D, 354B, or 354D, the executive director must transfer these salary deductions and employer contributions to the account of the appropriate public pension fund without interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B. person under the applicable plan. The transfer to the applicable defined contribution plan account must include interest at the rate of 0.71 percent per month, compounded annually, from the first day of the month following the month in which coverage should have commenced in the defined contribution plan until the end of the month in which the transfer occurs.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan fund account of the applicable person under the appropriate plan. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or if a check has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, must be made to the employing unit.

(e) Erroneous direct payments of member-paid contributions or erroneous salary deductions that

were not refunded during the regular payroll cycle processing must be refunded to the member, plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

(g) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the plan and any other plan specified in section 356.99, that section applies.

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

Sec. 14. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 6a. **Erroneous salary deductions or direct payments.** If erroneous employee deductions and employer contributions reflect a plan coverage error involving any plan covered by this chapter and any plan specified in section 356.99, that section applies.

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

Sec. 15. Minnesota Statutes 2008, section 356.24, subdivision 1, is amended to read:

Subdivision 1. **Restriction; exceptions.** ~~(a)~~ It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or to contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits;

(3) to the individual retirement account plan established by chapter 354B;

(4) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(5) for employees other than personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and covered under the Higher Education Supplemental Retirement Plan under chapter 354C, but including city managers covered by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph (a), or by the defined contribution plan of the Public Employees Retirement Association under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is provided for in a personnel policy of the public employer or in the collective bargaining agreement between the public employer and the exclusive representative of public employees in an appropriate unit or in the individual employment contract between a city and a city manager, and if for each available investment all fees and historic rates of return for the prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an easily comprehended document not to exceed two pages, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of one-half of the available elective deferral

permitted per year per employee, under the Internal Revenue Code:

(i) to the state of Minnesota deferred compensation plan under section 352.965;

(ii) in payment of the applicable portion of the contribution made to any investment eligible under section 403(b) of the Internal Revenue Code, if the employing unit has complied with any applicable pension plan provisions of the Internal Revenue Code with respect to the tax-sheltered annuity program during the preceding calendar year; or

(iii) any other deferred compensation plan offered by the employer under section 457 of the Internal Revenue Code;

(6) for personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and not covered by clause (5), to the supplemental retirement plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,700 a year for each employee;

(7) to a supplemental plan or to a governmental trust to save for postretirement health care expenses qualified for tax-preferred treatment under the Internal Revenue Code, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit;

(8) to the laborers national industrial pension fund or to a laborers local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(9) to the plumbers and pipefitters national pension fund or to a plumbers and pipefitters local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(10) to the international union of operating engineers pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(11) to a supplemental plan organized and operated under the federal Internal Revenue Code, as amended, that is wholly and solely funded by the employee's accumulated sick leave, accumulated vacation leave, and accumulated severance pay;

(12) to the International Association of Machinists national pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee; or

(13) for employees of United Hospital District, Blue Earth, to the state of Minnesota deferred compensation program, if the employee makes a contribution, in an amount that does not exceed the total percentage of covered salary under section 353.27, subdivisions 3 and 3a.

~~(b) No governmental subdivision may make a contribution to a deferred compensation plan operating under section 457 of the Internal Revenue Code for volunteer or emergency on-call firefighters in lieu of providing retirement coverage under the federal Old Age, Survivors, and Disability Insurance Program.~~

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

Sec. 16. Minnesota Statutes 2008, section 356.50, subdivision 4, is amended to read:

Subd. 4. **Annuity repayment.** Notwithstanding subdivisions 1 and 2, if after being discharged, the person commences receipt of an annuity from the applicable plan, and it is later determined that the person was wrongfully discharged, the person shall repay the annuity received in a lump sum within 60 days of receipt of the back pay award. ~~If the annuity is not repaid, the person is not entitled to reinstatement in the applicable plan as an active member, the person is not authorized to make payments under subdivision 2, paragraph (a), and, for subsequent employment with the employer, the person shall be treated as a reemployed annuitant.~~

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

CORRECTION OF PLAN COVERAGE ERRORS

Sec. 17. **[356.99] CORRECTION OF ERRONEOUS DEFINED BENEFIT PLAN COVERAGE.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the person selected or elected by the governing board of a covered pension plan with primary responsibility to administer the covered pension plan, or that person's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.30, subdivision 3, except clauses (3), (5), (6), and (11).

(d) "Governing board" means the governing board of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, or the St. Paul Teachers Retirement Fund Association.

(e) "Member" means an active plan member in a covered pension plan.

Subd. 2. **Treatment of terminated employee coverage error.** Any person who terminated the erroneously covered service before a chief administrative officer determined the covered pension plan coverage was in error retains the coverage with the plan that originally credited the service.

Subd. 3. **Active employee correction of prospective service coverage.** Upon determination by a chief administrative officer that a member is covered by the wrong pension plan, the employer must stop remitting the erroneous employee deductions and employer contributions and report the employee to the correct covered pension plan for all subsequent service.

Subd. 4. **Active employee treatment of past service.** Any plan member, with past service credited in an erroneous plan, retains the coverage for that past service with the plan that originally credited that service if the reporting error began earlier than two fiscal years prior to the current

fiscal year in which the error was determined by the chief administrative officer. If the reporting error began within two fiscal years prior to the current fiscal year, the pension plan coverage for that past service must be corrected as provided in subdivision 5.

Subd. 5. **Past service transfer procedure.** (a) For cases under subdivision 4 requiring correction of prior service coverage, on behalf of the applicable member the chief administrative officer of the covered pension plan fund that has received erroneous employee deductions and employer contributions must transfer to the appropriate covered retirement plan fund an amount which is the lesser of all contributions made by or on behalf of the member for the period of erroneous membership, or the specific amount requested by the chief administrative officer of the other covered pension plan which represents the employee deductions and employer contributions that would have been made had the member been properly reported.

(b) If excess employee deductions remain in the member's account after the transfer of funds, the remaining erroneous amount must be refunded to the person with interest at the rate provided under the general refund law of the applicable covered pension plan. The chief administrative officer must also return any remaining excess employer contributions by providing to the employer a credit against future contributions payable by that employer.

(c) If the contributions transferred to the correct covered pension plan fund are less than the amounts required for the period being corrected, the chief administrative officer of the correct covered pension plan fund must collect the remaining employee deductions and employer contributions from the employer under laws for recovering deficient contributions applicable to the correct covered pension plan, except that no interest is chargeable if the additional amounts due under this paragraph are received by the chief administrative officer within 30 days of notifying the employer of the amount due.

(d) A potential transfer under this section that would cause a plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made. Within 30 days after being notified by a chief administrative officer of an unmade potential transfer under this section, the employer of the member must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the fund of the appropriate covered pension plan. The chief administrative officer of the covered pension plan which erroneously provided coverage must provide to the employer a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from that employer.

(e) Upon transfer of the required assets, or payment from the employer under paragraph (d), whichever is applicable, allowable service and salary credit for the period being transferred is forfeited in the erroneous plan and is granted in the correct plan.

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

Sec. 18. Minnesota Statutes 2008, section 490.123, is amended by adding a subdivision to read:

Subd. 4. **Correction of contribution errors.** (a) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the judges retirement plan and any other plan specified in section 356.99, that section applies.

(b) The provisions of section 352.04, subdivisions 8 and 9, apply to the judges' retirement plan, except that if employee deductions or contributions are erroneously transmitted to the judges'

retirement fund for service rendered after the service credit limit under section 490.121, subdivision 22, has been attained, consistent with section 352D.04, subdivision 2, no employer contributions may be transferred.

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

Sec. 19. **REPEALER.**

Minnesota Statutes 2008, sections 352.91, subdivision 5; and 353.88, are repealed.

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

ARTICLE 3

MINNESOTA STATE DEFERRED COMPENSATION PLAN AMENDMENTS

Section 1. Minnesota Statutes 2008, section 352.965, subdivision 6, is amended to read:

Subd. 6. **Plan administrative expenses.** (a) The reasonable and necessary administrative expenses of the deferred compensation plan may be charged to plan participants in the form of an annual fee, an asset-based fee, a percentage of the contributions to the plan, or a combination thereof, as set forth in the plan document. The executive director of the system at the direction of the board of directors shall establish procedures to carry out this section including allocation of administrative costs of the plan to participants. Processes and procedures shall be set forth in the plan document. Fees cannot be charged on contributions and investment returns attributable to contributions made to the Minnesota supplemental investment funds before July 1, 1992.

(b) The plan document must conform to federal and state tax laws, regulations, and rulings, and is not subject to the Administrative Procedure Act.

(c) The executive director may contract with a third party to perform administrative and record keeping functions. The executive director may solicit bids and negotiate such contracts. Participating employers must provide the necessary data to the third-party record keeper as determined by the executive director. The third-party record keeper and the Minnesota State Retirement System shall follow the data privacy provisions under chapter 13. The third-party record keeper may not solicit participants for any product or services not related to the deferred compensation plan.

(d) The board of directors may authorize a third-party investment consultant to provide investment information and advice, ~~provided that~~ if the offering of such information and advice is consistent with the investment advice requirements applicable to private plans under Title VI, subtitle A, of the Pension Protection Act of 2006, Public Law 109-280, section 601.

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

ARTICLE 4

MSRS UNCLASSIFIED STATE EMPLOYEES RETIREMENT PROGRAM AMENDMENTS

Section 1. Minnesota Statutes 2008, section 3A.07, is amended to read:

3A.07 APPLICATION.

(a) Except as provided in paragraph (b) or (d), this chapter applies to members of the legislature in service after July 1, 1965, who otherwise meet the requirements of this chapter.

(b) Members of the legislature who were elected for the first time after June 30, 1997, or members of the legislature who were elected before July 1, 1997, and who, after July 1, 1998, elect not to be members of the plan established by this chapter are covered by the unclassified employees retirement program governed by chapter 352D.

(c) The post-July 1, 1998, coverage election under paragraph (b) is irrevocable and must be made on a form prescribed by the director. The second chance referendum election under Laws 2002, chapter 392, article 15, also is irrevocable.

(d) Members of the legislature who are covered by the retirement plan governed by this chapter on July 1, 2010, may, on or before the end of the member's seventh year of legislative service or January 1, 2011, whichever is later, elect to have future retirement coverage by either the general state employees retirement plan governed by chapter 352 or the unclassified state employees retirement program governed by chapter 352D. The election must be made on a form prescribed by the director and is irrevocable.

Sec. 2. Minnesota Statutes 2008, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) "State employee" includes:

- (1) employees of the Minnesota Historical Society;
- (2) employees of the State Horticultural Society;
- (3) employees of the Minnesota Crop Improvement Association;
- (4) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (5) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;
- (6) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
- (7) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- (8) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
- (9) employees of the Minnesota Safety Council;
- (10) any employees on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;

(11) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control Commission, or Metropolitan Radio Board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;

(12) judges of the Tax Court;

(13) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;

(14) seasonal help in the classified service employed by the Department of Revenue;

(15) persons employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4;

(16) employees of the University of Minnesota unless excluded under subdivision 2b, clause (3);

(17) employees of the Middle Management Association whose employment began after July 1, 2007, and to whom section 352.029 does not apply; ~~and~~

(18) employees of the Minnesota Government Engineers Council to whom section 352.029 does not apply-; and

(19) employees who have elected to transfer past service to the general employees retirement plan under section 352D.02, subdivision 1d, paragraph (a), or who have not elected to transfer to the unclassified program under section 352D.02, subdivision 1d, paragraph (b).

(b) Employees specified in paragraph (a), clause (13), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 3. Minnesota Statutes 2009 Supplement, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** "State employee" does not include:

(1) students who are employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the Board of Regents of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, whichever is applicable;

(2) employees who are eligible for membership in the state Teachers Retirement Association, except employees of the Department of Education who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota State Retirement System instead of the Teachers Retirement Association;

(3) employees of the University of Minnesota who are excluded from coverage by action of the

Board of Regents;

(4) officers and enlisted personnel in the National Guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(5) election officers;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the Department of Labor and Industry;

(9) patient and inmate help who perform services in state charitable, penal, and correctional institutions including the Minnesota Veterans Home;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensation is paid on a per diem basis;

(11) employees of the Sibley House Association;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its full-time secretary;

(13) state troopers and persons who are described in section 352B.011, subdivision 10, clauses (2) to (8);

(14) temporary employees of the Minnesota State Fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time by the state fair administration for special events held on the fairgrounds;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee must be considered a "state employee" retroactively to the beginning of the pay period;

(16) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

(17) interns who are hired for six months or less and trainee employees, except those listed in subdivision 2a, clause (8);

(18) persons whose compensation is paid on a fee basis or as an independent contractor;

(19) state employees who are employed by the Board of Trustees of the Minnesota State Colleges and Universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

(20) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the Teachers Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for incidental employment as a state employee that is not covered by one of the teacher retirement associations or systems;

(21) employees of the adjutant general who are employed on an unlimited intermittent or temporary basis in the classified or unclassified service for the support of Army and Air National Guard training facilities;

(22) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

(23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(25) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

(26) full-time students who are employed by the Minnesota Historical Society intermittently during part of the year and full-time during the summer months;

(27) temporary employees who are appointed for not more than six months, of the Metropolitan Council and of any of its statutory boards, if the board members are appointed by the Metropolitan Council;

(28) persons who are employed in positions designated by the Department of Management and Budget as student workers;

(29) members of trades who are employed by the successor to the Metropolitan Waste Control Commission, who have trade union pension plan coverage under a collective bargaining agreement, and who are first employed after June 1, 1977;

(30) off-duty peace officers while employed by the Metropolitan Council;

(31) persons who are employed as full-time police officers by the Metropolitan Council and as police officers are members of the public employees police and fire fund;

(32) persons who are employed as full-time firefighters by the Department of Military Affairs and as firefighters are members of the public employees police and fire fund;

(33) foreign citizens ~~with~~ who are employed under a work permit of less than three years, or an

H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date that the extension is granted, in which case they are eligible for coverage from the date extended; ~~and~~

(34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elected to remain members of the Public Employees Retirement Association or the Minneapolis Employees Retirement Fund, whichever applies, under Minnesota Statutes 1994, section 136C.75-; and

(35) employees who have elected to transfer service to the unclassified program under section 352D.02, subdivision 1d, paragraph (b).

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 4. Minnesota Statutes 2008, section 352D.015, subdivision 4, is amended to read:

Subd. 4. **General fund.** "General fund" means the general state employees retirement fund under chapter 352 ~~except the moneys for the unclassified program.~~

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 5. Minnesota Statutes 2008, section 352D.015, is amended by adding a subdivision to read:

Subd. 4a. **General employees retirement plan.** "General employees retirement plan" means the general state employees retirement plan under chapter 352.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 6. Minnesota Statutes 2008, section 352D.015, subdivision 9, is amended to read:

Subd. 9. **Value.** "Value" means ~~cash value at the end of the month following receipt of an application. If no application is required, "value" means the cash value at the end of the month in which the event necessitating the transfer occurs~~ the market value of the account at the end of the United States investment market day.

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

Sec. 7. Minnesota Statutes 2008, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (b), clause (1), are participants in the unclassified program under this chapter. Persons referenced in paragraph (b), clause (15) are participants in the unclassified program under this chapter for judicial employment in excess of the service credit limit in section 490.121, subdivision 22. Employees enumerated in paragraph (c) (b), clauses (2), (3), (4), (6) to (14), and (16) to (18), clauses (2) to (14) and (16) to (18), if they are in the unclassified service of the state or Metropolitan Council and are eligible for coverage under the general state employees retirement plan under chapter 352, are participants in the unclassified program under this chapter unless the employee gives notice to the executive director of the Minnesota State Retirement System within one year following the commencement of employment in the unclassified service that the employee desires coverage under the general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director is deemed to have exercised the option to participate in the unclassified program.

~~(b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified program under this chapter unless the person was eligible to elect different coverage under section 3A.07 and elected retirement coverage by the applicable alternative retirement plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified program under this chapter for judicial employment in excess of the service credit limit in section 490.121, subdivision 22.~~

~~(e)~~ (b) Enumerated employees ~~and referenced persons~~ are:

(1) the governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general;

(2) an employee in the Office of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General;

(3) an employee of the State Board of Investment;

(4) the head of a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or an employee enumerated in section 15A.0815 or 15A.083, subdivision 4;

(5) a member of the legislature;

(6) a full-time unclassified employee of the legislature or a commission or agency of the legislature who is appointed without a limit on the duration of the employment or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota State Retirement System;

(7) a person who is employed in a position established under section 43A.08, subdivision 1, clause (3), or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(8) the regional administrator, or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council, all of which may not exceed 27 positions at the council and the chair;

(9) the executive director, associate executive director, and not to exceed nine positions of the Minnesota Office of Higher Education in the unclassified service, as designated by the Minnesota Office of Higher Education before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota State Retirement System, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(10) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota, the state court administrator and judicial district administrators;

(11) the chief executive officers of correctional facilities operated by the Department of Corrections and of hospitals and nursing homes operated by the Department of Human Services;

(12) an employee whose principal employment is at the state ceremonial house;

(13) an employee of the Agricultural Utilization Research Institute;

(14) an employee of the State Lottery who is covered by the managerial plan established under section 43A.18, subdivision 3;

(15) a judge who has exceeded the service credit limit in section 490.121, subdivision 22;

(16) an employee of Enterprise Minnesota, Inc.;

(17) a person employed by the Minnesota State Colleges and Universities as faculty or in an eligible unclassified administrative position as defined in section 354B.20, subdivision 6, who was employed by the former state university or the former community college system before May 1, 1995, and elected unclassified program coverage prior to May 1, 1995; and

(18) a person employed by the Minnesota State Colleges and Universities who was employed in state service before July 1, 1995, who subsequently is employed in an eligible unclassified administrative position as defined in section 354B.20, subdivision 6, and who elects coverage by the unclassified program.

Sec. 8. Minnesota Statutes 2008, section 352D.02, subdivision 1c, is amended to read:

Subd. 1c. **Transfer of contributions.** An employee covered by the ~~regular general employees~~ retirement plan who is subsequently employed as a full-time unclassified employee of the legislature or any commission or agency of the legislature without a limit on the duration of the employment may elect to transfer accumulated employee and matching employer contributions, as provided in section 352D.03.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 9. Minnesota Statutes 2008, section 352D.02, subdivision 2, is amended to read:

Subd. 2. **Coverage upon employment change.** A person becoming a participant in the unclassified program prior to July 1, 2010, by virtue of employment in a position specified in subdivision 1, clause (4), and remaining in the unclassified service shall remain a participant in the program even though the position the person occupies is deleted from any of the sections referenced in subdivision 1, clause (4), by subsequent amendment, except that a person ~~shall~~ is not be eligible to elect the unclassified program after separation from unclassified service if on the return of the person to service, that position is not specified in subdivision 1, clause (4). Any person employed in a position specified in subdivision 1 shall cease to participate in the unclassified program in the event that the position is placed in the classified service.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 10. Minnesota Statutes 2008, section 352D.02, subdivision 3, is amended to read:

Subd. 3. **Transfer to general employees retirement plan.** (a) An employee referred to in subdivision 1, paragraph (b), clauses (2) to (4), (6) to (14), and (16) to (18), who is credited with employee shares in the unclassified program, after acquiring and who has credit for ten years of allowable service and, not later than one month following the termination of covered employment, may elect to terminate participation in the unclassified program and be covered by the general employees retirement plan by filing a written election with the executive director, if the employee was employed before July 1, 2010, and has at least ten years of allowable service as of the date of the election or if the employee was employed after June 30, 2010, and has no more than seven

years of allowable service as of the date of the election.

(b) A person referred to in subdivision 1, paragraph (b), clause (5), who is credited with employee shares in the unclassified program, and who has credit for allowable service, prior to the termination of service, may elect to terminate participation in the unclassified program and be covered by the general employees retirement plan by filing a written election with the executive director if the person first became covered by the unclassified program after June 30, 2010, and has no more than seven years of allowable service or if the person first became covered by the unclassified program before July 1, 2010, and makes the election to transfer on or before January 1, 2011.

(c) If the transfer election is made, the executive director shall then redeem the employee's total shares and shall credit to the employee's account in the general employees retirement plan the amount of contributions that would have been so credited had the employee been covered by the general employees retirement plan during the employee's entire covered employment or elective state service. The balance of money so redeemed and not credited to the employee's account shall must be transferred to the general employees retirement plan retirement fund, except that (1) the employee contribution paid to the unclassified program must be compared to (2) the employee contributions that would have been paid to the general employees retirement plan for the comparable period, if the individual had been covered by that plan. If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general employees retirement plan coverage or before the effective date of the annuity, whichever is sooner.

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

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

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 11. Minnesota Statutes 2008, section 352D.03, is amended to read:

352D.03 TRANSFER OF ASSETS.

Unless an eligible employee enumerated in section 352D.02, subdivision 1, has elected coverage under the individual retirement account plan under chapter 354B, a sum of money representing the assets credited to each employee exercising the option contained in section 352D.02, plus an equal employer contribution together with interest for an employee exercising an option under section 352D.02, an amount equal to the employee and employer contributions for the employment period at the applicable preretirement interest actuarial assumption rate during this period plus six percent interest, compounded annually, must be used for the purchase of shares on behalf of each employee in the accounts of the supplemental retirement fund established by section 11A.17.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 12. Minnesota Statutes 2008, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. **Investment options.** (a) A person exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination

of the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account, or the common stock index account established in section 11A.17. The person may elect to participate in one or more of the investment accounts in the fund by specifying, ~~on a form provided~~ in a manner prescribed by the executive director, the percentage of the person's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) A participant may ~~indicate in writing on forms provided~~, in a manner prescribed by the Minnesota State Retirement System a choice of options executive director, choose their investment allocation for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective ~~no later than the first pay date first occurring after 30 days following the receipt of the request for a change~~ at the end of the most recent United States investment market day.

~~(c) Shares in the fixed interest account attributable to any guaranteed investment contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.~~

~~(d) (c) A participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts, subject to the provisions of paragraph (c) concerning the fixed interest account. Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change~~ trading restrictions imposed on the investment option.

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

Sec. 13. Minnesota Statutes 2008, section 352D.04, subdivision 2, is amended to read:

Subd. 2. **Contribution rates.** (a) The money used to purchase shares under this section is the employee and employer contributions provided in this subdivision.

(b) The employee contribution is an amount equal to ~~four~~ the percent of salary specified in section 352.04, subdivision 2, or 352.045, subdivision 3.

(c) The employer contribution is an amount equal to six percent of salary.

(d) For members of the legislature, the contributions under this subdivision also must be made on per diem payments received during a regular or special legislative session, but may not be made on per diem payments received outside of a regular or special legislative session, on the additional compensation attributable to a leadership position under section 3.099, subdivision 3, living expense payments under section 3.101, or special session living expense payments under section 3.103.

(e) For a judge who is a member of the unclassified plan under section 352D.02, subdivision 1, paragraph (c), clause (16), the employee contribution rate is eight percent of salary, and there is no employer contribution.

(f) These contributions must be made in the manner provided in section 352.04, subdivisions 4,

5, and 6.

EFFECTIVE DATE. This section is effective the first day of the first full pay period beginning after July 1, 2010.

Sec. 14. Minnesota Statutes 2008, section 352D.05, subdivision 3, is amended to read:

Subd. 3. **Full or partial withdrawal.** After termination of covered employment or at any time thereafter, a participant is entitled, upon application, to withdraw the cash value of the participant's total shares or leave such shares on deposit with the supplemental retirement fund. The account is valued at the end of the ~~month in which~~ most recent United States investment market day following receipt of the application for withdrawal is made. Shares not withdrawn remain on deposit with the supplemental retirement fund until the former participant becomes at least 55 years old, and applies for an annuity under section 352D.06, subdivision 1.

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

Sec. 15. Minnesota Statutes 2008, section 352D.05, subdivision 4, is amended to read:

Subd. 4. **Repayment of refund.** (a) A participant in the unclassified program may repay regular refunds taken under section 352.22, as provided in section 352.23.

(b) A participant in the unclassified program or an employee covered by the general employees retirement plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the amount refunded plus interest at an annual rate of 8.5 percent compounded annually from the date that the refund was taken until the date that the refund is repaid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment must be pro rata.

(c) Except as provided in section 356.441, the repayment of a refund under this section must be made in a lump sum.

EFFECTIVE DATE. This section is effective June 30, 2010.

Sec. 16. Minnesota Statutes 2008, section 352D.06, subdivision 3, is amended to read:

Subd. 3. **Accrual date.** ~~An annuity under this section accrues the first day of the first full month after an application is received or the day following termination of state service, whichever is later. The account must be valued and redeemed on the later of the end of the month of termination of covered employment, or the end of the month of receipt of the annuity application for the purpose of computing the annuity day following receipt of the application or the day following termination, whichever is later. The benefit must be based on the value of the account the day following receipt of the application or the date of termination, whichever is later, plus any contributions and interest received after that date.~~

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

Sec. 17. Minnesota Statutes 2008, section 352D.065, subdivision 3, is amended to read:

Subd. 3. **Annuity payment.** ~~The annuity payable under this section shall begin~~ begins to accrue ~~the first day of the month following the date of disability receipt of the application or the day after termination, whichever is later, plus any contributions and interest received after that date, and shall~~

must be based on the participant's age when the annuity begins to accrue. The shares shall must be valued as of the end of the month following authorization of payments day on which the benefit accrues.

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

Sec. 18. Minnesota Statutes 2008, section 352D.09, subdivision 3, is amended to read:

Subd. 3. **Prospectus.** (a) The executive director shall annually distribute make available by electronic means to each participant the prospectus prepared by the supplemental fund, by July 1 or when received from such fund, whichever is later, to each participant in covered employment.

(b) Any participant may contact the Minnesota State Retirement System and request a copy of the prospectus.

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

Sec. 19. Minnesota Statutes 2008, section 352D.09, subdivision 7, is amended to read:

Subd. 7. **Administrative fees.** The board of directors shall establish a budget and charge participants a reasonable fee to pay the administrative expenses of the unclassified program. Fees ~~cannot~~ may not be charged on contributions and investment returns attributable to contributions made before July 1, 1992. ~~Annual total fees charged for plan administration cannot exceed 10/100 of one percent of the contributions and investment returns attributable to contributions made on or after July 1, 1992.~~

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

ARTICLE 5

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 2, is amended to read:

Subd. 2. **Public employee.** "Public employee" means a governmental employee or a public officer performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. For purposes of membership in the association, the term includes the classes of persons described or listed in subdivision 2a and excludes the classes of persons listed in subdivision 2b. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b). ~~The term excludes the classes of persons listed in subdivision 2b for purposes of membership in the association.~~

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

Sec. 2. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees; mandatory membership.** (a) ~~Public employees whose salary from employment in one or more positions within one governmental subdivision exceeds \$425~~

~~in any month shall participate as members of the association. If the salary is less than \$425 in a subsequent month, the employee retains membership eligibility. Eligible Public employees shall whose salary exceeds \$425 in any month and who are not specifically excluded under subdivision 2b or who have not been provided an option to participate under subdivision 2d, whether individually or by action of the governmental subdivision, must participate as members of the association with retirement coverage by the public employees retirement plan or the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies. Membership commences as a condition of their employment on the first day of their employment unless they or on the first day that the eligibility criteria are met, whichever is later. Public employees include but are not limited to:~~

~~(1) are specifically excluded under subdivision 2b;~~

~~(2) do not exercise their option to elect retirement coverage in the association as provided in subdivision 2d, paragraph (a); or~~

~~(3) are employees of the governmental subdivisions listed in subdivision 2d, paragraph (b), where the governmental subdivision has not elected to participate as a governmental subdivision covered by the association.~~

(1) persons whose salary meets the threshold in this paragraph from employment in one or more positions within one governmental subdivision;

(2) elected county sheriffs;

(3) persons who are appointed, employed, or contracted to perform governmental functions that by law or local ordinance are required of a public officer, including, but not limited to:

(i) town and city clerk or treasurer;

(ii) county auditor, treasurer, or recorder;

(iii) city manager as defined in section 353.028 who does not exercise the option provided under subdivision 2d; or

(iv) emergency management director, as provided under section 12.25;

(4) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(5) full-time employees of the Dakota County Agricultural Society; and

(6) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elected general employee retirement plan coverage before August 20, 2009.

(b) A public employee or elected official who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains

that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

~~(c) Public employees under paragraph (a) include:~~

~~(1) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;~~

~~(2) full-time employees of the Dakota County Agricultural Society; and~~

~~(3) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elect Public Employee Retirement Association general plan coverage under Laws 2009, chapter 169, article 12, section 10.~~

(c) If the salary of an included public employee is less than \$425 in any subsequent month, the member retains membership eligibility.

EFFECTIVE DATE. This section is effective July 1, 2010, except that the amendment to paragraph (a), clause (3), applies to any person first appointed, elected, or contracted after June 30, 2010.

Sec. 3. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** (a) The following public employees are not eligible to participate as members of the association with retirement coverage by the ~~public~~ general employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) persons whose salary from one governmental subdivision never exceeds \$425 in a month;

(2) public officers, other than county sheriffs, who are elected to a governing body, city mayors, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office commences on or after July 1, 2002, for the service to be rendered in that elective position;

~~(2)~~ (3) election officers or election judges;

~~(3)~~ (4) patient and inmate personnel who perform services for a governmental subdivision;

~~(4)~~ (5) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

~~(5)~~ (6) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

~~(6)~~ (7) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis

Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

~~(7)~~ (8) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

~~(8)~~ (9) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

~~(9)~~ (10) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals or clinics;

~~(10)~~ (11) students who are serving in an internship or residency program sponsored by an accredited educational institution;

~~(11)~~ (12) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

~~(12)~~ (13) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens working for who are employed by a governmental subdivision with under a work permit of less than three years, or an H-1b visa valid initially issued or extended for a combined period less than three years of employment. Upon notice to the association that the work permit or visa extends extension of the employment beyond the three-year period, the foreign citizens must be reported for membership from the date of the extension beginning the first of the month thereafter provided the monthly earnings threshold as provided under subdivision 2a is met;

~~(13)~~ (14) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

~~(14)~~ (15) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public general employees retirement fund plan or the public employees police and fire fund plan, whichever applies, on the basis of compensation received from

public employment service other than service as volunteer ambulance service personnel;

~~(15)~~ (16) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; ~~provided that,~~ but a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the ~~public~~ general employees retirement fund plan or the public employees police and fire fund plan, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

~~(16)~~ (17) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

~~(17)~~ (18) electrical workers, plumbers, carpenters, and associated trades personnel who are employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the pension plan applicable to Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

~~(18)~~ (19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

~~(19)~~ (20) plumbers who are employed by the Metropolitan Airports Commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

~~(20)~~ (21) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

~~(21)~~ (22) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

~~(22)~~ (23) independent contractors and the employees of independent contractors; ~~and~~

~~(23)~~ (24) reemployed annuitants of the association during the course of that reemployment; and
(25) persons appointed to serve on a board or commission of a governmental subdivision or an instrumentality thereof.

(b) Any person performing the duties of a public officer in a position defined in subdivision 2a, paragraph (a), clause (3), is not an independent contractor and is not an employee of an independent contractor.

EFFECTIVE DATE. This section is effective July 1, 2010, except that clause (25) is effective for persons first appointed after June 30, 2010.

Sec. 4. Minnesota Statutes 2008, section 353.01, subdivision 2d, is amended to read:

Subd. 2d. **Optional membership.** (a) Membership in the association is optional by action of the individual employee for the following public employees who meet the conditions set forth in subdivision 2a:

(1) members of the coordinated plan who are also employees of labor organizations as defined in section 353.017, subdivision 1, for their employment by the labor organization only, if they elect to have membership under section 353.017, subdivision 2;

(2) persons who are elected or persons who are appointed to elected positions other than local governing body elected positions who elect to participate by filing a written election for membership;

(3) members of the association who are appointed by the governor to be a state department head and who elect not to be covered by the general state employees retirement plan of the Minnesota State Retirement System under section 352.021;

(4) city managers as defined in section 353.028, subdivision 1, who do not elect to be excluded from membership in the association under section 353.028, subdivision 2; and

(5) employees of the Port Authority of the city of St. Paul on January 1, 2003, who were at least age 45 on that date, and who elected to participate by filing a written election for membership.

(b) Membership in the association is optional by action of the governmental subdivision for the employees of the following governmental subdivisions under the conditions specified:

(1) the Minnesota Association of Townships if the board of that association, at its option, certifies to the executive director that its employees who meet the conditions set forth in subdivision 2a are to be included for purposes of retirement coverage, in which case the status of the association as a participating employer is permanent;

(2) a county historical society if the county in which the historical society is located, at its option, certifies to the executive director that the employees of the historical society who meet the conditions set forth in subdivision 2a are to be considered county employees for purposes of retirement coverage under this chapter. The status as a county employee must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society; and

(3) Hennepin Healthcare System, Inc., a public corporation, with respect to employees other than paramedics, emergency medical technicians, and protection officers, if the corporate board

establishes alternative retirement plans for certain classes of employees of the corporation and certifies to the association the applicable employees to be excluded from future retirement coverage.

(c) For employees who are covered by paragraph (a), clause (1), (2), or (3), or covered by paragraph (b), clause (1) or (2), if the necessary membership election is not made, the employee is excluded from retirement coverage under this chapter. For employees who are covered by paragraph (a), clause (4), if the necessary election is not made, the employee must become a member and have retirement coverage under the applicable provisions of this chapter. For employees specified in paragraph (b), clause (3), membership continues until the exclusion option is exercised for the designated class of employee.

(d) The option to become a member, once exercised under this subdivision, may not be withdrawn until the termination of public service as defined under subdivision 11a.

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

Sec. 5. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 16, is amended to read:

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

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

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

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

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

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

(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary, excluding overtime pay, that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent

interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

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

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

percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under subdivision 40.

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

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

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) MS 2002 [Expired]

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

Sec. 6. Minnesota Statutes 2008, section 353.0161, subdivision 2, is amended to read:

Subd. 2. **Purchase procedure.** (a) An employee covered by a plan specified in subdivision 1 may purchase credit for allowable service in that plan for a period specified in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the date the member returned to work following the authorized leave, or within 30 days after the date of termination of public service if the member did not return to work, the payment amount is equal to the employee and employer contribution rates specified in law for the applicable plan at the end of the leave period, or at termination of public service, whichever is earlier, multiplied by the employee's average monthly salary, excluding overtime, upon which deductions were paid during the six months, or portion thereof, before the commencement of the leave of absence and by the number of months of the leave of absence for which the employee wants allowable service credit. Payments made under this paragraph must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period until the last day of the month in which payment is received.

(c) If payment is received by the executive director after one year, the payment amount is the amount determined under section 356.551. Payment under this paragraph must be made before the date the person terminates public service under section 353.01, subdivision 11a.

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

Sec. 7. [353.0162] REDUCED SALARY PERIODS SALARY CREDIT PURCHASE.

(a) A member may purchase additional salary credit for a period specified in this section.

(b) The applicable period is a period during which the member is receiving a reduced salary from the employer while the member is:

(1) receiving temporary workers' compensation payments related to the member's service to the public employer;

(2) on an authorized medical leave of absence; or

(3) on an authorized partial paid leave of absence as a result of a budgetary or salary savings program offered or mandated by a governmental subdivision.

(c) The differential salary amount is the difference between the average monthly salary received by the member during the period of reduced salary under this section and the average monthly salary of the member, excluding overtime, on which contributions to the applicable plan were made during the period of the last six months of covered employment occurring immediately before the period of reduced salary, applied to the member's normal employment period, measured in hours or otherwise, as applicable.

(d) To receive eligible salary credit, the member shall pay an amount equal to:

(1) the applicable employee contribution rate under section 353.27, subdivision 2; 353.65, subdivision 2; or 353E.03, subdivision 1, as applicable, multiplied by the differential salary amount;

(2) plus an employer equivalent payment equal to the applicable employer contribution rate in section 353.27, subdivision 3; 353.65, subdivision 3; or 353E.03, subdivision 2, as applicable, multiplied by the differential salary amount;

(3) plus, if applicable, an equivalent employer additional amount equal to the additional employer contribution rate in section 353.27, subdivision 3a, multiplied by the differential salary amount.

(e) The employer, by appropriate action of its governing body and documented in its official records, may pay the employer equivalent contributions and, as applicable, the equivalent employer additional contributions on behalf of the member.

(f) Payment under this section must include interest on the contribution amount or amounts, whichever applies, at an 8.5 percent annual rate, prorated for applicable months from the date on which the period of reduced salary specified under this section terminates to the date on which the payment or payments are received by the executive director. Payment under this section must be completed within the earlier of 30 days from termination of public service by the employee under section 353.01, subdivision 11a, or one year after the termination of the period specified in paragraph (b), as further restricted under this section.

(g) The period for which additional allowable salary credit may be purchased is limited to the period during which the person receives temporary workers' compensation payments or for those business years in which the governmental subdivision offers or mandates a budget or salary savings program, as certified to the executive director by a resolution of the governing body of the governmental subdivision. For an authorized medical leave of absence, the period for which

allowable salary credit may be purchased may not exceed 12 consecutive months of authorized medical leave.

(h) To purchase salary credit for a subsequent period of temporary workers' compensation benefits or subsequent authorized medical leave of absence, the member must return to public service and render a minimum of three months of allowable service.

EFFECTIVE DATE. This section is effective July 1, 2010. Purchase of reduced salary credit may be made for a period mandated or offered by a governmental subdivision for purposes of budget or salary savings on or after July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 353.03, subdivision 1, is amended to read:

Subdivision 1. **Management; composition; election.** (a) The management of the public employees retirement fund is vested in an 11-member board of trustees consisting of ten members and the state auditor. The state auditor may designate a deputy auditor with expertise in pension matters as the auditor's representative on the board. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association, including recipients of retirement annuities and disability and survivor benefits, shall elect five trustees for terms of four years, one of whom must be a member of the police and fire fund and one of whom must be a former member who met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at least five years prior to terminating membership and who is receiving a retirement annuity or a member who receives a disability benefit. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are seated. Except as provided in this subdivision, trustees elected by the membership of the association must be public employees and members of the association.

(b) For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept ~~at its office filings in person or by mail~~ of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the association. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall ~~mail~~ provide a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies, ~~subject to review and approval by the secretary of state under paragraph (e), and procedures to govern the form and length of these statements, and the timing of mailings, and deadlines for submitting materials to be mailed.~~ The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement distributed to the eligible voters.

(c) By January 10 of each year in which elections are to be held, the board shall distribute ~~by mail to the members ballots listing~~ eligible voters the instructions and materials necessary to vote for the candidates seeking terms on the board of trustees. Eligible voters are the members, retirees, and other benefit recipients. No member voter may vote for more than one candidate for each board position to be filled. A ballot ~~indicating a vote for more than one person for any position is void.~~ No special marking may be used ~~on the ballot~~ to indicate incumbents. ~~Ballots~~ Votes cast by using paper ballots mailed to the association must be postmarked no later than January 31. Votes cast by using telephone or other electronic means authorized under the board's procedures must be entered by the

end of the day on January 31. The ballot envelopes must be so designated and the ballots must be counted in a manner that ensures design of the voting response media must ensure that each voter's vote is secret.

(d) A candidate who receives contributions ~~or~~, who makes expenditures in excess of \$100, or who has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, shall file a report with the campaign finance and public disclosure board disclosing the source and amount of all contributions to the candidate's campaign. The campaign finance and public disclosure board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include ~~the mailing~~ any distribution made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The Campaign Finance and Public Disclosure Board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it.

(e) The secretary of state shall review and approve comment on the procedures defined by the board of trustees for conducting the elections specified in this subdivision, including board policies adopted under paragraph (b).

(f) The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

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

Sec. 9. Minnesota Statutes 2008, section 353.27, subdivision 4, is amended to read:

Subd. 4. **Employer reporting requirements; contributions; member status.** (a) A representative authorized by the head of each department shall deduct employee contributions from the salary of each public employee who qualifies for membership under this chapter ~~and~~ or chapter 353D or 353E at the rate under section 353.27, 353.65, 353D.03, or 353E.03, whichever is applicable, that is in effect on the date the salary is paid. The employer representative must also remit payment in a manner prescribed by the executive director for the aggregate amount of the employee contributions, and the required employer contributions and the additional employer contributions to be received by the association within 14 calendar days after each pay date. If the payment is less than the amount required, the employer must pay the shortage amount to the association and collect reimbursement of any employee contribution shortage paid on behalf of a member through subsequent payroll withholdings from the wages of the employee. Payment of shortages in employee contributions and associated employer contributions, if applicable, must include interest at the rate specified in section 353.28, subdivision 5, if not received within 30 days following the date the amount was initially due under this section.

(b) The head of each department or the person's designee shall submit for each pay period submit to the association a salary deduction report in the format prescribed by the executive director. The report must be received by the association within 14 calendar days after each pay date or the employer may be assessed a fine of \$5 per calendar day until the association receives the required data. Data required to be submitted as part of salary deduction reporting must include, but are not limited to:

(1) the legal names and Social Security numbers of employees who are members;

(2) the amount of each employee's salary deduction;

(3) the amount of salary defined in section 353.01, subdivision 10, earned in the pay period from which each deduction was made and the salary amount earned by a reemployed annuitant under section 353.37, subdivision 1, or 353.371, subdivision 1, or by a disabled member under section 353.33, subdivision 7 or 7a;

(4) the beginning and ending dates of the payroll period covered and the date of actual payment; and

(5) adjustments or corrections covering past pay periods as authorized by the executive director.

~~(b)~~ (c) Employers must furnish the data required for enrollment for each new or reinstated employee who qualifies for membership in the format prescribed by the executive director. The required enrollment data on new employees members must be submitted to the association prior to or concurrent with the submission of the initial employee salary deduction. Also, the employer shall also report to the association all member employment status changes, such as leaves of absence, terminations, and death, and shall report the effective dates of those changes, on an ongoing basis for the payroll cycle in which they occur. If an employer fails to comply with the reporting requirements under this paragraph, the executive director may assess a fine of \$25 for each failure if the association staff has notified the employer of the noncompliance and attempted to obtain the missing data or form from the employer for a period of more than three months.

(d) The employer shall furnish data, forms, and reports as may be required by the executive director for proper administration of the retirement system. Before implementing new or different computerized reporting requirements, the executive director shall give appropriate advance notice to governmental subdivisions to allow time for system modifications.

~~(e)~~ (e) Notwithstanding paragraph (a), the association may provide for less frequent reporting and payments for small employers.

(f) The executive director may establish reporting procedures and methods as required to review compliance by employers with the salary and contribution reporting requirements in this chapter. A review of the payroll records of a participating employer may be conducted by the association on a periodic basis or as a result of concerns known to exist within a governmental subdivision. An employer under review must extract requested data and provide records to the association after receiving reasonable advanced notice. Failure to provide requested information or materials will result in the employer being liable to the association for any expenses associated with a field audit, which may include staff salaries, administrative expenses, and travel expenses.

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 353.27, subdivision 7, is amended to read:

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except as provided in paragraph (b), erroneous employee deductions and erroneous employer contributions and additional employer contributions for a person, who otherwise does not qualify for membership under this chapter, are considered:

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may continue membership in the association while employed

in the same position for which erroneous deductions were taken, or file a written election to terminate membership and apply for a refund upon termination of public service or defer an annuity under section 353.34; or

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall refund all erroneous employee deductions and all erroneous employer contributions as specified in paragraph (e). No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990.

(b) Erroneous deductions taken from the salary of a person who did not qualify for membership in the association by virtue of concurrent employment before July 1, 1978, which required contributions to another retirement fund or relief association established for the benefit of officers and employees of a governmental subdivision, are invalid. Upon discovery of the error, ~~the association shall remove allowable service credit for all invalid service if forfeited and, upon termination of public service, the association shall refund all erroneous employee deductions to the person, with interest as determined under section 353.34, subdivision 2, and all erroneous employer contributions without interest to the employer.~~ This paragraph has both retroactive and prospective application.

(c) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 353.01, subdivision 10, must be made as specified in paragraph (e). The period of adjustment must be limited to the fiscal year in which the error is discovered by the association and the immediate two preceding fiscal years.

(d) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than provided for under paragraph (c).

(e) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), clause (2), or paragraph (c), the association must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of a member. Upon discontinuation, the association must:

(1) for a member, provide a refund ~~or credit to the employer~~ in the amount of the invalid employee deductions with interest on the invalid employee deductions at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; ~~and the employer must pay the refunded employee deductions plus interest to the member;~~

(2) for a former member who:

(i) is not receiving a retirement annuity or benefit, return the erroneous employee deductions to the former member through a refund with interest at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; or

(ii) is receiving a retirement annuity or disability benefit, or a person who is receiving an optional annuity or survivor benefit, for whom it has been determined an overpayment must be recovered,

adjust the payment amount and recover the overpayments as provided under this section; and

(3) return the invalid employer contributions reported on behalf of a member or former member to the employer by providing a credit against future contributions payable by the employer.

(f) In the event that a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or any portion of it that is required to adjust the deductions, must be made to the department or institution.

(g) If the accrual date of any retirement annuity, survivor benefit, or disability benefit is within the limitation period specified in paragraph (c), and an overpayment has resulted by using invalid service or salary, or due to any erroneous calculation procedure, the association must recalculate the annuity or benefit payable and recover any overpayment as provided under subdivision 7b.

(h) Notwithstanding the provisions of this subdivision, the association may apply the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the member refund or overpayment.

(i) Any fees or penalties assessed by the federal Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

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

Sec. 11. Minnesota Statutes 2008, section 353.27, subdivision 10, is amended to read:

Subd. 10. **Employer exclusion reports.** (a) The head of a department shall annually furnish the executive director with an exclusion report listing only those employees in potentially PERA-eligible positions who were not reported as members of the association and who worked during the school year for school employees and calendar year for nonschool employees. The department head must certify the accuracy and completeness of the exclusion report to the association. The executive director shall prescribe the manner and forms, including standardized exclusion codes, to be used by a governmental subdivision in preparing and filing exclusion reports. Also, the executive director shall also check the exclusion report to ascertain whether any omissions have been made by a department head in the reporting of new public employees for membership. The executive director may delegate an association employee under section 353.03, subdivision 3a, paragraph (b), clause (5), to conduct a field audit to review the payroll records of a governmental subdivision.

(b) If an employer fails to comply with the reporting requirements under this subdivision, the executive director may assess a fine of \$25 for each failure if the association staff has notified the employer of the noncompliance and attempted to obtain the missing data or form from the employer for a period of more than three months.

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

Sec. 12. Minnesota Statutes 2009 Supplement, section 353.371, subdivision 4, is amended to read:

Subd. 4. **Duration.** Postretirement option employment ~~shall~~ may be for an initial period not to exceed one year. At the end of the initial period, the governing body has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. Postretirement option employment may be renewed annually, but ~~may not be renewed after the individual attains retirement age as defined in United States Code, title 42, section 416(l)~~ no more than four renewals may occur.

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

Sec. 13. Minnesota Statutes 2008, section 353D.01, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) Eligibility to participate in the defined contribution plan is available to:

(1) elected local government officials of a governmental subdivision who elect to participate in the plan under section 353D.02, subdivision 1, and who, for the elected service rendered to a governmental subdivision, are not members of the Public Employees Retirement Association within the meaning of section 353.01, subdivision 7;

(2) physicians who, if they did not elect to participate in the plan under section 353D.02, subdivision 2, would meet the definition of member under section 353.01, subdivision 7;

(3) basic and advanced life-support emergency medical service personnel who are employed by any public ambulance service that elects to participate under section 353D.02, subdivision 3;

(4) members of a municipal rescue squad associated with the city of Litchfield in Meeker County, or of a county rescue squad associated with Kandiyohi County, if an independent nonprofit rescue squad corporation, incorporated under chapter 317A, performing emergency management services, and if not affiliated with a fire department or ambulance service and if its members are not eligible for membership in that fire department's or ambulance service's relief association or comparable pension plan;

(5) employees of the Port Authority of the city of St. Paul who elect to participate in the plan under section 353D.02, subdivision 5, and who are not members of the Public Employees Retirement Association under section 353.01, subdivision 7;

(6) city managers who elected to be excluded from the general employees retirement plan of the Public Employees Retirement Association under section 353.028 and who elected to participate in the public employees defined contribution plan under section 353.028, subdivision 3, paragraph (b); ~~and~~

(7) volunteer or emergency on-call firefighters serving in a municipal fire department or an independent nonprofit firefighting corporation who are not covered by the public employees police and fire retirement plan and who are not covered by a volunteer firefighters relief association and who elect to participate in the public employees defined contribution plan; ;

(8) elected county sheriffs who are former members of the police and fire plan and who are receiving a retirement annuity as provided under section 353.651; and

(9) persons who are excluded from membership under section 353.01, subdivision 2b, paragraph (a), clause (25).

(b) For purposes of this chapter, an elected local government official includes a person appointed

to fill a vacancy in an elective office. Service as an elected local government official only includes service for the governmental subdivision for which the official was elected by the public at large. Service as an elected local government official ceases and eligibility to participate terminates when the person ceases to be an elected official. An elected local government official does not include an elected county sheriff who must be a member of the police and fire plan as provided under chapter 353.

(c) Individuals otherwise eligible to participate in the plan under this subdivision who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the public employees defined contribution plan.

(d) A former participant is a person who has terminated eligible employment or service and has not withdrawn the value of the person's individual account.

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

Sec. 14. Minnesota Statutes 2008, section 353D.03, subdivision 1, is amended to read:

Subdivision 1. ~~Local government official contribution~~ **Contributions for eligible participants.** An (a) The following classes of eligible elected local government official participants who elects elect to participate in the public employees defined contribution plan under section 353D.02 shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10.:

- (1) A participating elected local government official's officials;
- (2) physicians; and
- (3) persons who are excluded from membership under section 353.01, subdivision 2b, clause (25).

(b) A participant's governmental subdivision shall contribute a matching amount.

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

Sec. 15. Minnesota Statutes 2008, section 353D.04, subdivision 1, is amended to read:

Subdivision 1. **Crediting of account contributions to participant accounts.** (a) Contributions made by or on behalf of a participating elected local government official or physician participant under section 353D.03, subdivisions 1, 5, and 6, paragraph (a), must be remitted to the Public Employees Retirement Association and credited to the individual account established for the participant

(b). Ambulance service Contributions as provided under section 353D.03, subdivisions 3, and 6, paragraph (b), must be remitted on a regular basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

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

Sec. 16. Minnesota Statutes 2008, section 353D.04, subdivision 2, is amended to read:

Subd. 2. **Authority to adopt policies correcting erroneous contributions.** The executive

director may adopt policies and procedures regarding deductions taken totally or partially in error by the employer from the salary of an elected official.

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

Sec. 17. Minnesota Statutes 2009 Supplement, section 353F.02, subdivision 4, is amended to read:

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

- (1) Bridges Medical Services;
- (2) the City of Cannon Falls Hospital;
- (3) the Chris Jenson Health and Rehabilitation Center in St. Louis County;
- (4) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;
- ~~(4)~~ (5) the Dassel Lakeside Community Home;
- (6) the Douglas County Hospital, with respect to the Mental Health Unit;
- ~~(5)~~ (7) the Fair Oaks Lodge, Wadena;
- ~~(6)~~ (8) the Glencoe Area Health Center;
- ~~(7)~~ (9) Hutchinson Area Health Care;
- ~~(8)~~ (10) the Lakefield Nursing Home;
- ~~(9)~~ (11) the Lakeview Nursing Home in Gaylord;
- ~~(10)~~ (12) the Luverne Public Hospital;
- ~~(11)~~ (13) the Oakland Park Nursing Home;
- ~~(12)~~ (14) the RenVilla Nursing Home;
- ~~(13)~~ (15) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;
- ~~(14)~~ (16) the St. Peter Community Health Care Center;
- ~~(15)~~ (17) the Waconia-Ridgeview Medical Center;
- ~~(16)~~ (18) the Weiner Memorial Medical Center, Inc.; and
- (19) the Wheaton Community Hospital; and
- ~~(17)~~ (20) the Worthington Regional Hospital.

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

Sec. 18. Minnesota Statutes 2008, section 353F.025, subdivision 1, is amended to read:

Subdivision 1. **Eligibility determination.** (a) The chief clerical officer of a governmental

subdivision may submit a resolution from the governing body to the executive director of the Public Employees Retirement Association which supports providing coverage under this chapter for employees of that governmental subdivision who are privatized, and which states that the governing body will pay for actuarial calculations, as further specified in paragraph (c).

(b) The governing body must also provide a copy of any applicable purchase or lease agreement and any other information requested by the executive director to allow the executive director to verify that under the proposed employer change, the new employer does not qualify as a governmental subdivision under section 353.01, subdivision 6, making the employees ineligible for continued coverage as active members of the general employees retirement plan of the Public Employees Retirement Association.

(c) Following receipt of a resolution and a determination by the executive director that the new employer is not a governmental subdivision, the executive director shall direct the consulting actuary retained under section 356.214 to determine whether the general employees retirement plan of the Public Employees Retirement Association, if coverage under this chapter is provided, is expected to receive a net gain or a net loss if privatization occurs, by determining whether. A net gain is expected if the actuarial liability of the special benefit coverage provided under this chapter, if extended to the applicable employees under the privatization, is less than the actuarial gain otherwise to accrue to the plan. A net loss is expected if the actuarial accrued liability of the special benefit coverage provided under this chapter, if extended to the applicable employees under the privatization, is more than the actuarial gain otherwise to accrue to the plan. The date of the actuarial calculations used to make this determination must be within one year of the effective date, as defined in section 353F.02, subdivision 3.

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

Sec. 19. Minnesota Statutes 2008, section 353F.025, subdivision 2, is amended to read:

Subd. 2. **Recommendation to legislature.** (a) If the actuarial calculations under subdivision 1, paragraph (c), indicate that a net gain to the general employees retirement plan of the Public Employees Retirement Association is expected due to the privatization, or if paragraph (c) applies, the executive director shall forward a recommendation and supporting documentation to the chair of the Legislative Commission on Pensions and Retirement, the chair of the Governmental Operations, Reform, Technology and Elections Committee of the house of representatives, the chair of the State and Local Government Operations and Oversight Committee of the senate, and the executive director of the Legislative Commission on Pensions and Retirement. The recommendation must be in the form of an addition to the definition of "medical facility" under section 353F.02, subdivision 4, or to "other public employing unit" under section 353F.02, subdivision 5, whichever is applicable. The recommendation must be forwarded to the legislature before January 15 for the recommendation to be considered in that year's legislative session. The recommendation may be included as part of public pension administrative legislation under section 356B.05.

(b) If a medical facility or other public employing unit listed under section 353F.02, subdivision 4 or 5, fails to privatize within one year of the final enactment date of the legislation adding the entity to the applicable definition, its inclusion under this chapter is voided, and the executive director shall include in the subsequent proposed legislation under paragraph (a) a recommendation that the applicable entity be stricken from the definition.

(c) If the calculations under subdivision 1, paragraph (c), indicate a net loss, the executive

director shall forward a recommendation that the privatization be included as an addition under paragraph (a) if the chief clerical officer of the applicable governmental subdivision submits a resolution from the governing body specifying that a lump sum payment will be made to the executive director equal to the net loss, plus interest. The interest must be computed using the applicable preretirement interest rate assumption under section 356.215, subdivision 8, expressed as a monthly rate, from the date of the actuarial valuation from which the actuarial accrued liability data was used to determine the net loss in the actuarial study under subdivision 1, to the date of payment, with annual compounding. Payment must be made on or after the effective date defined under section 353F.02.

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

Sec. 20. Minnesota Statutes 2008, section 356.96, subdivision 2, is amended to read:

Subd. 2. **Right to review.** A determination made by the ~~administration~~ chief administrative officer of a covered pension plan regarding a person's eligibility, benefits, or other rights under the plan with which the person does not agree is subject to review under this section.

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

Sec. 21. Minnesota Statutes 2008, section 356.96, subdivision 3, is amended to read:

Subd. 3. **Notice of determination.** If the applicable chief administrative officer denies an application or a written request, modifies a benefit, or terminates a benefit of a person claiming a right or potential rights under a covered pension plan, the chief administrative officer shall notify that person through a written notice containing:

(1) a statement of the reasons for the determination;

(2) a notice that the person may petition the governing board of the covered pension plan for a review of the determination and that a person's petition for review must be filed in the administrative office of the covered pension plan within 60 days of the receipt of the written notice of the determination;

(3) a statement indicating that a failure to petition for review within 60 days precludes the person from contesting in any other administrative review or court procedure the issues determined by the chief administrative officer;

(4) a statement indicating that all relevant materials, documents, affidavits, and other records that the person wishes to be reviewed in support of the petition must be filed with and received in the administrative office of the covered pension plan at least ~~30~~ 15 days before the date of the hearing under subdivision 10; and

(5) a ~~copy~~ summary of this section, including all filing requirements and deadlines.

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

Sec. 22. Minnesota Statutes 2009 Supplement, section 356.96, subdivision 5, is amended to read:

Subd. 5. **Petition for review.** (a) A person who claims a right under subdivision 2 may petition for a review of that decision by the governing board of the covered pension plan.

(b) A petition under this section must be sent to the chief administrative officer by mail and must be postmarked no later than 60 days after the person received the notice required by subdivision 3. The petition must include the person's statement of the reason or reasons that the person believes the decision of the chief administrative officer should be reversed or modified. The petition may include all documentation and written materials that the petitioner deems to be relevant. In developing a record for review by the board when a decision is appealed, the ~~executive director~~ chief administrative officer may direct that the applicant participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings and, as applicable, participate in a vocational assessment conducted by a qualified rehabilitation counselor on contract with the applicable retirement system.

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

Sec. 23. Minnesota Statutes 2008, section 356.96, subdivision 7, is amended to read:

Subd. 7. **Notice of hearing.** (a) After receiving a petition, ~~and not less than 30 calendar days from the date of the next regular board meeting,~~ the chief administrative officer must schedule a timely review of the petition before the governing board of the covered pension plan. The review must be scheduled to take into consideration any necessary accommodations to allow the petitioner to participate in the governing board's review.

(b) Not less than ~~45~~ 30 calendar days before the scheduled hearing date, the chief administrative officer must provide by mail to the petitioner an acknowledgment of the receipt of the person's petition and a follow-up notice of the time and place of the meeting at which the governing board is scheduled to consider the petition and must provide a copy of all relevant documents, evidence, summaries, and recommendations assembled by or on behalf of the plan administration to be considered by the governing board.

(c) ~~Except as provided in subdivision 8, paragraph (c),~~ All documents and materials that the petitioner wishes to be part of the record for review must be filed with the chief administrative officer and must be received in the offices of the covered pension plan at least ~~30~~ 15 days before the date of the meeting at which the petition is scheduled to be heard.

(d) ~~A petitioner, may request a continuance of a scheduled hearing if the request is received by the chief administrative officer within ten calendar days of the scheduled date of the applicable board meeting, may request a continuance on a scheduled petition.~~ The chief administrative officer must reschedule the review within ~~60 days of the date of the continuance request~~ a reasonable time. Only one continuance may be granted to any petitioner.

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

Sec. 24. Minnesota Statutes 2008, section 356.96, subdivision 8, is amended to read:

Subd. 8. **Record for review.** (a) All evidence, including all records, documents, and affidavits in the possession of the covered pension plan of which the covered pension plan desires to avail itself and be considered by the governing board, and all evidence which the petitioner wishes to present to the governing board, including any evidence which would otherwise be classified by law as "private," must be made part of the hearing record.

(b) ~~Not later than~~ The chief administrative officer must provide a copy of the record to each member of the governing board at least seven days before the scheduled hearing date, ~~the chief~~

~~administrative officer must provide a copy of the record to each member of the governing board.~~

~~(c) At least five days before the hearing, the petitioner may submit to the chief administrative officer, for submission to the governing board, Any additional document, affidavit, or other relevant information that was not initially submitted with the petition the petitioner requests be part of the record may be admitted with the consent of the governing board.~~

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

Sec. 25. Laws 2009, chapter 169, article 4, section 49, is amended to read:

Sec. 49. CITY OF DULUTH AND DULUTH AIRPORT AUTHORITY AND CITY OF VIRGINIA; CORRECTING ERRONEOUS EMPLOYEE DEDUCTIONS, EMPLOYER CONTRIBUTIONS AND ADJUSTING OVERPAID BENEFITS.

Subdivision 1. **Application.** Notwithstanding any provisions of Minnesota Statutes, section 353.27, subdivisions 7 and 7b, or Minnesota Statutes 2008, chapters 353 and 356, to the contrary, this section establishes the procedures by which the executive director of the Public Employees Retirement Association shall adjust erroneous employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth ~~and~~, by the Duluth Airport Authority, and by the city of Virginia on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008, and for adjusting benefits that were paid to former members and their beneficiaries based upon invalid salary amounts.

Subd. 2. **Refunds of employee deductions.** (a) The executive director shall refund to active employees or former members who are not receiving retirement annuities or benefits all erroneous employee deductions identified by the city of Duluth ~~or~~, by the Duluth Airport Authority, ~~or by the city of Virginia~~ as deductions taken from amounts determined to be invalid salary. The refunds must include interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date each refund is paid.

(b) The refund payment for active employees must be sent to the ~~applicable governmental subdivision which must pay the refunded employee deductions plus interest to the active home addresses of the members who are employees of the city of Duluth or~~, who are employees of the Duluth Airport Authority, ~~or who are employees of the city of Virginia~~, as applicable.

(c) Refunds to former members must be mailed by the executive director of the Public Employees Retirement Association to the former member's last known address.

Subd. 3. **Benefit adjustments.** (a) For a former member who is receiving a retirement annuity or disability benefit, or for a person receiving an optional annuity or survivor benefit, the executive director must:

(1) adjust the annuity or benefit payment to the correct monthly benefit amount payable by reducing the average salary under Minnesota Statutes, section 353.01, subdivision 17a, by the invalid salary amounts;

(2) determine the amount of the overpaid benefits paid from the effective date of the annuity or benefit payment to the first of the month in which the monthly benefit amount is corrected;

(3) calculate the amount of employee deductions taken in error on invalid salary, including interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date the annuity or benefit is adjusted as provided under clause (1); and

(4) determine the net amount of overpaid benefits by reducing the amount of the overpaid annuity or benefit as determined in clause (2) by the amount of the erroneous employee deductions with interest as determined in clause (3).

(b) If a former member's erroneous employee deductions plus interest determined under this section exceeds the amount of the person's overpaid benefits, the balance must be refunded to the person to whom the annuity or benefit is being paid.

(c) The executive director shall recover the net amount of all overpaid annuities or benefits as provided under subdivision 4.

Subd. 4. **Employer credits and obligations.** (a) The executive director shall provide a credit without interest to the city of Duluth~~and~~, to the Duluth Airport Authority, and to the city of Virginia, as applicable, for the amount of that governmental subdivision's erroneous employer contributions. The credit must first be used to offset the net amount of the overpaid retirement annuities and the disability and survivor benefits that remains after applying the amount of erroneous employee deductions with interest as provided under subdivision 3, paragraph (a), clause (4). The remaining erroneous employer contributions, if any, must be credited against future employer contributions required to be paid by the applicable governmental subdivision. If the overpaid benefits exceed the employer contribution credit, the balance of the overpaid benefits is the obligation of the city of Duluth~~or~~, the Duluth Airport Authority, or the city of Virginia, whichever is applicable.

(b) The Public Employees Retirement Association board of trustees shall determine the period of time and manner for the collection of overpaid retirement annuities and benefits, if any, from the city of Duluth~~and~~, the Duluth Airport Authority, and the city of Virginia.

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

Sec. 26. Laws 2009, chapter 169, article 4, section 49, the effective date, is amended to read:

EFFECTIVE DATE. (a) This section is effective for the city of Duluth the day after the Duluth city council and the chief clerical officer of the city of Duluth timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the city of Duluth.

(b) This section is effective for the Duluth Airport Authority the day after the Duluth Airport Authority and the chief clerical officer of the Duluth Airport Authority timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the Duluth Airport Authority.

(c) This section is effective for the city of Virginia the day after the Virginia city council and the chief clerical officer of the city of Virginia timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the city of Virginia. If this section becomes effective for the city of Virginia, it applies retroactively from June 23, 2009.

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

Sec. 27. Laws 2009, chapter 169, article 5, section 2, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective the day following final enactment and expires on June 30, ~~2011~~ 2014. Individuals must not be appointed to a postretirement option position after that date.

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

Sec. 28. **REPEALER.**

(a) Minnesota Statutes 2008, section 353.01, subdivision 40, is repealed effective July 1, 2010.

(b) Minnesota Statutes 2008, sections 353.46, subdivision 1a; and 353D.03, subdivision 2, are repealed the day following final enactment.

(c) Minnesota Statutes 2008, section 353D.12, is repealed effective July 1, 2011.

ARTICLE 6

VOLUNTARY STATEWIDE LUMP-SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN

Section 1. Minnesota Statutes 2008, section 69.051, subdivision 3, is amended to read:

Subd. 3. **Report by certain municipalities.** (a) Each municipality which has an organized fire department but which does not have a firefighters' relief association governed by section 69.77 or sections 69.771 to 69.775 and which is not exempted under paragraph (b) shall annually prepare a detailed financial report of the receipts and disbursements by the municipality for fire protection service during the preceding calendar year, on a form prescribed by the state auditor. The financial report shall must contain any information which the state auditor deems necessary to disclose the sources of receipts and the purpose of disbursements for fire protection service. The financial report shall must be signed by the municipal clerk or clerk-treasurer of the municipality. The financial report shall must be filed by the municipal clerk or clerk-treasurer with the state auditor on or before July 1 annually. The state auditor shall forward one copy to the county auditor of the county wherein the municipality is located. The municipality shall not qualify initially to receive, or be entitled subsequently to retain, state aid pursuant to under this chapter if the financial reporting requirement or the applicable requirements of this chapter or any other statute or special law have not been complied with or are not fulfilled.

(b) Each municipality that has an organized fire department and provides retirement coverage to its firefighters through the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G qualifies to have fire state aid transmitted to and retained in the statewide lump-sum volunteer firefighter retirement fund without filing a detailed financial report if the executive director of the Public Employees Retirement Association certifies compliance by the municipality with the requirements of sections 353G.04 and 353G.08, paragraph (e), and by the applicable fire chief with the requirements of section 353G.07.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 2. Minnesota Statutes 2009 Supplement, section 353G.05, subdivision 2, is amended to

read:

Subd. 2. **Election of coverage.** (a) The process for electing coverage of volunteer firefighters by the retirement plan is initiated by a request to the executive director for a cost analysis of the prospective retirement coverage.

(b) If the volunteer firefighters are currently covered by a volunteer firefighters' relief association governed by chapter 424A, the cost analysis of the prospective retirement coverage must be requested jointly by the secretary of the volunteer firefighters' relief association, following approval of the request by the board of the volunteer firefighters' relief association, and the chief administrative officer of the entity associated with the relief association, following approval of the request by the governing body of the entity associated with the relief association. If the relief association is associated with more than one entity, the chief administrative officer of each associated entity must execute the request. If the volunteer firefighters are not currently covered by a volunteer firefighters' relief association, the cost analysis of the prospective retirement coverage must be requested by the chief administrative officer of the entity operating the fire department. The request must be made in writing and must be made on a form prescribed by the executive director.

(c) The cost analysis of the prospective retirement coverage by the statewide retirement plan must be based on the service pension amount under section 353G.11 closest to the service pension amount provided by the volunteer firefighters' relief association, if there is one the relief association is a lump-sum defined benefit plan, or the amount equal to 95 percent of the most current average account balance per relief association member if the relief association is a defined contribution plan, or to the lowest service pension amount under section 353G.11 if there is no volunteer firefighters' relief association, rounded up, and any other service pension amount designated by the requester or requesters. The cost analysis must be prepared using a mathematical procedure certified as accurate by an approved actuary retained by the Public Employees Retirement Association.

(d) If a cost analysis is requested and a volunteer firefighters' relief association exists that has filed the information required under section 69.051 in a timely fashion, upon request by the executive director, the state auditor shall provide the most recent data available on the financial condition of the volunteer firefighters' relief association, the most recent firefighter demographic data available, and a copy of the current relief association bylaws. If a cost analysis is requested, but no volunteer firefighters' relief association exists, the chief administrative officer of the entity operating the fire department shall provide the demographic information on the volunteer firefighters serving as members of the fire department requested by the executive director.

(e) If a cost analysis is requested, the executive director of the State Board of Investment shall review the investment portfolio of the relief association, if applicable, for compliance with the applicable provisions of chapter 11A and for appropriateness for retention under the established investment objectives and investment policies of the State Board of Investment. If the prospective retirement coverage change is approved under paragraph (f), the State Board of Investment may require that the relief association liquidate any investment security or other asset which the executive director of the State Board of Investment has determined to be an ineligible or inappropriate investment for retention by the State Board of Investment. The security or asset liquidation must occur before the effective date of the transfer of retirement plan coverage. If requested to do so by the chief administrative officer of the relief association, the executive director of the State Board of Investment shall provide advice about the best means to conduct the liquidation.

(f) Upon receipt of the cost analysis, the governing body of the municipality or independent nonprofit firefighting corporation associated with the fire department shall either approve or disapprove the retirement coverage change within 90 days. If the retirement coverage change is not acted upon within 90 days, it is deemed to be disapproved. If the retirement coverage change is approved by the applicable governing body, coverage by the voluntary statewide lump-sum volunteer firefighter retirement plan is effective on the next following January 1.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 3. Minnesota Statutes 2009 Supplement, section 353G.06, subdivision 1, is amended to read:

Subdivision 1. **Special fund disestablishment.** ~~(a)~~ On the date immediately prior to the effective date of the coverage change, the special fund of the applicable volunteer firefighters' relief association, if one exists, ceases to exist as a pension fund of the association and legal title to the assets of the special fund transfers to the State Board of Investment, with the beneficial title to the assets of the special fund remaining in the applicable volunteer firefighters.

~~(b) If the market value of the special fund of the volunteer firefighters' relief association for which retirement coverage changed under this chapter declines in the interval between the date of the most recent financial report or statement, and the special fund disestablishment date, the applicable municipality shall transfer an additional amount to the State Board of Investment equal to that decline. If more than one municipality is responsible for the direct management of the fire department, the municipalities shall allocate the additional transfer amount among the various applicable municipalities one-half in proportion to the population of each municipality and one-half in proportion to the market value of each municipality.~~

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 4. Minnesota Statutes 2009 Supplement, section 353G.08, is amended to read:

353G.08 RETIREMENT PLAN FUNDING; DISBURSEMENTS.

Subdivision 1. **Annual funding requirements.** (a) Annually, the executive director shall determine the funding requirements of each account in the voluntary statewide lump-sum volunteer firefighter retirement plan on or before August 1. The funding requirements as directed under this section, must be determined using a mathematical procedure developed and certified as accurate by an approved actuary retained by the Public Employees Retirement Association and based on present value factors using a six percent interest rate, without any decrement assumptions. The funding requirements must be certified to the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan.

(b) The overall funding balance of each account for the current calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the current year must be calculated based on the good time service credit of active and deferred members as of that date.

(2) The total present assets of the account projected to December 31 of the current year, including receipts by and disbursements from the account anticipated to occur on or before December 31,

must be calculated. To the extent possible, the market value of assets must be utilized in making this calculation.

(3) The amount of the total present assets calculated under clause (2) must be subtracted from the amount of the total accrued liability calculated under clause (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the account is considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the account is considered to have a deficit from full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund is considered to be fully funded.

(c) The financial requirements of each account for the following calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the calendar year next following the current calendar year must be calculated based on the good time service used in the calculation under paragraph (b), clause (1), increased by one year.

(2) The increase in the total accrued liability of the account for the following calendar year over the total accrued liability of the account for the current year must be calculated.

(3) The amount of anticipated future administrative expenses of the account must be calculated by multiplying the dollar amount of the administrative expenses for the most recent prior calendar year by the factor of 1.035.

(4) If the account is fully funded, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3).

(5) If the account has a deficit from full funding, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3) plus an amount equal to one-tenth of the amount of the deficit from full funding of the account.

(6) If the account has a surplus over full funding, the financial requirement of the account for the following calendar year is the financial requirement of the account calculated as though the account was fully funded under clause (4) and, if the account has also had a surplus over full funding during the prior two years, additionally reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the account.

(d) The required contribution of the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan is the annual financial requirements of the account of the retirement plan under paragraph (c) reduced by the amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the retirement plan attributable to the entity or entities during the following calendar year, and an amount of interest on the assets projected to be received during the following calendar year calculated at the rate of six percent per annum. The required contribution must be allocated between the entities if more than one entity is involved. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(e) The required contribution calculated in paragraph (d) must be paid to the retirement plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the retirement plan by December 31, it is payable with interest at an annual compound rate of six

percent from the date due until the date payment is received by the retirement plan. If the entity does not pay the full amount of the required contribution, the executive director shall collect the unpaid amount under section 353.28, subdivision 6.

(f)

Subd. 2. **Cash flow funding requirement.** If the executive director determines that an account in the voluntary statewide lump-sum volunteer firefighter retirement plan has insufficient assets to meet the service pensions determined payable from the account, the executive director shall certify the amount of the potential service pension shortfall to the municipality or municipalities and the municipality or municipalities shall make an additional employer contribution to the account within ten days of the certification. If more than one municipality is associated with the account, unless the municipalities agree to a different allocation, the municipalities shall allocate the additional employer contribution one-half in proportion to the population of each municipality and one-half in proportion to the market value of the property of each municipality.

Subd. 3. **Authorized Account Disbursements.** The assets of the retirement fund may only be disbursed for:

- (1) the administrative expenses of the retirement plan;
- (2) the investment expenses of the retirement fund;
- (3) the service pensions payable under section 353G.10, 353G.11, 353G.14, or 353G.15; ~~and~~
- (4) the survivor benefits payable under section 353G.12; and
- (5) the disability benefit coverage insurance premiums under section 353G.115.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 5. Minnesota Statutes 2009 Supplement, section 353G.09, subdivision 3, is amended to read:

Subd. 3. Alternative pension eligibility and computation. (a) An active member of the retirement plan is entitled to an alternative lump-sum service pension from the retirement plan if the person:

- (1) has separated from active service with the fire department for at least 30 days;
- (2) has attained the age of at least 50 years or the age for receipt of a service pension under the benefit plan of the applicable former volunteer firefighters' relief association as of the date immediately prior to the election of the retirement coverage change, whichever is later;
- (3) has completed at least five years of active service with the fire department and at least five years in total as a member of the applicable former volunteer firefighters' relief association or of the retirement plan, but has not rendered at least five years of good time service credit as a member of the retirement plan; and
- (4) applies in a manner prescribed by the executive director for the service pension.

(b) If retirement coverage prior to statewide retirement plan coverage was provided by a defined benefit plan volunteer firefighters relief association, the alternative lump-sum service pension is

the service pension amount specified in the bylaws of the applicable former volunteer firefighters' relief association either as of the date immediately prior to the election of the retirement coverage change or as of the date immediately before the termination of firefighting services, whichever is earlier, multiplied by the total number of years of service as a member of that volunteer firefighters' relief association and as a member of the retirement plan. If retirement coverage prior to statewide retirement plan coverage was provided by a defined contribution plan volunteer firefighters relief association, the alternative lump-sum service pension is an amount equal to the person's account balance as of the date immediately prior to the date on which statewide retirement plan coverage was first provided to the person plus six percent annual compound interest from that date until the date immediately prior to the date of retirement.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 6. Minnesota Statutes 2009 Supplement, section 353G.11, subdivision 1, is amended to read:

Subdivision 1. **Levels.** The retirement plan provides the following levels of service pension amounts to be selected at the election of coverage, or, if fully funded, thereafter:

Level A	\$500 per year of good time service credit
Level B	\$750 <u>\$600</u> per year of good time service credit
Level C	<u>\$700</u> per year of good time service credit
Level D	<u>\$800</u> per year of good time service credit
Level E	<u>\$900</u> per year of good time service credit
Level E F	\$1,000 per year of good time service credit
Level G	<u>\$1,250</u> per year of good time service credit
Level D H	\$1,500 per year of good time service credit
Level E I	\$2,000 per year of good time service credit
Level F J	\$2,500 per year of good time service credit
Level G K	\$3,000 per year of good time service credit
Level H L	\$3,500 per year of good time service credit
Level I M	\$4,000 per year of good time service credit
Level J N	\$4,500 per year of good time service credit
Level K O	\$5,000 per year of good time service credit
Level L P	\$5,500 per year of good time service credit
Level M Q	\$6,000 per year of good time service credit
Level N R	\$6,500 per year of good time service credit
Level O S	\$7,000 per year of good time service credit
Level P T	\$7,500 per year of good time service credit

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

Sec. 7. Minnesota Statutes 2009 Supplement, section 353G.11, is amended by adding a subdivision to read:

Subd. 1a. Continuation of prior service pension levels. If a municipality or independent nonprofit firefighting corporation elects to be covered by the retirement plan prior to January 1, 2010, and selects the \$750 per year of good time service credit service pension amount effective for January 1, 2010, that level continues for the volunteer firefighters of that municipality or independent nonprofit firefighting corporation until a different service pension amount is selected under subdivision 2 after January 1, 2010.

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

Sec. 8. **[353G.115] DISABILITY BENEFIT COVERAGE; AUTHORITY FOR CASUALTY INSURANCE.**

(a) Except as provided in paragraph (b), no disability benefit is payable from the statewide retirement plan.

(b) If the board approves the arrangement, disability coverage for statewide retirement plan members may be provided through a group disability insurance policy obtained from an insurance company licensed to do business in this state. The voluntary statewide lump-sum volunteer retirement plan is authorized to pay the premium for the disability insurance authorized by this paragraph. The proportional amount of the total annual disability insurance premium must be added to the required contribution amount determined under section 353G.08.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

Sec. 9. Minnesota Statutes 2009 Supplement, section 424A.08, is amended to read:

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account may not be made for any purpose except:

(1) payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its firefighters to membership in and the benefits of these state associations;

(2) payment of the cost of purchasing and maintaining needed equipment for the fire department; and

(3) payment of the cost of construction, acquisition, repair, or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A qualified municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department, which does not participate

in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

(c) A municipality that has no volunteer firefighters' relief association directly associated with it and that participates in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G shall transmit any fire state aid that it receives to the voluntary statewide lump-sum volunteer firefighter retirement fund.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2010.

ARTICLE 7

TEACHERS RETIREMENT ASSOCIATION SERVICE CREDIT PROCEDURE REVISIONS

Section 1. Minnesota Statutes 2008, section 354.05, is amended by adding a subdivision to read:

Subd. 41. **Annual base salary.** (a) "Annual base salary" means:

(1) for an independent school district or educational cooperative, the lowest full-time Bachelor of Arts (BA) base contract salary for the previous fiscal year for that employing unit;

(2) for a charter school, the lowest starting annual salary for a full-time licensed teacher employed during the previous fiscal year for that employing unit; and

(3) for a state agency or professional organization, the lowest starting annual salary for a full-time Teachers Retirement Association covered position for the previous fiscal year for that employing unit.

(b) If there is no previous fiscal year data because an employer unit is new and paragraph (c) does not apply, the annual base salary for the first year of operation will be as provided in paragraph (a), except that the base contract salary for the current fiscal year, rather than the previous fiscal year, must be used.

(c) For a new employer unit created as a result of a merger or consolidation, the annual base salary must be the lowest annual base salary as specified in paragraph (a) for any of the employer units involved in the merger or consolidation.

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

Sec. 2. Minnesota Statutes 2008, section 354.07, subdivision 5, is amended to read:

Subd. 5. Records; accounts; interest. The board shall keep a record of the receipts and disbursements of the fund and a separate account with each member of the association. The board shall also keep separate accounts for annuity payments, for employer contributions and all other necessary accounts and reserves. It shall determine annually the annual interest earnings of the fund which shall include realized capital gains and losses. Any amount in the capital reserve account on July 1, 1973, shall be transferred to the employer contribution's account. The annual

interest earnings shall be apportioned and credited to the separate members' accounts except those covered under the provisions of section 354.44, subdivision 6 ~~or 7~~. The rate to be used in this distribution computed to the last full quarter percent shall be determined by dividing the interest earnings by the total invested assets of the fund. The excess of the annual interest earnings in the excess earnings reserve which was not credited to the various accounts shall be credited to the gross interest earnings for the next succeeding year.

Sec. 3. Minnesota Statutes 2008, section 354.091, is amended to read:

354.091 SERVICE CREDIT.

Subdivision 1. **Definition; monthly base salary.** For purposes of this section, "monthly base salary" means the annual base salary, as defined in section 354.05, subdivision 41, divided by 12.

Subd. 2. **Service credit annual limit.** (a) ~~In computing service credit, No teacher may receive credit for more than one year of teaching service for any fiscal year. Additionally, in crediting allowable service:~~

~~(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;~~

~~(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;~~

~~(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and~~

~~(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year in the same relationship as the period of service performed bears to 170 days.~~

~~(b) A teacher must receive a full year of service credit based on the number of days in the employer's full school year if that school year is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.~~

~~(c) A teacher must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting teaching service and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.~~

Subd. 3. **Service credit calculation.** (a) Except as specified in subdivisions 4 and 5, service credit must be calculated monthly by dividing the teacher's monthly salary by the monthly base salary for the teacher's employing unit and multiplying the result by 11.1 percent.

(b) For purposes of computing service credit, salary must be allocated to each calendar month based on the pay period begin and end dates. If the pay period covers more than one calendar month, the salary must be allocated based on the number of days in each calendar month.

(c) A teacher may not receive more than 11.1 percent of a year's service credit in a calendar month.

(d) Annual service credit must be calculated by adding the allowable monthly service credit for all 12 months of the fiscal year, with the result rounded to two decimal places, subject to the annual

limit specified in subdivision 2.

Subd. 4. Service credit determination for Minnesota State Colleges and Universities system teachers. ~~(d)~~ For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full-time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1; and

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

~~(3) in no case may a member receive more than one year of service credit for any fiscal year.~~

Subd. 5. Service credit procedure, nontraditional schedules. For employer units that have nontraditional work schedules or pay schedules, the procedure for determining service credit must be specified by the executive director with the approval of the board of trustees.

EFFECTIVE DATE. This section is effective for teaching service performed after June 30, 2012.

Sec. 4. Minnesota Statutes 2009 Supplement, section 354.52, subdivision 4b, is amended to read:

Subd. 4b. Payroll cycle reporting requirements. An employing unit shall provide the following data to the association for payroll warrants on an ongoing basis within 14 calendar days after the date of the payroll warrant in a format prescribed by the executive director:

- (1) association member number;
- (2) employer-assigned employee number;
- (3) Social Security number;
- (4) amount of each salary deduction;
- (5) amount of salary as defined in section 354.05, subdivision 35, from which each deduction was made;
- (6) reason for payment;
- ~~(7) service credit;~~
- ~~(8)~~ (7) the beginning and ending dates of the payroll period covered and the date of actual payment;
- ~~(9)~~ (8) fiscal year of salary earnings;
- ~~(10)~~ (9) total remittance amount including employee, employer, and additional employer contributions;

~~(11)~~ (10) reemployed annuitant salary under section 354.44, subdivision 5; and

~~(12)~~ (11) other information as may be required by the executive director.

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

Sec. 5. Minnesota Statutes 2008, section 354.52, is amended by adding a subdivision to read:

Subd. 4d. **Annual base salary reporting.** An employing unit must provide the following data to the association on or before June 30 of each fiscal year:

(1) annual base salary, as defined in section 354.05, subdivision 41; and

(2) beginning and ending dates for the regular school work year.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 354.52, subdivision 6, is amended to read:

Subd. 6. **Noncompliance consequences.** (a) An employing unit that does not comply with the reporting requirements under subdivision 2a, 4a, ~~or 4b,~~ or 4d, must pay a fine of \$5 per calendar day until the association receives the required data.

(b) If the annual base salary required to be reported under subdivision 4d has not been settled or determined as of June 16, the fine commences if the annual base salary has not been reported to the association within 14 days following the settlement date.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 7. Minnesota Statutes 2008, section 354.66, subdivision 3, is amended to read:

Subd. 3. **Part-time teaching position, defined.** (a) For purposes of this section, the term "part-time teaching position" means a teaching position within the district in which the teacher is employed ~~for at least 50 full days or a fractional equivalent thereof as prescribed in section 354.091, and for which the teacher is~~ compensated ~~in~~ for an amount of at least 30 percent, but not exceeding 80 percent of the compensation established by the board for a full-time teacher with identical education and experience with the employing unit.

(b) For a teacher to which subdivision 1c, paragraph (b), applies, the term "part-time teaching position" means a teaching position within the district in which the teacher is employed ~~for at least 25 full days or a fractional equivalent thereof as prescribed in section 354.091, and for which the teacher is~~ compensated ~~in~~ for an amount of at least 15 percent, but not exceeding 40 percent of the compensation established by the board for a full-time teacher, with identical education and experience with the employing unit.

EFFECTIVE DATE. This section is effective for service provided after June 30, 2012.

ARTICLE 8

MNSCU IRAP ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2008, section 11A.04, is amended to read:

11A.04 DUTIES AND POWERS.

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 if state assets are involved and in accordance with chapter 356A if pension assets are involved.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board are not subject to the Administrative Procedure Act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the commissioner of management and budget to sell property other than money that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property must be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. Public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8, of the Constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs of employing private firms. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

(14) Adopt a compensation plan setting the terms and conditions of employment for unclassified board employees who are not covered by a collective bargaining agreement.

(15) Contract, as necessary, with the board of trustees of the Minnesota State Universities and Colleges System for the provision of investment review and selection services under section 354B.25, subdivision 3, and arrange for the receipt of payment for those services.

There is annually appropriated to the state board, from the assets of the funds for which the state board provides investment services, sums sufficient to pay the costs of all necessary expenses for the administration of the board. These sums will be deposited in the State Board of Investment operating account, which must be established by the commissioner of management and budget.

Sec. 2. Minnesota Statutes 2008, section 354B.25, subdivision 1, is amended to read:

Subdivision 1. **General governance.** The individual retirement account plan is the administrative responsibility of the Board of Trustees of the Minnesota State Colleges and Universities. The Board of Trustees of the Minnesota State Colleges and Universities may administer the plan directly or may contract out for administrative services with a qualified third-party plan administrative entity and may contract out for investment review and selection service.

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

Sec. 3. Minnesota Statutes 2008, section 354B.25, subdivision 3, is amended to read:

Subd. 3. **Selection of financial institutions.** (a) The investment options provided under subdivision 2 must be selected by the board. The board may contract with the State Board of Investment or with a third party to provide the investment review and selection services. The board must not contract with a third party to provide the investment option review and selection services if the third party markets, offers, or has other material interest in investment products. The board must require any third party contracted to provide investment review and selection services to disclose to the board any contracts for services and any financial relationships it has with vendors under consideration to provide investment products under the plan.

In making its selection, at a minimum, the ~~State board of Investment~~ shall consider the following:

(1) the experience and ability of the financial institution to provide benefits and products that are suited to meet the needs of plan participants;

(2) the relationship of those benefits and products provided by the financial institution to their cost;

(3) the financial strength and stability of the financial institution; and

(4) the fees and expenses associated with the investment products in comparison to other products of similar risk and rates of return.

(b) After selecting a financial institution, the ~~State board of Investment~~ must periodically review each financial institution and the offered products. The periodic review must occur at least every three years. In making its review, the ~~State board of Investment~~ may retain appropriate consulting services to assist it in its periodic review, establish a budget for the cost of the periodic review process, and charge a proportional share of these costs to the reviewed financial institution.

(c) Contracts with financial institutions under this section must be executed by the board ~~and must be approved by the State Board of Investment before execution.~~

~~(d) The State Board of Investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out the provisions of this subdivision.~~

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

Sec. 4. Minnesota Statutes 2008, section 354C.14, is amended to read:

354C.14 INVESTMENT OF DEDUCTIONS AND CONTRIBUTIONS.

(a) The Board of Trustees of the Minnesota State Colleges and Universities shall invest the deductions and contributions under section 354C.12, after deduction of administrative expenses under section 354C.12, subdivision 4, in annuity contracts or custodial accounts from financial institutions selected ~~by the State Board of Investment~~ under section 354B.25, subdivision 3.

(b) The retirement contributions and death benefits provided by annuity contracts or custodial accounts purchased by the Board of Trustees of the Minnesota State Colleges and Universities are owned by the supplemental retirement plan and must be paid in accordance with those annuity contracts or custodial account agreements.

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

Sec. 5. **REPEALER.**

Minnesota Statutes 2008, section 354C.15, is repealed.

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

ARTICLE 9

ACTUARIAL VALUATION REPORTING DEADLINE DATES

Section 1. Minnesota Statutes 2008, section 356.215, subdivision 3, is amended to read:

Subd. 3. **Reports.** (a) The actuarial valuations required annually must be made as of the beginning of each fiscal year.

(b) Two copies of the completed valuation must be delivered to the executive director of the Legislative Commission on Pensions and Retirement, to the commissioner of management and budget, and to the Legislative Reference Library. The copies of the actuarial valuation must be filed with the executive director of the Legislative Commission on Pensions and Retirement, the commissioner of management and budget, and the Legislative Reference Library no later than the last day of the sixth month occurring after the end of the previous fiscal year.

(c) Two copies of a quadrennial experience study must be filed with the executive director of the Legislative Commission on Pensions and Retirement, with the commissioner of management and budget, and with the Legislative Reference Library, not later than the ~~first~~ last day of the 12th month occurring after the end of the last fiscal year of the four-year period which the experience study covers.

(d) For actuarial valuations and experience studies prepared at the direction of the Legislative

Commission on Pensions and Retirement, ~~two copies~~ one copy of the document must be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

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

ARTICLE 10

EARLY RETIREMENT INCENTIVE MODIFICATIONS

Section 1. Minnesota Statutes 2008, section 356.351, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** (a) An eligible appointing authority may offer the early retirement incentive in this section to an employee who:

(1) has at least 15 years of allowable service in one or more of the funds listed in section 356.30, subdivision 3, or has at least 15 years of coverage by the individual retirement account plan governed by chapter 354B employment as indicated in the personnel records of the applicable employing unit and upon retirement is immediately eligible for a retirement annuity or benefit from one or more of these funds retirement plan governed by chapter 354B or section 356.30;

(2) terminates service after the effective date of this section, and before ~~July 15, 2009~~ October 1, 2012; and

(3) is not in receipt of a public retirement plan retirement annuity, retirement allowance, or service pension during the month preceding the termination of qualified employment; and

(4) has not been eligible to receive a retirement annuity for a period longer than ten years.

(b) An eligible appointing authority is any Minnesota governmental employing unit which employs one or more employees with retirement coverage by a retirement plan listed in section 356.30 by virtue of that employment.

(c) An elected official is not eligible to receive an incentive under this section.

(d) Employees of the Minnesota State Colleges and Universities System who participate in the incentive program under section 136F.481 are not eligible for the incentive under this section.

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

Sec. 2. Minnesota Statutes 2009 Supplement, section 356.351, subdivision 2, is amended to read:

Subd. 2. **Incentive.** (a) For an employee who is eligible under subdivision 1, if for whom an early retirement incentive is approved under paragraph (b), and who terminates employment as provided for in the agreement, the employer may provide an amount up to \$17,000, to an employee who terminates service, to:

(1) a severance amount in lieu of and not to exceed the maximum amount of regular state-provided unemployment compensation for that particular person if the person had been laid off; and

(2) an additional severance amount not to exceed the amount of the employer's contribution for health insurance, dental insurance, and basic life insurance that would have been payable to the

particular person under the applicable collective bargaining agreement or personnel policy at the time of termination.

(b) The severance amounts under paragraph (a) must be used:

(1) unless the appointing authority has designated the use under clause (2) or the use under clause (3) for the initial retirement incentive applicable to that employing entity under Laws 2007, chapter 134, after May 26, 2007, for deposit in the employee's account in the health care savings plan established by section 352.98;

(2) notwithstanding section 352.01, subdivision 11, or 354.05, subdivision 13, whichever applies, if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to that employing entity under Laws 2007, chapter 134, after May 26, 2007, for purchase of service credit for unperformed service sufficient to enable the employee to retire under section 352.116, subdivision 1, paragraph (b); 353.30; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies; or

(3) if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to the employing entity under Laws 2007, chapter 134, after May 26, 2007, for purchase of a lifetime annuity or an annuity for a specific number of years from the applicable retirement plan to provide additional benefits, as provided in paragraph (d).

~~(b)~~ (c) Approval to provide the incentive must be obtained from the commissioner of finance if the eligible employee is a state employee and must be obtained from the applicable governing board with respect to any other employing entity. An employee is eligible for the payment under paragraph ~~(a)~~ (b), clause (2), if the employee uses money from a deferred compensation account that, combined with the payment under paragraph ~~(a)~~ (b), clause (2), would be sufficient to purchase enough service credit to qualify for retirement under section 352.116, subdivision 1, paragraph (b); 353.30, subdivision 1a; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies.

~~(e)~~ (d) The cost to purchase service credit under paragraph ~~(a)~~ (b), clause (2), must be made in accordance with section 356.551.

~~(d)~~ (e) An annuity purchase under paragraph ~~(a)~~ (b), clause (3), must be made using annuity factors, as determined by the actuary retained under section 356.214, derived from the applicable factors used by the applicable retirement plan to calculate optional annuity forms. The purchased annuity must be the actuarial equivalent of the incentive amount.

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

Sec. 3. Laws 2006, chapter 271, article 3, section 43, as amended by Laws 2007, chapter 134, article 11, section 11, the effective date, is amended to read:

EFFECTIVE DATE. ~~(a)~~ This section is effective the day following final enactment.

~~(b) This section expires on July 15, 2009.~~

EFFECTIVE DATE. This section is effective retroactively from July 2, 2009.

ARTICLE 11

**OPTIONAL ANNUITY REVOCATION FOLLOWING CERTAIN MARRIAGE
DISSOLUTIONS**

**Section 1. [356.48] REVOCATION OF OPTIONAL ANNUITY DUE TO MARRIAGE
DISSOLUTION OR ANNULMENT.**

Subdivision 1. **Covered plans.** This section applies to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the state patrol retirement plan established under chapter 352B;

(4) the unclassified state employees retirement program of the Minnesota State Retirement System established under chapter 352D;

(5) the general employee retirement plan of the Public Employees Retirement Association established under chapter 353;

(6) the public employees police and fire retirement plan established under chapter 353;

(7) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(8) the Teachers Retirement Association established under chapter 354; and

(9) the uniform judicial retirement plan established under chapter 490.

Subd. 2. **Treatment.** (a) The treatment specified in this section applies if, after the accrual date of an annuity or benefit from an applicable plan or plans, a marriage dissolution decree or annulment decree is rendered that specifies that the designation of an optional annuity must be revoked and if the other requirements specified in this section are satisfied.

(b) Notwithstanding any law to the contrary, if the applicable pension plan or plans have provisions of law that revise the monthly benefit amount payable to the primary annuitant upon the death of the individual named as the optional joint annuitant, the monthly benefit amount must be recomputed as though the individual that had been named as the optional joint annuitant died on the date a certified copy of the marriage dissolution or annulment decree is received by the chief administrative officer. Payment of any benefit adjustment under this section is prospective only.

Subd. 3. **Restrictions.** (a) This section does not apply if the marriage dissolution decree or annulment decree is not consistent with the requirements under section 518.58.

(b) The pension plan benefit recipient must not designate, and the court may not require that the member designate, a subsequent optional annuity beneficiary.

(c) This section does not apply if more than one surviving individual was named as an optional joint annuitant.

Subd. 4. **Submission of documentation.** To receive the treatment provided in this section, an

eligible retiree or disabilitant must provide, to the chief administrative officer of the applicable pension plan, a certified copy of the marriage dissolution or annulment decree. The retiree or disabilitant and the joint annuitant must also submit a form, prescribed by the chief administrative officer of the applicable pension plan and signed by both individuals, requesting the annuity bounce back as provided in subdivision 2. The individuals must also provide any other documentation the chief administrative officer may request.

EFFECTIVE DATE. This section is effective the day following final enactment and applies retroactively to any marriage dissolution decree or annulment decree requiring the revocation of an optional annuity form granted at any time prior to the date of enactment.

Sec. 2. Minnesota Statutes 2008, section 518.58, subdivision 3, is amended to read:

Subd. 3. Sale or distribution while proceeding pending. (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding. ~~If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.~~

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties, provided that the court shall fully protect the interests of the other party.

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

Sec. 3. Minnesota Statutes 2008, section 518.58, subdivision 4, is amended to read:

Subd. 4. Pension plans. (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump-sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit

becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

(c) If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(d) If sufficient liquid or readily liquidated marital property other than property representing vested pension benefits or rights is not available, the court may order the revocation of the designation of an optional annuity beneficiary in pension plans specified in section 356.48 or in any other pension plan in which plan-governing law or governing documents allow revocation of an optional annuity in marital dissolution or annulment situations.

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

(b) This section applies retroactively, for plans specified in section 365.48, to any marriage dissolution decree or annulment decree requiring the revocation of an optional annuity form granted at any time prior to the date of enactment.

ARTICLE 12

ADMINISTRATIVE CONSOLIDATION OF THE MINNEAPOLIS EMPLOYEES RETIREMENT FUND INTO THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) Public employees whose salary from employment in one or more positions within one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary is less than \$425 in a subsequent month, the employee retains membership eligibility. Eligible public employees shall participate as members of the association with retirement coverage by the ~~public general~~ employees retirement plan ~~or under this chapter~~, the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies, as a condition of their employment on the first day of employment unless they:

(1) are specifically excluded under subdivision 2b;

(2) do not exercise their option to elect retirement coverage in the association as provided in subdivision 2d, paragraph (a); or

(3) are employees of the governmental subdivisions listed in subdivision 2d, paragraph (b), where the governmental subdivision has not elected to participate as a governmental subdivision covered by the association.

(b) A public employee who was a member of the association on June 30, 2002, based on

employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) Public employees under paragraph (a) include:

(1) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(2) full-time employees of the Dakota County Agricultural Society; and

(3) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elect Public Employee Retirement Association general plan coverage under Laws 2009, chapter 169, article 12, section 10.

(d) For the purpose of participation in the MERF division of the general employees retirement plan, public employees include employees who were members of the former Minneapolis Employees Retirement Fund on June 29, 2010, and who participate as members of the MERF division of the association.

Sec. 2. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** The following public employees are not eligible to participate as members of the association with retirement coverage by the public general employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office commences on or after July 1, 2002, for the service to be rendered in that elective position;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, ~~the Minneapolis Employees Retirement Fund,~~ or any police or firefighters relief association governed by section 69.77 that

has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals or clinics;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County or Hennepin Healthcare System, Inc., foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public general employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who

is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public general employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the Metropolitan Airports Commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

Sec. 3. Minnesota Statutes 2008, section 353.01, is amended by adding a subdivision to read:

Subd. 47. **MERF division.** "MERF division" means the separate retirement plan within the general employees retirement plan of the Public Employees Retirement Association containing the

applicable provisions of Minnesota Statutes 2008, chapter 422A.

Sec. 4. Minnesota Statutes 2008, section 353.01, is amended by adding a subdivision to read:

Subd. 48. **MERF division account.** "MERF division account" means the separate account within the retirement fund of the general employees retirement fund of the Public Employees Retirement Association in which the actuarial liabilities of the former Minneapolis Employees Retirement Fund are held, and in which the assets of the former Minneapolis Employees Retirement Fund are credited.

Sec. 5. Minnesota Statutes 2008, section 353.05, is amended to read:

353.05 CUSTODIAN OF FUNDS.

The commissioner of management and budget shall be ex officio treasurer of the retirement funds of the association, including the MERF division, and the general bond of the commissioner of management and budget to the state ~~shall~~ must be so conditioned as to cover all liability for acts as treasurer of these funds. All ~~moneys~~ money of the association received by the commissioner of management and budget ~~shall~~ must be set aside in the state treasury to the credit of the proper fund or account. The commissioner of management and budget shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the ~~fund~~ funds, including the MERF division. Payments out of the fund ~~shall~~ funds, including the MERF division, may only be made ~~only~~ on warrants issued by the commissioner of management and budget, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the ~~secretary~~ executive director of the State Board of Investment.

Sec. 6. Minnesota Statutes 2009 Supplement, section 353.06, is amended to read:

353.06 STATE BOARD OF INVESTMENT TO INVEST FUNDS.

The executive director shall from time to time certify to the State Board of Investment for investment such portions of the ~~retirement fund~~ funds of the association, including the MERF division, as in its the director's judgment may not be required for immediate use. The State Board of Investment shall thereupon invest and reinvest the sum so certified, or transferred, in such securities as are duly authorized as legal investments ~~for state employees retirement fund~~ under section 11A.24 and shall have has authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the ~~board of trustees~~ executive director when such funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities under chapter 11A must apply to the accounting, purchase and sale of securities for the funds of the Public Employees Retirement fund Association, including the MERF division.

Sec. 7. Minnesota Statutes 2008, section 353.27, as amended by Laws 2009, chapter 169, article 1, section 32, and article 4, sections 9, 10, 11, and 12, is amended to read:

353.27 PUBLIC GENERAL EMPLOYEES RETIREMENT FUND.

Subdivision 1. **Income; disbursements.** There is a special fund known as the "public general employees retirement fund," the "retirement fund," or the "fund," which must include all the assets of the general employees retirement plan of the association. This fund must be credited with all contributions, all interest and all other income of the general employees retirement plan of the Public

Employees Retirement Association that are authorized by law. From this fund there is appropriated the payments authorized by this chapter sections 353.01 to 353.46 in the amounts and at such time provided herein, including the expenses of administering the general employees retirement plan and fund.

Subd. 1a. **MERF division account established; revenue and disbursements.** The MERF division account is established as a special account. The MERF division account includes all of the assets of the former Minneapolis Employees Retirement Fund that were transferred to the administration of the Public Employees Retirement Association under section 353.50. The special account is credited with the contributions under section 353.50, subdivision 7, state aid under sections 356.43 and 422A.101, subdivision 3, investment performance on the special account assets, and all other income of the MERF division authorized by law. The payments of annuities and benefits authorized by chapter 422A in the amounts and at the times provided in that chapter, and the administrative expenses of the MERF division are appropriated from the special account.

Subd. 2. **General employees retirement plan; employee contribution.** (a) For a basic member of the general employees retirement plan of the Public Employees Retirement Association, the employee contribution is 9.10 percent of salary. For a coordinated member of the general employees retirement plan of the Public Employees Retirement Association, the employee contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

(b) These contributions must be made by deduction from salary as defined in section 353.01, subdivision 10, in the manner provided in subdivision 4. If any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the total salary received by the member from all sources.

Subd. 3. **General employees retirement plan; employer contribution.** (a) For a basic member of the general employees retirement plan of the Public Employees Retirement Association, the employer contribution is 9.10 percent of salary. For a coordinated member of the general employees retirement plan of the Public Employees Retirement Association, the employer contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

(b) This contribution must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 3a. **Additional employer contribution.** (a) An additional employer contribution to the general employees retirement fund of the Public Employees Retirement Association must be made equal to the following applicable percentage of the total salary amount for "basic members" and for "coordinated members":

	Basic Program	Coordinated Program
Effective before January 1, 2006	2.68	.43
Effective January 1, 2006	2.68	.50
Effective January 1, 2009	2.68	.75
Effective January 1, 2010	2.68	1.00

These contributions must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

(b) The coordinated program contribution rates set forth in paragraph (a) effective for ~~January 1, 2009, or~~ January 1, 2010, must not be implemented if, following receipt of the ~~July 1, 2008, or~~ July 1, 2009, annual actuarial valuation ~~reports~~ report under section 356.215, respectively, the actuarially required contributions are equal to or less than the total rates under this section in effect as of January 1, 2008.

(c) This subdivision is repealed once the actuarial value of the assets of the general employees retirement plan of the Public Employees Retirement Association equal or exceed the actuarial accrued liability of the plan as determined by the actuary retained under sections 356.214 and 356.215. The repeal is effective on the first day of the first full pay period occurring after March 31 of the calendar year following the issuance of the actuarial valuation upon which the repeal is based.

Subd. 3b. **Change in employee and employer contributions in certain instances.** (a) For purposes of this section, a contribution sufficiency exists if the total of the employee contribution under subdivision 2, the employer contribution under subdivision 3, the additional employer contribution under subdivision 3a, and any additional contribution previously imposed under this subdivision exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the general employees retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement. For purposes of this section, a contribution deficiency exists if the total of the employee contributions under subdivision 2, the employer contributions under subdivision 3, the additional employer contribution under subdivision 3a, and any additional contribution previously imposed under this subdivision is less than the total of the normal cost, the administrative expenses, and the amortization contribution of the general employees retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) Employee and employer contributions to the general employees retirement plan under subdivisions 2 and 3 must be adjusted:

(1) if, after July 1, 2010, the regular actuarial valuations of the general employees retirement plan of the Public Employees Retirement Association under section 356.215 indicate that there is a contribution sufficiency under paragraph (a) equal to or greater than 0.5 percent of covered payroll for two consecutive years, the coordinated program employee and employer contribution rates must be decreased as determined under paragraph (c) to a level such that the sufficiency equals no more than 0.25 percent of covered payroll based on the most recent actuarial valuation; or

(2) if, after July 1, 2010, the regular actuarial valuations of the general employees retirement plan of the Public Employees Retirement Association under section 356.215 indicate that there is a deficiency equal to or greater than 0.5 percent of covered payroll for two consecutive years, the coordinated program employee and employer contribution rates must be increased as determined under paragraph (c) to a level such that no deficiency exists based on the most recent actuarial valuation.

(c) The general employees retirement plan contribution rate increase or decrease must be determined by the executive director of the Public Employees Retirement Association, must be

reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution of the general employees retirement plan exceeds or is less than the total support provided by the combined employee and employer contribution rates by more than 0.5 percent of covered payroll, the general employees retirement plan coordinated program employee and employer contribution rates must be adjusted incrementally over one or more years to a level such that there remains a contribution sufficiency of no more than 0.25 percent of covered payroll.

(d) No incremental adjustment may exceed 0.25 percent for either the general employees retirement plan coordinated program employee and employer contribution rates per year in which any adjustment is implemented. A general employees retirement plan contribution rate adjustment under this subdivision must not be made until at least two years have passed since fully implementing a previous adjustment under this subdivision.

(e) The general employees retirement plan contribution sufficiency or deficiency determination under paragraphs (a) to (d) must be made without the inclusion of the contributions to, the funded condition of, or the actuarial funding requirements of the MERF division.

Subd. 4. **Employer reporting requirements; contributions; member status.** (a) A representative authorized by the head of each department shall deduct employee contributions from the salary of each employee who qualifies for membership in the general employees retirement plan of the Public Employees Retirement Association or in the public employees police and fire retirement plan under this chapter and remit payment in a manner prescribed by the executive director for the aggregate amount of the employee contributions, the employer contributions and the additional employer contributions to be received within 14 calendar days. The head of each department or the person's designee shall for each pay period submit to the association a salary deduction report in the format prescribed by the executive director. Data required to be submitted as part of salary deduction reporting must include, but are not limited to:

- (1) the legal names and Social Security numbers of employees who are members;
 - (2) the amount of each employee's salary deduction;
 - (3) the amount of salary from which each deduction was made;
 - (4) the beginning and ending dates of the payroll period covered and the date of actual payment;
- and
- (5) adjustments or corrections covering past pay periods.

(b) Employers must furnish the data required for enrollment for each new employee who qualifies for membership in the general employees retirement plan of the Public Employees Retirement Association or in the public employees police and fire retirement plan in the format prescribed by the executive director. The required enrollment data on new employees must be submitted to the association prior to or concurrent with the submission of the initial employee salary deduction. The employer shall also report to the association all member employment status changes,

such as leaves of absence, terminations, and death, and shall report the effective dates of those changes, on an ongoing basis for the payroll cycle in which they occur. The employer shall furnish data, forms, and reports as may be required by the executive director for proper administration of the retirement system. Before implementing new or different computerized reporting requirements, the executive director shall give appropriate advance notice to governmental subdivisions to allow time for system modifications.

(c) Notwithstanding paragraph (a), the ~~association~~ executive director may provide for less frequent reporting and payments for small employers.

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except as provided in paragraph (b), erroneous employee deductions and erroneous employer contributions and additional employer contributions to the general employees retirement plan of the Public Employees Retirement Association or to the public employees police and fire retirement plan for a person, who otherwise does not qualify for membership under this chapter, are considered:

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may continue membership in the association while employed in the same position for which erroneous deductions were taken, or file a written election to terminate membership and apply for a refund upon termination of public service or defer an annuity under section 353.34; or

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall refund all erroneous employee deductions and all erroneous employer contributions as specified in paragraph (e). No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990.

(b) Erroneous deductions taken from the salary of a person who did not qualify for membership in the general employees retirement plan of the Public Employees Retirement Association or in the public employees police and fire retirement plan by virtue of concurrent employment before July 1, 1978, which required contributions to another retirement fund or relief association established for the benefit of officers and employees of a governmental subdivision, are invalid. Upon discovery of the error, the association shall remove all invalid service and, upon termination of public service, the association shall refund all erroneous employee deductions to the person, with interest as determined under section 353.34, subdivision 2, and all erroneous employer contributions without interest to the employer. This paragraph has both retroactive and prospective application.

(c) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 353.01, subdivision 10, must be made as specified in paragraph (e). The period of adjustment must be limited to the fiscal year in which the error is discovered by the association and the immediate two preceding fiscal years.

(d) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than provided for under paragraph (c).

(e) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), clause (2), or paragraph (c), the association must require the employer to

discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of a member. Upon discontinuation, the association must:

(1) for a member, provide a refund or credit to the employer in the amount of the invalid employee deductions with interest on the invalid employee deductions at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; and the employer must pay the refunded employee deductions plus interest to the member;

(2) for a former member who:

(i) is not receiving a retirement annuity or benefit, return the erroneous employee deductions to the former member through a refund with interest at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; or

(ii) is receiving a retirement annuity or disability benefit, or a person who is receiving an optional annuity or survivor benefit, for whom it has been determined an overpayment must be recovered, adjust the payment amount and recover the overpayments as provided under this section; and

(3) return the invalid employer contributions reported on behalf of a member or former member to the employer by providing a credit against future contributions payable by the employer.

(f) In the event that a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or any portion of it that is required to adjust the deductions, must be made to the department or institution.

(g) If the accrual date of any retirement annuity, survivor benefit, or disability benefit is within the limitation period specified in paragraph (c), and an overpayment has resulted by using invalid service or salary, or due to any erroneous calculation procedure, the association must recalculate the annuity or benefit payable and recover any overpayment as provided under subdivision 7b.

(h) Notwithstanding the provisions of this subdivision, the association may apply the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the member refund or overpayment.

(i) Any fees or penalties assessed by the federal Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

Subd. 7a. Deductions or contributions transmitted by error. (a) If employee deductions and employer contributions under this section, section 353.50, 353.65, or 353E.03 were erroneously transmitted to the association, but should have been transmitted to another Minnesota public pension plan, the executive director shall transfer the erroneous employee deductions and employer contributions to the appropriate retirement fund or individual account, as applicable, without interest. The time limitations specified in subdivisions 7 and 12 do not apply.

(b) For purposes of this subdivision, a Minnesota public pension plan means a plan specified in

section 356.30, subdivision 3, or the plans governed by chapters 353D and 354B.

(c) A potential transfer under paragraph (a) that is reasonably determined to cause the plan to fail to be a qualified plan under section 401(a) of the federal Internal Revenue Code, as amended, must not be made by the executive director of the association. Within 30 days after being notified by the Public Employees Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan, or to the applicable individual account if the proper coverage is by a defined contribution plan. The association must provide the employing unit a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer. If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary.

Subd. 7b. Recovery of overpayments. (a) In the event the executive director determines that an overpaid annuity or benefit ~~that~~ from the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, or the local government correctional employees retirement plan is the result of invalid salary included in the average salary used to calculate the payment amount must be recovered, the association must determine the amount of the employee deductions taken in error on the invalid salary, with interest determined in the manner provided for a former member under subdivision 7, paragraph (e), clause (2), item (i), and must subtract that amount from the total annuity or benefit overpayment, and the remaining balance of the overpaid annuity or benefit, if any, must be recovered.

(b) If the invalid employee deductions plus interest exceed the amount of the overpaid benefits, the balance must be refunded to the person to whom the benefit or annuity is being paid.

(c) Any invalid employer contributions reported on the invalid salary must be credited to the employer as provided in subdivision 7, paragraph (e).

(d) If a member or former member, who is receiving a retirement annuity or disability benefit for which an overpayment is being recovered, dies before recovery of the overpayment is completed and a joint and survivor optional annuity is payable, the remaining balance of the overpaid annuity or benefit must continue to be recovered from the payment to the optional annuity beneficiary.

(e) If the association finds that a refund has been overpaid to a former member, beneficiary or other person, the amount of the overpayment must be recovered for the benefit of the respective retirement fund or account.

(f) The board of trustees shall adopt policies directing the period of time and manner for the collection of any overpaid retirement or optional annuity, and survivor or disability benefit, or a refund that the executive director determines must be recovered as provided under this section.

Subd. 7c. Limitation on additional plan coverage. No deductions for any plan under this chapter or chapter 353E may be taken from the salary of a person who is employed by a governmental subdivision under section 353.01, subdivision 6, and who is receiving disability benefit payments from any plan under this chapter or chapter 353E unless the person waives the right to further disability benefit payments.

Subd. 8. **District court reporters; salary deductions.** Deductions from the salary of a district court reporter in a judicial district consisting of two or more counties ~~shall~~ must be made by the auditor of the county in which the bond and official oath of such district court reporter are filed, from the portion of salary paid by such county.

Subd. 9. **Fee officers; contributions; obligations of employers.** Any appointed or elected officer of a governmental subdivision who was or is a "public employee" within the meaning of section 353.01 and was or is a member of the ~~fund~~ general employees retirement plan of the Public Employees Retirement Association and whose salary was or is paid in whole or in part from revenue derived by fees and assessments, shall pay employee contribution in the amount, at the time, and in the manner provided in subdivisions 2 and 4. This subdivision ~~shall~~ does not apply to district court reporters. The employer contribution as provided in subdivision 3, and the additional employer contribution as provided in subdivision 3a, with respect to such service ~~shall~~ must be paid by the governmental subdivision. This subdivision ~~shall have~~ has both retroactive and prospective application as to all such members; and every employing governmental subdivision is deemed liable, retroactively and prospectively, for all employer and additional employer contributions for every such member of the general employees retirement plan in its employ. Delinquencies under this section ~~shall be~~ are governed in all respects by section 353.28.

Subd. 10. **Employer exclusion reports.** The head of a department shall annually furnish the executive director with an exclusion report listing only those employees in potentially PERA general employees retirement plan-eligible positions who were not reported as members of the ~~association~~ general employees retirement plan and who worked during the school year for school employees and calendar year for nonschool employees. The department head must certify the accuracy and completeness of the exclusion report to the association. The executive director shall prescribe the manner and forms, including standardized exclusion codes, to be used by a governmental subdivision in preparing and filing exclusion reports. The executive director shall also check the exclusion report to ascertain whether any omissions have been made by a department head in the reporting of new public employees for membership. The executive director may delegate an association employee under section 353.03, subdivision 3a, paragraph (b), clause (5), to conduct a field audit to review the payroll records of a governmental subdivision.

Subd. 11. **Employers; required to furnish requested information.** (a) All governmental subdivisions shall furnish promptly such other information relative to the employment status of all employees or former employees, including, but not limited to, payroll abstracts pertaining to all past and present employees, as may be requested by the executive director, including schedules of salaries applicable to various categories of employment.

(b) In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any employee or former employee for any period as may be requested by the executive director. If the association is provided a schedule of estimated earnings, the executive director is authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the general employees retirement fund plan, the public employees police and fire retirement plan, or the local government correctional employees retirement plan. If estimates are not furnished by the employer at the request of the executive director, the executive director may estimate the obligations of the employee and employer to the

general employees retirement fund, the public employees police and fire retirement plan, or the local government correctional employees retirement plan based upon those records that are in its possession.

Subd. 12. **Omitted salary deductions; obligations.** (a) In the case of omission of required deductions for the general employees retirement plan, the public employees police and fire retirement plan, or the local government correctional employees retirement plan from the salary of an employee, the department head or designee shall immediately, upon discovery, report the employee for membership and deduct the employee deductions under subdivision 4 during the current pay period or during the pay period immediately following the discovery of the omission. Payment for the omitted obligations may only be made in accordance with reporting procedures and methods established by the executive director.

(b) When the entire omission period of an employee does not exceed 60 days, the governmental subdivision may report and submit payment of the omitted employee deductions and the omitted employer contributions through the reporting processes under subdivision 4.

(c) When the omission period of an employee exceeds 60 days, the governmental subdivision shall furnish to the association sufficient data and documentation upon which the obligation for omitted employee and employer contributions can be calculated. The omitted employee deductions must be deducted from the employee's subsequent salary payment or payments and remitted to the association for deposit in the applicable retirement fund. The employee shall pay omitted employee deductions due for the 60 days prior to the end of the last pay period in the omission period during which salary was earned. The employer shall pay any remaining omitted employee deductions and any omitted employer contributions, plus cumulative interest at an annual rate of 8.5 percent compounded annually, from the date or dates each omitted employee contribution was first payable.

(d) An employer shall not hold an employee liable for omitted employee deductions beyond the pay period dates under paragraph (c), nor attempt to recover from the employee those employee deductions paid by the employer on behalf of the employee. Omitted deductions due under paragraph (c) which are not paid by the employee constitute a liability of the employer that failed to deduct the omitted deductions from the employee's salary. The employer shall make payment with interest at an annual rate of 8.5 percent compounded annually. Omitted employee deductions are no longer due if an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at an annual rate of 8.5 percent compounded annually from the date the contributions were first payable.

(e) The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. Except as provided under paragraph (b), no payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

Subd. 12a. **Terminated employees: omitted deductions.** A terminated employee who was a member of the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, or the local government correctional

employees retirement plan and who has a period of employment in which previously omitted employer contributions were made under subdivision 12 but for whom no, or only partial, omitted employee contributions have been made, or a member who had prior coverage in the association for which previously omitted employer contributions were made under subdivision 12 but who terminated service before required omitted employee deductions could be withheld from salary, may pay the omitted employee deductions for the period on which omitted employer contributions were previously paid plus interest at an annual rate of 8.5 percent compounded annually. A terminated employee may pay the omitted employee deductions plus interest within six months of an initial notification from the association of eligibility to pay those omitted deductions. If a terminated employee is reemployed in a position covered under a public pension fund under section 356.30, subdivision 3, and elects to pay omitted employee deductions, payment must be made no later than six months after a subsequent termination of public service.

Subd. 12b. **Terminated employees: immediate eligibility.** If deductions were omitted from salary adjustments or final salary of a terminated employee who was a member of the general employees retirement plan, the public employees police and fire retirement plan, or the local government correctional employees retirement plan and who is immediately eligible to draw a monthly benefit, the employer shall pay the omitted employer and employer additional contributions plus interest on both the employer and employee amounts due at an annual rate of 8.5 percent compounded annually. The employee shall pay the employee deductions within six months of an initial notification from the association of eligibility to pay omitted deductions or the employee forfeits the right to make the payment.

Subd. 13. **Certain warrants canceled.** A warrant payable from the general employees retirement fund, the public employees police and fire retirement fund, or the local government correctional retirement fund remaining unpaid for a period of six months must be canceled into the applicable retirement fund and not canceled into the state's general fund.

Subd. 14. **Periods before initial coverage date.** (a) If an entity is determined to be a governmental subdivision due to receipt of a written notice of eligibility from the association with respect to the general employees retirement plan, the public employees police and fire retirement plan, or the local government correctional retirement plan, that employer and its employees are subject to the requirements of subdivision 12, effective retroactively to the date that the executive director of the association determines that the entity first met the definition of a governmental subdivision, if that date predates the notice of eligibility.

(b) If the retroactive time period under paragraph (a) exceeds three years, an employee is authorized to purchase service credit in the applicable Public Employees Retirement Association plan for the portion of the period in excess of three years, by making payment under section 356.551. Notwithstanding any provision of section 356.551, subdivision 2, to the contrary, regarding time limits on purchases, payment of a service credit purchase amount may be made anytime before the termination of public service.

(c) This subdivision does not apply if the applicable employment under paragraph (a) included coverage by any public or private defined benefit or defined contribution retirement plan, other than a volunteer firefighters relief association. If this paragraph applies, an individual is prohibited from purchasing service credit from a Public Employees Retirement Association plan for any period or periods specified in paragraph (a).

Sec. 8. Minnesota Statutes 2008, section 353.34, subdivision 1, is amended to read:

Subdivision 1. **Refund or deferred annuity.** (a) A former member is entitled to a refund of accumulated employee deductions under subdivision 2, or to a deferred annuity under subdivision 3. Application for a refund may not be made before the date of termination of public service. Except as specified in paragraph (b), a refund must be paid within 120 days following receipt of the application unless the applicant has again become a public employee required to be covered by the association.

(b) If an individual was placed on layoff under section 353.01, subdivision 12 or 12c, a refund is not payable before termination of service under section 353.01, subdivision 11a.

(c) An individual who terminates public service covered by the Public Employees Retirement Association general employees retirement plan, the MERF division, the Public Employees Retirement Association police and fire retirement plan, or the public employees local government corrections service retirement plan, and who is employed by a different employer and who becomes an active member covered by one of the other two plans, may receive a refund of employee contributions plus six percent interest compounded annually from the plan from which the member terminated service.

Sec. 9. Minnesota Statutes 2008, section 353.34, subdivision 6, is amended to read:

Subd. 6. **Additions to fund.** The board of trustees may credit to the general employees retirement fund any ~~moneys~~ money received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise.

Sec. 10. Minnesota Statutes 2008, section 353.37, subdivision 1, is amended to read:

Subdivision 1. **Salary maximums.** (a) ~~The annuity of a person otherwise eligible for an annuity under this chapter from the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, or the local government correctional employees retirement plan must be suspended under subdivision 2 or reduced under subdivision 3, whichever results in the higher annual annuity amount, if the person reenters public service as a nonelective employee of a governmental subdivision in a position covered by this chapter or returns to work as an employee of a labor organization that represents public employees who are association members under this chapter and salary for the reemployment service exceeds the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal Old Age, Survivors and Disability Insurance Program as set by the secretary of health and human services under United States Code, title 42, section 403, in any calendar year. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum salary for the person is equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.~~

(b) The provisions of paragraph (a) do not apply to the members of the MERF division.

Sec. 11. Minnesota Statutes 2008, section 353.37, subdivision 2, is amended to read:

Subd. 2. **Suspension of annuity.** (a) The association shall suspend the annuity on the first of the month after the month in which the salary of the reemployed annuitant described in subdivision 1, paragraph (a), exceeds the maximums set in subdivision 1, paragraph (a), based only on those months in which the annuitant is actually employed in nonelective public service in a position covered under this chapter or employment with a labor organization that represents public employees who are

~~association~~ members of a retirement plan under this chapter or chapter 353E.

(b) An annuitant who is elected to public office after retirement may hold that office and receive an annuity otherwise payable from a retirement plan administered by the association.

Sec. 12. Minnesota Statutes 2008, section 353.37, subdivision 3, is amended to read:

Subd. 3. **Reduction of annuity.** (a) The association shall reduce the amount of the annuity of a person who has not reached the retirement age by one-half of the amount in excess of the applicable reemployment income maximum under subdivision 1, paragraph (a).

(b) There is no reduction upon reemployment, regardless of income, for a person who has reached the retirement age.

Sec. 13. Minnesota Statutes 2008, section 353.37, subdivision 4, is amended to read:

Subd. 4. **Resumption of annuity.** The association shall resume paying a full annuity to the reemployed annuitant described in subdivision 1, paragraph (a), at the start of each calendar year until the salary exceeds the maximums under subdivision 1, paragraph (a), or on the first of the month following the termination of the employment which resulted in the suspension of the annuity. The executive director may adopt policies regarding the suspension and reduction of annuities under this section.

Sec. 14. Minnesota Statutes 2008, section 353.37, subdivision 5, is amended to read:

Subd. 5. **Effect on annuity.** Except as provided under this section, public service performed by an annuitant described in subdivision 1, paragraph (a), subsequent to retirement under this chapter from the general employees retirement plan, the public employees police and fire retirement plan, or the local government correctional employees retirement plan does not increase or decrease the amount of an annuity. The annuitant shall not make any further contributions to the association's a defined benefit plan administered by the association by reason of this subsequent public service.

Sec. 15. Minnesota Statutes 2008, section 353.46, subdivision 2, is amended to read:

Subd. 2. **Rights of deferred annuitant.** The right entitlement of a deferred annuitant or other former member of the general employees retirement plan of the Public Employees Retirement Association, the Minneapolis Employees Retirement Fund division, the public employees police and fire retirement plan, or the local government correctional employees retirement plan to receive an annuity under the law in effect at the time such the person terminated public service is herein preserved; provided, however, The provisions of section 353.71, subdivision 2, as amended by Laws 1973, chapter 753 shall, apply to a deferred annuitant or other former member who first begins receiving an annuity after July 1, 1973.

Sec. 16. Minnesota Statutes 2008, section 353.46, subdivision 6, is amended to read:

Subd. 6. **Computation of benefits for certain coordinated members.** Any coordinated member of the general employees retirement plan of the Public Employees Retirement Association who prior to, before July 1, 1979, was a member of the former coordinated program of the former Minneapolis Municipal Employees Retirement Fund and who prior to, before July 1, 1978, was a member of the basic program of the Minneapolis Municipal Employees Retirement Fund shall:

~~(1) be~~ is entitled to receive a retirement annuity when otherwise qualified, the calculation of

which ~~shall~~ must utilize the formula accrual rates specified in section 422A.15, subdivision 1, for that portion of credited service which was rendered ~~prior to~~ before July 1, 1978, and the formula accrual rates specified in section 353.29, subdivision 3, for the remainder of credited service, both applied to the average salary as specified in section ~~353.29, subdivision 2~~ 353.01, subdivision 17a. The formula accrual rates to be used in calculating the retirement annuity ~~shall~~ must recognize the service after July 1, 1978, as a member of the former coordinated program of the ~~former~~ former Minneapolis Municipal Employees Retirement Fund and after July 1, 1979, as a member of the general employees retirement plan of the Public Employees Retirement Association as a continuation of service rendered ~~prior to~~ before July 1, 1978. The annuity amount attributable to service as a member of the basic program of the ~~former~~ former Minneapolis Municipal Employees Retirement Fund ~~shall be~~ is payable by ~~from the Minneapolis Employees Retirement Fund MERF division~~ and the annuity amount attributable to all other service ~~shall be~~ is payable by ~~from the general employees retirement fund of the Public Employees Retirement Association;~~

~~(2) retain eligibility when otherwise qualified for a disability benefit from the Minneapolis Employees Retirement Fund until July 1, 1982, notwithstanding coverage by the Public Employees Retirement Association, if the member has or would, without the transfer of retirement coverage from the basic program of the Minneapolis Municipal Employees Retirement Fund to the coordinated program of the Minneapolis Municipal Employees Retirement Fund or from the coordinated program of the Minneapolis Municipal Employees Retirement Fund to the public employees retirement fund, have sufficient credited service prior to January 1, 1983, to meet the minimum service requirements for a disability benefit pursuant to section 422A.18. The disability benefit amount attributable to service as a member of the basic program of the Minneapolis Municipal Employees Retirement Fund shall be payable by the Minneapolis Employees Retirement Fund and the disability benefit amount attributable to all other service shall be payable by the Public Employees Retirement Association.~~

Sec. 17. [353.50] MERF CONSOLIDATION ACCOUNT; ESTABLISHMENT AND OPERATION.

Subdivision 1. **Administrative consolidation.** (a) Notwithstanding any provision of this chapter or chapter 422A to the contrary, the administration of the Minneapolis Employees Retirement Fund as the MERF division is transferred to the Public Employees Retirement Association board of trustees. The assets, service credit, and benefit liabilities of the Minneapolis Employees Retirement Fund transfer to the MERF division account within the general employees retirement plan of the Public Employees Retirement Association established by section 353.27, subdivision 1a, on July 1, 2010.

(b) The creation of the MERF division must not be construed to alter the Social Security or Medicare coverage of any member of the former Minneapolis Employees Retirement Fund on June 29, 2010, while the person is employed in a position covered under the MERF division of the Public Employees Retirement Association.

Subd. 2. **Membership transfer.** Effective June 30, 2010, the active, inactive, and retired members of the Minneapolis Employees Retirement Fund are transferred to the MERF division administered by the Public Employees Retirement Association and are no longer members of the Minneapolis Employees Retirement Fund.

Subd. 3. **Service credit and benefit liability transfer.** (a) All allowable service credit and

salary credit of the members of the Minneapolis Employees Retirement Fund as specified in the records of the Minneapolis Employees Retirement Fund through June 30, 2010, are transferred to the MERF division of the Public Employees Retirement Association and are credited by the MERF division. Annuities or benefits of persons who are active members of the former Minneapolis Employees Retirement Fund on June 30, 2010, must be calculated under Minnesota Statutes 2008, sections 422A.11; 422A.12; 422A.13; 422A.14; 422A.15; 422A.151; 422A.155; 422A.156; 422A.16; 422A.17; 422A.18; 422A.19; 422A.20; and 422A.23, but are only eligible for automatic postretirement adjustments after December 31, 2010, under section 356.415.

(b) The liability for the payment of annuities and benefits of the Minneapolis Employees Retirement Fund retirees and benefit recipients as specified in the records of the Minneapolis Employees Retirement Fund on June 29, 2010, is transferred to the MERF division of the Public Employees Retirement Association on June 30, 2010.

Subd. 4. **Records transfer.** On June 30, 2010, the executive director of the Minneapolis Employees Retirement Fund shall transfer all records and documents relating to the Minneapolis Employees Retirement Fund and its benefit plan to the executive director of the Public Employees Retirement Association. To the extent possible, original copies of all records and documents must be transferred.

Subd. 5. **Transfer of title to assets.** On June 30, 2010, legal title to the assets of the Minneapolis Employees Retirement Fund transfers to the State Board of Investment and the assets must be invested under section 11A.14, as assets of the MERF division of the Public Employees Retirement Association. The MERF division is the successor in interest to all claims that the former Minneapolis Employees Retirement Fund may have or may assert against any person and is the successor in interest to all claims which could have been asserted against the former Minneapolis Employees Retirement Fund, but the MERF division is not liable for any claim against the former Minneapolis Employees Retirement Fund, its former governing board, or its former administrative staff acting in a fiduciary capacity under chapter 356A or under common law, which is founded upon a claim of breach of fiduciary duty, but where the act or acts constituting the claimed breach were not undertaken in good faith, the Public Employees Retirement Association may assert any applicable defense to any claim in any judicial or administrative proceeding that the former Minneapolis Employees Retirement Fund, its former board, or its former administrative staff would otherwise have been entitled to assert, and the Public Employees Retirement Association may assert any applicable defense that it has in its capacity as a statewide agency.

Subd. 6. **Benefits.** (a) The annuities and benefits of, or attributable to, retired, disabled, deferred, or inactive Minneapolis Employees Retirement Fund members with that status as of June 30, 2010, with the exception of post-December 31, 2010, postretirement adjustments, which are governed by paragraph (b), as calculated under Minnesota Statutes 2008, sections 422A.11; 422A.12; 422A.13; 422A.14; 422A.15; 422A.151; 422A.155; 422A.156; 422A.16; 422A.17; 422A.18; 422A.19; 422A.20; and 422A.23, continue in force after the administrative consolidation under this article.

(b) After December 31, 2010, annuities and benefits from the MERF division are eligible for annual automatic postretirement adjustments solely under section 356.415.

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

(b) An active member covered by the MERF division must make an employee contribution of

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

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

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

(e) Annually after June 30, 2012, The employer supplemental contribution to the MERF division account by the city of Minneapolis, Special School District No. 1, Minneapolis, a Minneapolis-owned public utility, improvement, or municipal activity, Hennepin county, the Metropolitan Council, the Metropolitan Airports Commission, and the Minnesota State Colleges and Universities system is the amount by which the total actuarial required contribution determined under section 356.215 by the approved actuary retained by the Public Employees Retirement Association in the most recent actuarial valuation of the MERF division and based on a June 30, 2031, amortization date, after subtracting the contributions under paragraphs (b), (c), and (d), exceeds \$36,500,000. Unless the various employing units agree to a different allocation and file that agreement with the executive director by August 15 for the following calendar year, each employing unit's share of the total employer supplemental contribution amount is equal to its percentage share of the total amount allocated under Minnesota Statutes 2008, section 422A.101, subdivision 3, payable for calendar year 2009. The initial total actuarial required contribution after June 30, 2012, must be calculated using the mortality assumption change recommended on September 30, 2009, for the Minneapolis Employees Retirement Fund by the approved consulting actuary retained by the Minneapolis Employees Retirement Fund board.

(f) Notwithstanding any provision of paragraph (c), (d), or (e) to the contrary, as of August 1 annually, if the amount of the retirement annuities and benefits paid from the MERF division account during the preceding fiscal year, multiplied by the factor of 1.035, exceeds the market value of the assets of the MERF division account on the preceding June 30, plus state aid of \$9,000,000 or \$36,500,000, whichever applies, plus the amounts payable under paragraphs (b), (c), (d), and (e) during the preceding fiscal year, multiplied by the factor of 1.035, the balance calculated is a special additional employer contribution. The special additional employer contribution under this paragraph is payable in addition to any employer contribution required under paragraphs (c), (d), and (e), and is payable on or before the following June 30. The special additional employer contribution under this paragraph must be allocated between the city of Minneapolis, Special School District No. 1, Minneapolis, any Minneapolis-owned public utility, improvement, or municipal activity, the Minnesota State Colleges and Universities system, Hennepin County, the Metropolitan Council, and the Metropolitan Airports Commission in proportion to their share of the actuarial accrued liability of the former Minneapolis Employees Retirement Fund as of July 1, 2009, as calculated by the approved actuary retained under section 356.214 as part of the actuarial valuation prepared as of

July 1, 2009, under section 356.215 and the Standards for Actuarial Work adopted by the Legislative Commission on Pensions and Retirement.

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

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

Subd. 7a. **Minneapolis Municipal Retirement Association dues.** If authorized by an annuitant or retirement benefit recipient in writing on a form prescribed by the executive director of the Public Employees Retirement Association, the executive director shall deduct the dues for the Minneapolis Municipal Retirement Association from the person's annuity or retirement benefit. This dues deduction authority expires upon the eventual full consolidation of the MERF account under subdivision 8.

Subd. 8. **Eventual full consolidation.** (a) Once the fiscal year end market value of assets of the MERF division account equals or exceeds 80 percent of the actuarial accrued liability of the MERF division as calculated by the approved actuary retained by the Public Employees Retirement Association under section 356.215 and the Standards for Actuarial Work adopted by the Legislative Commission on Pensions and Retirement, the MERF division must be merged with the general employees retirement plan of the Public Employees Retirement Association and the MERF division account ceases as a separate account within the general employees retirement fund of the Public Employees Retirement Association.

(b) If the market value of the MERF division account is less than 100 percent of the actuarial accrued liability of the MERF division under paragraph (a), the total employer contribution of employing units referenced in subdivision 7, paragraph (e), for the period after the full consolidation and June 30, 2031, to amortize on a level annual dollar payment the remaining unfunded actuarial accrued liability of the former MERF division account on the full consolidation date by June 30, 2031, shall be calculated by the consulting actuary retained under section 356.214 using the applicable postretirement interest rate actuarial assumption for the general employees retirement plan under section 356.215. The actuarial accrued liability of the MERF division must be calculated using the healthy retired life mortality assumption applicable to the general employees retirement plan.

(c) The merger shall occur as of the first day of the first month after the date on which the triggering actuarial valuation report is filed with the executive director of the Legislative Commission on Pensions and Retirement.

(d) The executive director of the Public Employees Retirement Association shall prepare proposed legislation fully implementing the merger and updating the applicable provisions of chapters 353 and 356 and transmit the proposed legislation to the executive director of the Legislative Commission on Pensions and Retirement by the following February 15.

Subd. 9. **Merger of former MERF membership groups into PERA-general.** If provided for in an agreement between the board of trustees of the Public Employees Retirement Association and the governing board of an employing unit formerly with retirement coverage provided for its employees by the former Minneapolis Employees Retirement Fund, an employing unit may transfer sufficient assets to the general employees retirement fund to cover the anticipated actuarial accrued liability

for its current or former employees that is in excess of MERF division account assets attributable to those employees, have those employees be considered full members of the general employees retirement plan, and be relieved of any further contribution obligation to the general employees retirement plan for those employees under this section. Any agreement under this subdivision and any actuarial valuation report related to a merger under this subdivision must be submitted to the executive director of the Legislative Commission on Pensions and Retirement for comment prior to the final execution.

Sec. 18. Minnesota Statutes 2008, section 353.64, subdivision 7, is amended to read:

Subd. 7. **Pension coverage for certain public safety employees of the Metropolitan Airports Commission.** Any person first employed as either a full-time firefighter or a full-time police officer by the Metropolitan Airports Commission ~~after June 30, 1978,~~ who is not eligible for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to municipal employees because that position is excluded from application ~~pursuant to under~~ Title 42, United States Code, Sections 418 (d) (5) (A) and 418 (d) (8) (D) and section 355.07, ~~shall not be a member of the Minneapolis Employees Retirement Fund but shall be is~~ a member of the public employees police and fire fund and ~~shall be is~~ deemed to be a firefighter or a police officer within the meaning of this section. The Metropolitan Airports Commission shall make the employer contribution required ~~pursuant to under~~ section 353.65, subdivision 3, with respect to each of its firefighters or police officers covered by the public employees police and fire fund and shall meet the employers recording and reporting requirements set forth in section 353.65, subdivision 4.

Sec. 19. Minnesota Statutes 2008, section 356.215, subdivision 8, is amended to read:

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

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0
State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Minneapolis employees retirement plan	6.0	5.0

Duluth teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
Minneapolis Police Relief Association	6.0	6.0
Fairmont Police Relief Association	5.0	5.0
Minneapolis Fire Department Relief Association	6.0	6.0
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

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

(1) single rate future salary increase assumption

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

~~(2) modified single rate future salary increase assumption~~

plan	future salary increase assumption
Minneapolis employees retirement plan	the prior calendar year amount increased first by 1.0198 percent to prior fiscal year date and then increased by 4.0 percent annually for each future year

~~(3) (2) select and ultimate future salary increase assumption or graded rate future salary increase assumption~~

plan	future salary increase assumption
general state employees retirement plan	select calculation and assumption A

correctional state employees retirement plan	assumption H
State Patrol retirement plan	assumption G
general public employees retirement plan	select calculation and assumption B
public employees police and fire fund retirement plan	assumption C
local government correctional service retirement plan	assumption G
teachers retirement plan	assumption D
Duluth teachers retirement plan	assumption E
St. Paul teachers retirement plan	assumption F

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

The ultimate future salary increase assumption is:

age	A	B	C	D	E	F	G	H
16	5.95%	5.95%	11.00%	7.70%	8.00%	6.90%	7.7500%	7.2500%
17	5.90	5.90	11.00	7.65	8.00	6.90	7.7500	7.2500
18	5.85	5.85	11.00	7.60	8.00	6.90	7.7500	7.2500
19	5.80	5.80	11.00	7.55	8.00	6.90	7.7500	7.2500
20	5.75	5.40	11.00	5.50	6.90	6.90	7.7500	7.2500
21	5.75	5.40	11.00	5.50	6.90	6.90	7.1454	6.6454
22	5.75	5.40	10.50	5.50	6.90	6.90	7.0725	6.5725
23	5.75	5.40	10.00	5.50	6.85	6.85	7.0544	6.5544
24	5.75	5.40	9.50	5.50	6.80	6.80	7.0363	6.5363
25	5.75	5.40	9.00	5.50	6.75	6.75	7.0000	6.5000
26	5.75	5.36	8.70	5.50	6.70	6.70	7.0000	6.5000
27	5.75	5.32	8.40	5.50	6.65	6.65	7.0000	6.5000

28	5.75	5.28	8.10	5.50	6.60	6.60	7.0000	6.5000
29	5.75	5.24	7.80	5.50	6.55	6.55	7.0000	6.5000
30	5.75	5.20	7.50	5.50	6.50	6.50	7.0000	6.5000
31	5.75	5.16	7.30	5.50	6.45	6.45	7.0000	6.5000
32	5.75	5.12	7.10	5.50	6.40	6.40	7.0000	6.5000
33	5.75	5.08	6.90	5.50	6.35	6.35	7.0000	6.5000
34	5.75	5.04	6.70	5.50	6.30	6.30	7.0000	6.5000
35	5.75	5.00	6.50	5.50	6.25	6.25	7.0000	6.5000
36	5.75	4.96	6.30	5.50	6.20	6.20	6.9019	6.4019
37	5.75	4.92	6.10	5.50	6.15	6.15	6.8074	6.3074
38	5.75	4.88	5.90	5.40	6.10	6.10	6.7125	6.2125
39	5.75	4.84	5.70	5.30	6.05	6.05	6.6054	6.1054
40	5.75	4.80	5.50	5.20	6.00	6.00	6.5000	6.0000
41	5.75	4.76	5.40	5.10	5.90	5.95	6.3540	5.8540
42	5.75	4.72	5.30	5.00	5.80	5.90	6.2087	5.7087
43	5.65	4.68	5.20	4.90	5.70	5.85	6.0622	5.5622
44	5.55	4.64	5.10	4.80	5.60	5.80	5.9048	5.4078
45	5.45	4.60	5.00	4.70	5.50	5.75	5.7500	5.2500
46	5.35	4.56	4.95	4.60	5.40	5.70	5.6940	5.1940
47	5.25	4.52	4.90	4.50	5.30	5.65	5.6375	5.1375
48	5.15	4.48	4.85	4.50	5.20	5.60	5.5822	5.0822
49	5.05	4.44	4.80	4.50	5.10	5.55	5.5404	5.0404
50	4.95	4.40	4.75	4.50	5.00	5.50	5.5000	5.0000
51	4.85	4.36	4.75	4.50	4.90	5.45	5.4384	4.9384
52	4.75	4.32	4.75	4.50	4.80	5.40	5.3776	4.8776
53	4.65	4.28	4.75	4.50	4.70	5.35	5.3167	4.8167
54	4.55	4.24	4.75	4.50	4.60	5.30	5.2826	4.7826
55	4.45	4.20	4.75	4.50	4.50	5.25	5.2500	4.7500
56	4.35	4.16	4.75	4.50	4.40	5.20	5.2500	4.7500
57	4.25	4.12	4.75	4.50	4.30	5.15	5.2500	4.7500
58	4.25	4.08	4.75	4.60	4.20	5.10	5.2500	4.7500
59	4.25	4.04	4.75	4.70	4.10	5.05	5.2500	4.7500
60	4.25	4.00	4.75	4.80	4.00	5.00	5.2500	4.7500
61	4.25	4.00	4.75	4.90	3.90	5.00	5.2500	4.7500

77TH DAY]

MONDAY, MARCH 22, 2010

8197

62	4.25	4.00	4.75	5.00	3.80	5.00	5.2500	4.7500
63	4.25	4.00	4.75	5.10	3.70	5.00	5.2500	4.7500
64	4.25	4.00	4.75	5.20	3.60	5.00	5.2500	4.7500
65	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
66	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
67	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
68	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
69	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
70	4.25	4.00	4.75	5.20	3.50	5.00	5.2500	4.7500
71	4.25	4.00		5.20				

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

plan	payroll growth assumption
general state employees retirement plan	4.50%
correctional state employees retirement plan	4.50
State Patrol retirement plan	4.50
legislators retirement plan	4.50
judges retirement plan	4.00
general public employees retirement plan	4.50
public employees police and fire retirement plan	4.50
local government correctional service retirement plan	4.50
teachers retirement plan	4.50
Duluth teachers retirement plan	4.50
St. Paul teachers retirement plan	5.00

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

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

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

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

Sec. 20. Minnesota Statutes 2009 Supplement, section 356.215, subdivision 11, is amended to

read:

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

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

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

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

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

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

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

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

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

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

(d) For the ~~Minneapolis Employees Retirement Fund~~ MERF division of the Public Employees Retirement Association, the established date for full funding is June 30, ~~2020~~ 2031.

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

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

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

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

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

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

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

period beginning anew with each annual actuarial valuation of the plan.

Sec. 21. Minnesota Statutes 2008, section 422A.101, subdivision 3, is amended to read:

Subd. 3. **State contributions.** (a) Subject to the limitation ~~set forth~~ in paragraph (c), the state shall pay to the MERF division account of the Public Employees Retirement Association with respect to the former Minneapolis Employees Retirement Fund annually an amount equal to the amount calculated under paragraph (b).

(b) The payment amount is an amount equal to the financial requirements of the ~~Minneapolis Employees Retirement Fund~~ MERF division of the Public Employees Retirement Association reported in the actuarial valuation of the fund general employees retirement plan of the Public Employees Retirement Association prepared by the actuary retained under section 356.214 consistent with section 356.215 for the most recent year but based on a target date for full amortization of the unfunded actuarial accrued liabilities by June 30, 2020 2031, less the amount of employee contributions required under section 422A.10 353.50, subdivision 7, paragraph (b), and the amount of employer contributions required under subdivisions 1a, 2, and 2a section 353.50, subdivision 7, paragraphs (c) and (d). Payments ~~shall~~ must be made September 15 annually.

(c) The annual state contribution under this subdivision may not exceed \$9,000,000, plus the cost of the annual supplemental benefit determined under Minnesota Statutes 2008, section 356.43, through June 30, 2012, and may not exceed \$9,000,000, plus the cost of the annual supplemental benefit determined under Minnesota Statutes 2008, section 356.43, plus \$27,500,000 annually after June 30, 2012, and until June 30, 2031.

(d) Annually and after June 30, 2012, if the amount determined under paragraph (b) exceeds ~~\$9,000,000~~ the applicable maximum amount specified in paragraph (c), the excess must be allocated to and paid to the fund by the employers identified in Minnesota Statutes 2008, section 422A.101, subdivisions 1a and 2, and 2a ~~other than units of metropolitan government~~. Each employer's share of the excess is proportionate to the employer's share of the fund's unfunded actuarial accrued liability as disclosed in the annual actuarial valuation prepared by the actuary retained under section 356.214 compared to the total unfunded actuarial accrued liability as of July 1, 2009, attributed to all employers identified in Minnesota Statutes 2008, section 422A.101, subdivisions 1a and 2, other than units of metropolitan government. Payments must be made ~~in equal installments~~ as set forth in paragraph (b).

(e) State contributions under this section end on September 15, 2031, or on September 1 following the first date on which the current assets of the MERF division of the Public Employees Retirement Association equal or exceed the actuarial accrued liability of the MERF division of the Public Employees Retirement Association, whichever occurs earlier.

Sec. 22. Minnesota Statutes 2008, section 422A.26, is amended to read:

422A.26 COVERAGE BY THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.

Notwithstanding ~~section 422A.09, or any other~~ law to the contrary, any person whose employment by, or assumption of a position as an appointed or elected officer of, the city of Minneapolis, any of the boards, departments, or commissions operated as a department of the city of Minneapolis or independently if financed in whole or in part by funds of the city of Minneapolis,

the Metropolitan Airports Commission, the former Minneapolis Employees Retirement Fund, or Special School District Number 1 if the person is not a member of the Minneapolis Teachers Retirement Fund Association by virtue of that employment or position, initially commences on or after July 1, 1979, ~~shall be~~ is a member of the general employees retirement plan of the Public Employees Retirement Association unless excluded from membership ~~pursuant to~~ under section 353.01, subdivision 2b. ~~In no event shall there be any new members of the contributing class of the Minneapolis employees fund on or after July 1, 1979.~~

Sec. 23. JULY 1, 2010, MERF DIVISION ACTUARIAL VALUATION ASSUMPTIONS.

The approved actuary retained by the Minneapolis Employees Retirement Fund shall compare the actuarial assumptions to be used for the July 1, 2010, actuarial valuation of the general employees retirement plan of the Public Employees Retirement Association with the actuarial assumptions used to prepare the July 1, 2009, actuarial valuation of the Minneapolis Employees Retirement Fund and, on or before July 1, 2010, shall recommend to the approved actuary retained by the Public Employees Retirement Association and to the Legislative Commission on Pensions and Retirement the actuarial assumptions that the actuary believes would be appropriate for the MERF division portion of the actuarial valuation of the general employees retirement plan of the Public Employees Retirement Association. Any actuarial assumption changes related to the MERF division must be approved under Minnesota Statutes, section 356.215, subdivision 18.

Sec. 24. MINNEAPOLIS MUNICIPAL RETIREMENT ASSOCIATION.

(a) The administrative consolidation of the former Minneapolis Employees Retirement Fund into the general employees retirement plan of the Public Employees Retirement Association and the merger of the MERF division of the Public Employees Retirement Association into the general employees retirement plan of the Public Employees Retirement Association does not affect the function of the Minneapolis Municipal Retirement Association, a nonprofit corporation, to monitor the administration of the retirement coverage for former members of the former Minneapolis Employees Retirement Fund.

(b) Nothing in this article entitles the Minneapolis Municipal Retirement Association to receive any revenue derived from taxes or obligates the Public Employees Retirement Association to undertake any special duties with respect to the corporation.

Sec. 25. TRANSFER OF MERF EMPLOYEES.

(a) Unless the employee elects the severance pay option under paragraph (c), full-time employees of the Minneapolis Employees Retirement Fund first employed before June 30, 2008, and employed full time by the Minneapolis Employees Retirement Fund on June 29, 2010, with the employment title of benefits coordinator, are transferred to employment by the city of Minneapolis on July 1, 2010. The chief human relations official of the city of Minneapolis shall place the transferred employee in an appropriate employment position based on the employee's education and employment experience. Transferred employees must have their accumulated, but unused, vacation and sick leave balances as of June 30, 2010, posted to the individual accounts with the new employer. The transferred employees must receive length of service credit for time served with the Minneapolis Employees Retirement Fund. The transferred employee must be given the opportunity as of the date of transfer to be covered for all health and other insurance benefits offered by the new employer. Upon the transfer of the employee, the Minneapolis Employees Retirement Fund shall transfer assets to the city of Minneapolis equal to the present value of any

accumulated unused vacation or sick leave balances as of the date of transfer.

(b) Unless the employee elects the severance pay option under paragraph (c), full-time employees of the Minneapolis Employees Retirement Fund first employed before June 30, 2008, and employed full time by the Minneapolis Employees Retirement Fund on June 29, 2010, with the employment title of accounting manager or accountant II are transferred to employment by the Public Employees Retirement Association on July 1, 2010. The chief human relations official of the Public Employees Retirement Association shall place the transferred employee in an appropriate employment position based on the employee's education and employment experience. Transferred employees must have their accumulated, but unused, vacation and sick leave balances as of June 30, 2010, posted to the individual accounts with the new employer. The transferred employees must receive length of service credit for time served with the Minneapolis Employees Retirement Fund. The transferred employee must be given the opportunity as of the date of transfer to be covered for all health and other insurance benefits offered by the new employer. Upon the transfer of the employee, the executive director of the Public Employees Retirement Association shall deduct from any assets transferred under section 353.50 an amount equal to the present value of any accumulated unused vacation or sick leave balances as of the date of transfer.

(c) An employee covered by paragraph (a) or (b) who elects not to transfer to the new employer unit is granted severance pay in an amount equivalent to one year of salary based on the last annual salary rate received by the employee. The election must be made prior to June 30, 2010, and is irrevocable. The severance pay is payable from the Minneapolis Employees Retirement Fund on June 30, 2010.

Sec. 26. REVISOR'S INSTRUCTION.

In the next and future editions of Minnesota Statutes, the revisor of statutes shall renumber Minnesota Statutes, section 422A.101, subdivision 3, as Minnesota Statutes, section 353.505, and shall renumber Minnesota Statutes, section 422A.26, as Minnesota Statutes, section 353.855. The revisor of statutes shall make conforming changes in Minnesota Statutes and Minnesota Rules consistent with the renumbering.

Sec. 27. REPEALER.

Minnesota Statutes 2008, sections 13.63, subdivision 1; 69.011, subdivision 2a; 356.43; 422A.01, subdivisions 1, 2, 3, 4, 4a, 5, 6, 7, 8, 9, 10, 11, 12, 13a, 17, and 18; 422A.02; 422A.03; 422A.04; 422A.05, subdivisions 1, 2a, 2b, 2c, 2d, 2e, 2f, 5, 6, and 8; 422A.06, subdivisions 1, 2, 3, 5, 6, and 7; 422A.08, subdivision 1; 422A.09; 422A.10; 422A.101, subdivisions 1, 1a, 2, and 2a; 422A.11; 422A.12; 422A.13; 422A.14, subdivision 1; 422A.15; 422A.151; 422A.155; 422A.156; 422A.16, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10; 422A.17; 422A.18, subdivisions 1, 2, 3, 4, 5, and 7; 422A.19; 422A.20; 422A.21; 422A.22, subdivisions 1, 3, 4, and 6; 422A.23, subdivisions 1, 2, 5, 6, 7, 8, 9, 10, 11, and 12; 422A.231; 422A.24; and 422A.25, are repealed.

Minnesota Statutes 2009 Supplement, sections 422A.06, subdivision 8; and 422A.08, subdivision 5, are repealed.

Sec. 28. EFFECTIVE DATE.

Sections 1 to 27 are effective June 30, 2010.

ARTICLE 13

**CONFORMING CHANGES RELATED TO THE MERF ADMINISTRATIVE
CONSOLIDATION**

Section 1. Minnesota Statutes 2009 Supplement, section 6.67, is amended to read:

6.67 PUBLIC ACCOUNTANTS; REPORT OF POSSIBLE MISCONDUCT.

Whenever a public accountant in the course of auditing the books and affairs of a political subdivision or a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A, ~~422A~~, 423B, 423C, or 424A, discovers evidence pointing to nonfeasance, misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties and affairs, the public accountant shall promptly make a report of such discovery to the state auditor and the county attorney of the county in which the governmental unit is situated and the public accountant shall also furnish a copy of the report of audit upon completion to said officers. The county attorney shall act on such report in the same manner as required by law for reports made to the county attorney by the state auditor.

Sec. 2. Minnesota Statutes 2008, section 11A.23, subdivision 4, is amended to read:

Subd. 4. **Covered retirement funds and plans.** The provisions of this section shall apply to the following retirement funds and plans:

(1) Board of Trustees of the Minnesota State Colleges and Universities supplemental retirement plan established under chapter 354C;

(2) state employees retirement fund established pursuant to chapter 352;

(3) correctional employees retirement plan established pursuant to chapter 352;

(4) State Patrol retirement fund established pursuant to chapter 352B;

(5) unclassified employees retirement plan established pursuant to chapter 352D;

(6) ~~public~~ general employees retirement fund established pursuant to chapter 353;

(7) public employees police and fire fund established pursuant to chapter 353;

(8) teachers' retirement fund established pursuant to chapter 354;

(9) judges' retirement fund established pursuant to chapter 490; and

(10) any other funds required by law to be invested by the board.

Sec. 3. Minnesota Statutes 2008, section 13D.01, subdivision 1, is amended to read:

Subdivision 1. **In executive branch, local government.** All meetings, including executive sessions, must be open to the public

(a) of a state

(1) agency,

(2) board,

(3) commission, or

(4) department,

when required or permitted by law to transact public business in a meeting;

(b) of the governing body of a

(1) school district however organized,

(2) unorganized territory,

(3) county,

(4) statutory or home rule charter city,

(5) town, or

(6) other public body;

(c) of any

(1) committee,

(2) subcommittee,

(3) board,

(4) department, or

(5) commission,

of a public body; and

(d) of the governing body or a committee of:

(1) a statewide public pension plan defined in section 356A.01, subdivision 24; or

(2) a local public pension plan governed by section 69.77, sections 69.771 to 69.775, or chapter 354A, ~~422A~~, or 423B.

Sec. 4. Minnesota Statutes 2008, section 43A.17, subdivision 9, is amended to read:

Subd. 9. **Political subdivision compensation limit.** (a) The salary and the value of all other forms of compensation of a person employed by a political subdivision of this state, excluding a school district, ~~or employed under section 422A.03~~ may not exceed 110 percent of the salary of the governor as set under section 15A.082, except as provided in this subdivision. For purposes of this subdivision, "political subdivision of this state" includes a statutory or home rule charter city, county, town, metropolitan or regional agency, or other political subdivision, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit.

(b) Beginning in 2006, the limit in paragraph (a) ~~shall~~ must be adjusted annually in January. The limit ~~shall~~ must equal the limit for the prior year increased by the percentage increase, if any, in the Consumer Price Index for all-urban consumers from October of the second prior year to October of the immediately prior year.

(c) Deferred compensation and payroll allocations to purchase an individual annuity contract

for an employee are included in determining the employee's salary. Other forms of compensation which ~~shall~~ must be included to determine an employee's total compensation are all other direct and indirect items of compensation which are not specifically excluded by this subdivision. Other forms of compensation which ~~shall~~ must not be included in a determination of an employee's total compensation for the purposes of this subdivision are:

(1) employee benefits that are also provided for the majority of all other full-time employees of the political subdivision, vacation and sick leave allowances, health and dental insurance, disability insurance, term life insurance, and pension benefits or like benefits the cost of which is borne by the employee or which is not subject to tax as income under the Internal Revenue Code of 1986;

(2) dues paid to organizations that are of a civic, professional, educational, or governmental nature; and

(3) reimbursement for actual expenses incurred by the employee which the governing body determines to be directly related to the performance of job responsibilities, including any relocation expenses paid during the initial year of employment.

The value of other forms of compensation ~~shall be~~ is the annual cost to the political subdivision for the provision of the compensation.

(d) The salary of a medical doctor or doctor of osteopathy occupying a position that the governing body of the political subdivision has determined requires an M.D. or D.O. degree is excluded from the limitation in this subdivision.

(e) The commissioner may increase the limitation in this subdivision for a position that the commissioner has determined requires special expertise necessitating a higher salary to attract or retain a qualified person. The commissioner shall review each proposed increase giving due consideration to salary rates paid to other persons with similar responsibilities in the state and nation. The commissioner may not increase the limitation until the commissioner has presented the proposed increase to the Legislative Coordinating Commission and received the commission's recommendation on it. The recommendation is advisory only. If the commission does not give its recommendation on a proposed increase within 30 days from its receipt of the proposal, the commission is deemed to have made no recommendation. If the commissioner grants or granted an increase under this paragraph, the new limitation ~~shall~~ must be adjusted beginning in August 2005 and in each subsequent calendar year in January by the percentage increase equal to the percentage increase, if any, in the Consumer Price Index for all-urban consumers from October of the second prior year to October of the immediately prior year.

Sec. 5. Minnesota Statutes 2008, section 43A.316, subdivision 8, is amended to read:

Subd. 8. **Continuation of coverage.** (a) A former employee of an employer participating in the program who is receiving a public pension disability benefit or an annuity or has met the age and service requirements necessary to receive an annuity under chapter 353, 353C, 354, 354A, 356, 422A, 423, 423A, ~~or~~ 424, or Minnesota Statutes 2008, chapter 422A, and the former employee's dependents, are eligible to participate in the program. This participation is at the person's expense unless a collective bargaining agreement or personnel policy provides otherwise. Premiums for these participants must be established by the commissioner.

The commissioner may provide policy exclusions for preexisting conditions only when there is

a break in coverage between a participant's coverage under the employment-based group insurance program and the participant's coverage under this section. An employer shall notify an employee of the option to participate under this paragraph no later than the effective date of retirement. The retired employee or the employer of a participating group on behalf of a current or retired employee shall notify the commissioner within 30 days of the effective date of retirement of intent to participate in the program according to the rules established by the commissioner.

(b) The spouse of a deceased employee or former employee may purchase the benefits provided at premiums established by the commissioner if the spouse was a dependent under the employee's or former employee's coverage under this section at the time of the death. The spouse remains eligible to participate in the program as long as the group that included the deceased employee or former employee participates in the program. Coverage under this clause must be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The program benefits must continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

(d) A participant who discontinues coverage may not reenroll.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Sec. 6. Minnesota Statutes 2009 Supplement, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms, for the purposes of this chapter and chapters 423, 423A, 424 and 424A, have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means:

(1) a home rule charter or statutory city;

(2) an organized town;

(3) a park district subject to chapter 398;

(4) the University of Minnesota;

(5) for purposes of the fire state aid program only, an American Indian tribal government entity located within a federally recognized American Indian reservation;

(6) for purposes of the police state aid program only, an American Indian tribal government with a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93;

(7) for purposes of the police state aid program only, the Metropolitan Airports Commission ~~with respect to peace officers covered under chapter 422A~~; and

(8) for purposes of the police state aid program only, the Department of Natural Resources and the Department of Public Safety with respect to peace officers covered under chapter 352B.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Market value" means latest available market value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the State Board of Equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto insurance coverages as reported in the Minnesota business schedule of the annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification under subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the Peace Officers Standards and Training Board and is authorized to arrest with a warrant; and

(5) who is a member of ~~a local police relief association to which section 69.77 applies~~ the Minneapolis Police Relief Association, the State Patrol retirement plan, or the public employees police and fire fund, or the Minneapolis Employees Retirement Fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized under section 424A.05, subdivision 3, clauses (2) and (3).

(j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district, the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official

designated by the Board of Regents. For the Metropolitan Airports Commission, the clerk is the person designated by the commission. For the Department of Natural Resources or the Department of Public Safety, the clerk is the respective commissioner. For a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93, the clerk is the person designated by the applicable American Indian tribal government.

(k) "Voluntary statewide lump-sum volunteer firefighter retirement plan" means the retirement plan established by chapter 353G.

Sec. 7. Minnesota Statutes 2008, section 69.021, subdivision 10, is amended to read:

Subd. 10. **Reduction in police state aid apportionment.** (a) The commissioner of revenue shall reduce the apportionment of police state aid under subdivisions 5, paragraph (b), 6, and 7a, for eligible employer units by any excess police state aid.

(b) "Excess police state aid" is:

(1) for counties and for municipalities in which police retirement coverage is provided wholly by the public employees police and fire fund and all police officers are members of the plan governed by sections 353.63 to 353.657, the amount in excess of the employer's total prior calendar year obligation as defined in paragraph (c), as certified by the executive director of the Public Employees Retirement Association;

(2) for municipalities in which police retirement coverage is provided in part by the public employees police and fire fund governed by sections 353.63 to 353.657 and in part by a local police consolidation account governed by chapter 353A, and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the amount in excess of the employer's total prior calendar year obligation as defined in paragraph (c), plus the amount of the employer's total prior calendar year obligation under section 353A.09, subdivision 5, paragraphs (a) and (b), as certified by the executive director of the Public Employees Retirement Association;

(3) for municipalities in which police retirement coverage is provided by the public employees police and fire plan governed by sections 353.63 to 353.657, in which police retirement coverage was provided by a police consolidation account under chapter 353A before July 1, 1999, and for which the municipality has an additional municipal contribution under section 353.665, subdivision 8, paragraph (b), the amount in excess of the employer's total prior calendar year obligation as defined in paragraph (c), plus the amount of any additional municipal contribution under section 353.665, subdivision 8, paragraph (b), until the year 2010, as certified by the executive director of the Public Employees Retirement Association;

(4) for municipalities in which police retirement coverage is provided in part by the public employees police and fire fund governed by sections 353.63 to 353.657 and in part by a local police relief association governed by sections 69.77 and 423A.01, the amount in excess of the employer's total prior calendar year obligation as defined in paragraph (c), as certified by the executive director of the public employees retirement association, plus the amount of the financial requirements of the relief association certified to the applicable municipality during the prior calendar year under section 69.77, subdivisions 4 and 5, reduced by the amount of member contributions deducted from the covered salary of the relief association during the prior calendar year under section 69.77, subdivision 3, as certified by the chief administrative officer of the applicable municipality;

(5) for the Metropolitan Airports Commission, if there are police officers hired before July 1, 1978, with retirement coverage by the Minneapolis Employees Retirement Fund remaining, the amount in excess of the commission's total prior calendar year obligation as defined in paragraph (c), as certified by the executive director of the Public Employees Retirement Association, plus the amount determined by expressing the commission's total prior calendar year contribution to the Minneapolis Employees Retirement Fund under section 422A.101, subdivisions 2 and 2a, as a percentage of the commission's total prior calendar year covered payroll for commission employees covered by the Minneapolis Employees Retirement Fund and applying that percentage to the commission's total prior calendar year covered payroll for commission police officers covered by the Minneapolis Employees Retirement Fund, as certified by the chief administrative officer of the Metropolitan Airports Commission; and

(6) for the Department of Natural Resources and for the Department of Public Safety, the amount in excess of the employer's total prior calendar year obligation under section 352B.02, subdivision 1c, for plan members who are peace officers under section 69.011, subdivision 1, clause (g), as certified by the executive director of the Minnesota State Retirement System.

(c) The employer's total prior calendar year obligation with respect to the public employees police and fire plan is the total prior calendar year obligation under section 353.65, subdivision 3, for police officers as defined in section 353.64, subdivision 2, and the actual total prior calendar year obligation under section 353.65, subdivision 3, for firefighters, as defined in section 353.64, subdivision 3, but not to exceed for those firefighters the applicable following amounts:

Municipality	Maximum Amount
Albert Lea	\$54,157.01
Anoka	10,399.31
Apple Valley	5,442.44
Austin	49,864.73
Bemidji	27,671.38
Brooklyn Center	6,605.92
Brooklyn Park	24,002.26
Burnsville	15,956.00
Cloquet	4,260.49
Coon Rapids	39,920.00
Cottage Grove	8,588.48
Crystal	5,855.00
East Grand Forks	51,009.88
Edina	32,251.00
Elk River	5,216.55
Ely	13,584.16

Eveleth	16,288.27
Fergus Falls	6,742.00
Fridley	33,420.64
Golden Valley	11,744.61
Hastings	16,561.00
Hopkins	4,324.23
International Falls	14,400.69
Lakeville	782.35
Lino Lakes	5,324.00
Little Falls	7,889.41
Maple Grove	6,707.54
Maplewood	8,476.69
Minnetonka	10,403.00
Montevideo	1,307.66
Moorhead	68,069.26
New Hope	6,739.72
North St. Paul	4,241.14
Northfield	770.63
Owatonna	37,292.67
Plymouth	6,754.71
Red Wing	3,504.01
Richfield	53,757.96
Rosemont <u>Rosemount</u>	1,712.55
Roseville	9,854.51
St. Anthony	33,055.00
St. Louis Park	53,643.11
Thief River Falls	28,365.04
Virginia	31,164.46
Waseca	11,135.17
West St. Paul	15,707.20
White Bear Lake	6,521.04
Woodbury	3,613.00
any other municipality	0.00

(d) The total amount of excess police state aid must be deposited in the excess police state-aid account in the general fund, administered and distributed as provided in subdivision 11.

Sec. 8. Minnesota Statutes 2009 Supplement, section 69.031, subdivision 5, is amended to read:

Subd. 5. **Deposit of state aid.** (a) If the municipality or the independent nonprofit firefighting corporation is covered by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the executive director shall credit the fire state aid against future municipal contribution requirements under section 353G.08 and shall notify the municipality or independent nonprofit firefighting corporation of the fire state aid so credited at least annually. If the municipality or the independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, the municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If the municipality or independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, if there is no relief association organized, or if the association has dissolved or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury and the money may be disbursed only for the purposes and in the manner set forth in section 424A.08 or for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(1) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(2) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

(3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

(4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid ~~first~~ toward the commission's employer contribution for police officers to the ~~Minneapolis Employees Retirement Fund under section 422A.101, subdivision 2a, and, if there is any amount of police state aid remaining, shall apply that remainder toward the commission's employer contribution for police officers to the~~ public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of management and budget for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision ~~2a~~ 2b, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and management and budget the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of management and budget the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

Sec. 9. Minnesota Statutes 2008, section 126C.41, subdivision 3, is amended to read:

Subd. 3. **Retirement levies.** (a) In 1991 and each year thereafter, a district to which this subdivision applies may levy an additional amount required for contributions to the general employees retirement plan of the Public Employees Retirement Association as the successor of the Minneapolis Employees Retirement Fund as a result of the maximum dollar amount limitation on state contributions to the fund that plan imposed under section 422A.101, subdivision 3. The additional levy must not exceed the most recent amount certified by the ~~board of the Minneapolis Employees Retirement Fund~~ executive director of the Public Employees Retirement Association as the district's share of the contribution requirement in excess of the maximum state contribution

under section 422A.101, subdivision 3.

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

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

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

Sec. 10. Minnesota Statutes 2008, section 256D.21, is amended to read:

256D.21 CONTINUATION OF BENEFITS; FORMER MINNEAPOLIS EMPLOYEES.

Subdivision 1. **Continuation of benefits.** Each employee of the city of Minneapolis who is transferred to and employed by the county under the provisions of section 256D.20 and who is a contributing member of a retirement system organized under the provisions of Minnesota Statutes 2008, chapter 422A, shall continue to be is a member of that system the MERF division of the Public Employees Retirement Association and is entitled to all of the applicable benefits conferred thereby by and subject to all the restrictions of chapter 422A, unless the member applies to cancel membership within six months after January 1, 1974 section 353.50.

Subd. 2. **City obligation.** The cost to the public of that portion of the retirement allowances or other benefits accrued while any such employee was in the service of the city of Minneapolis shall must remain an obligation of the city and a tax shall must be levied and collected by it to discharge its obligation as provided by chapter 422A in section 353.50, subdivision 7.

Subd. 3. **County obligation.** The cost to the public of the retirement allowances or other benefits accruing to employees so transferred to and employed by the county shall be is the obligation of and paid by the county at such time as the retirement board shall fix and determine in accordance with chapter 422A in section 353.50, subdivision 7. The county shall pay to the municipal general employees retirement fund an amount certified to the county auditor of the county by the retirement board as the cost of the retirement allowances and other benefits accruing and owing to such county employees of the Public Employees Retirement Association those amounts. The cost to the public of the retirement allowances as herein provided shall coverage under this section must be paid from the county revenue fund by the county auditor upon receipt of certification from the retirement board as herein provided, and the county board is authorized to levy and collect such taxes as may be necessary to pay such costs.

Sec. 11. Minnesota Statutes 2009 Supplement, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** "State employee" does not include:

(1) students employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the Board of Regents of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, whichever is applicable;

(2) employees who are eligible for membership in the state Teachers Retirement Association, except employees of the Department of Education who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota State Retirement System instead of the Teachers Retirement Association;

(3) employees of the University of Minnesota who are excluded from coverage by action of the Board of Regents;

(4) officers and enlisted personnel in the National Guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(5) election officers;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the Department of Labor and Industry;

(9) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota Veterans Home;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensation is paid on a per diem basis;

(11) employees of the Sibley House Association;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its full-time secretary;

(13) state troopers and persons who are described in section 352B.011, subdivision 10, clauses (2) to (8);

(14) temporary employees of the Minnesota State Fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time

by the state fair administration for special events held on the fairgrounds;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee must be considered a "state employee" retroactively to the beginning of the pay period;

(16) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

(17) interns hired for six months or less and trainee employees, except those listed in subdivision 2a, clause (8);

(18) persons whose compensation is paid on a fee basis or as an independent contractor;

(19) state employees who are employed by the Board of Trustees of the Minnesota State Colleges and Universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

(20) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the Teachers Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for incidental employment as a state employee that is not covered by one of the teacher retirement associations or systems;

(21) employees of the adjutant general who are employed on an unlimited intermittent or temporary basis in the classified or unclassified service for the support of Army and Air National Guard training facilities;

(22) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

(23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(25) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

(26) full-time students who are employed by the Minnesota Historical Society intermittently during part of the year and full-time during the summer months;

(27) temporary employees who are appointed for not more than six months, of the Metropolitan Council and of any of its statutory boards, if the board members are appointed by the Metropolitan Council;

(28) persons who are employed in positions designated by the Department of Management and Budget as student workers;

(29) members of trades who are employed by the successor to the Metropolitan Waste Control Commission, who have trade union pension plan coverage under a collective bargaining agreement, and who are first employed after June 1, 1977;

(30) off-duty peace officers while employed by the Metropolitan Council;

(31) persons who are employed as full-time police officers by the Metropolitan Council and as police officers are members of the public employees police and fire fund;

(32) persons who are employed as full-time firefighters by the Department of Military Affairs and as firefighters are members of the public employees police and fire fund;

(33) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended; and

(34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elected to remain members of the Public Employees Retirement Association or of the MERF division of the Public Employees Retirement Association as the successor of the Minneapolis Employees Retirement Fund, whichever applies, under Minnesota Statutes 1994, section 136C.75.

Sec. 12. Minnesota Statutes 2008, section 353.03, subdivision 1, is amended to read:

Subdivision 1. **Management; composition; election.** (a) The management of the Public Employees Retirement ~~fund~~ Association is vested in an 11-member board of trustees consisting of ten members and the state auditor. The state auditor may designate a deputy auditor with expertise in pension matters as the auditor's representative on the board. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association, including recipients of retirement annuities and disability and survivor benefits, shall elect five trustees for terms of four years, one of whom must be a member of the police and fire fund and one of whom must be a former member who met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at least five years prior to terminating membership or a member who receives a disability benefit. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are seated. Except as provided in this subdivision, trustees elected by the membership of the association must be public employees and members of the association.

(b) For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the association. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies, subject to review and approval by the

secretary of state under paragraph (e), to govern the form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement.

(c) By January 10 of each year in which elections are to be held, the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. Ballots mailed to the association must be postmarked no later than January 31. The ballot envelopes must be so designated and the ballots must be counted in a manner that ensures that each vote is secret.

(d) A candidate who receives contributions or makes expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, shall file a report with the campaign finance and public disclosure board disclosing the source and amount of all contributions to the candidate's campaign. The campaign finance and public disclosure board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The Campaign Finance and Public Disclosure Board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it.

(e) The secretary of state shall review and approve the procedures defined by the board of trustees for conducting the elections specified in this subdivision, including board policies adopted under paragraph (b).

(f) The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

Sec. 13. Minnesota Statutes 2008, section 353.71, subdivision 4, is amended to read:

Subd. 4. **Repayment of refund.** Any person who has received a refund from the Public Employees Retirement ~~fund~~ Association and who is a member of any public retirement system referred to in subdivision 1, may repay such refund to the Public Employees Retirement ~~fund~~ Association as provided in section 353.35.

Sec. 14. Minnesota Statutes 2008, section 353.86, subdivision 1, is amended to read:

Subdivision 1. **Participation.** Volunteer ambulance service personnel, as defined in section 353.01, subdivision 35, who are or become members of and participants in the public general employees retirement fund or the public employees police and fire fund before July 1, 2002, and make contributions to either of those funds based on compensation for service other than volunteer ambulance service may elect to participate in that same fund with respect to compensation received for volunteer ambulance service, provided that the volunteer ambulance service is not credited to another public or private pension plan including the public employees retirement plan established by chapter 353D and provided further that the volunteer ambulance service is rendered for the same governmental unit for which the nonvolunteer ambulance service is rendered.

Sec. 15. Minnesota Statutes 2008, section 353.86, subdivision 2, is amended to read:

Subd. 2. **Election.** Volunteer ambulance service personnel to whom subdivision 1 applies may exercise the election authorized under subdivision 1 within the earlier of the one-year period beginning on July 1, 1989, and extending through June 30, 1990, or the one-year period commencing on the first day of the first month following the start of employment in a position covered by the ~~public~~ general employees retirement fund or the public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.

Sec. 16. Minnesota Statutes 2008, section 353.87, subdivision 1, is amended to read:

Subdivision 1. **Participation.** Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 36, who, on June 30, 1989, was a member of, and a participant in, the ~~public~~ general employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the ~~public~~ general employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter ~~shall~~ must be considered salary.

Sec. 17. Minnesota Statutes 2008, section 353.87, subdivision 2, is amended to read:

Subd. 2. **Option.** A volunteer firefighter to whom subdivision 1 applies has the option to terminate membership and future participation in the ~~public~~ general employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Sec. 18. Minnesota Statutes 2008, section 353.88, is amended to read:

353.88 PENALTY FOR MEMBERSHIP MISCERTIFICATIONS AND CERTIFICATION FAILURES.

(a) If the board of trustees of the Public Employees Retirement Association, upon the recommendation of the executive director, determines that a governmental subdivision has certified a public employee for membership in the public employees police and fire retirement plan when the public employee was not eligible for that retirement plan coverage, the public employee must be covered by the correct retirement plan for subsequent service, the public employee retains the coverage for the period of the misclassification, and the governmental subdivision shall pay in a lump sum the difference in the actuarial present value of the retirement annuities to which the public employee would have been entitled if the public employee was properly classified. The governmental subdivision payment is payable within 30 days of the board's determination. If unpaid, it must be collected under section 353.28. The lump-sum payment must be deposited in the ~~public~~ general employees retirement fund.

(b) If the executive director of the Public Employees Retirement Association determines that a governmental subdivision has failed to certify a person for retirement plan membership and coverage under this chapter, in addition to the procedures under section 353.27, subdivision 4, 9, 10, 11, 12, 12a, or 12b, the director shall charge a fine of \$25 for each membership certification failure.

Sec. 19. Minnesota Statutes 2008, section 354.71, is amended to read:

354.71 MINNEAPOLIS EMPLOYEES RETIREMENT FUND STATE AID REDEDICATED.

Subdivision 1. **Appropriation.** The positive difference, if any, between the actual state aid paid payable to the MERF division account of the Public Employees Retirement Association with respect to the former Minneapolis Employees Retirement Fund under section 422A.101, subdivision 3, and \$8,065,000 annually is appropriated from the general fund to the commissioner of management and budget for deposit in the Teachers Retirement Association to offset all or a portion of the ~~current and future~~ unfunded actuarial accrued liability of the former Minneapolis Teachers Retirement Fund Association.

Subd. 2. **Financial requirements.** The appropriation in subdivision 1 is available to the extent that financial requirements ~~of~~ with respect to the MERF division of the Public Employees Retirement Association as the successor of the former Minneapolis Employees Retirement Fund under section ~~422A.101, subdivision 3,~~ 353.50 have been satisfied.

Sec. 20. Minnesota Statutes 2008, section 354A.011, subdivision 27, is amended to read:

Subd. 27. **Teacher.** (a) "Teacher" means any person who renders service for a public school district, other than a charter school, located in the corporate limits of Duluth or St. Paul, as any of the following:

(1) a full-time employee in a position for which a valid license from the state Department of Education is required;

(2) an employee of the teachers retirement fund association located in the city of the first class ~~unless the employee has exercised the option pursuant to Laws 1955, chapter 10, section 1, to retain membership in the Minneapolis Employees Retirement Fund established pursuant to chapter 422A;~~

(3) a part-time employee in a position for which a valid license from the state Department of Education is required; or

(4) a part-time employee in a position for which a valid license from the state Department of Education is required who also renders other nonteaching services for the school district, unless the board of trustees of the teachers retirement fund association determines that the combined employment is on the whole so substantially dissimilar to teaching service that the service may not be covered by the association.

(b) The term does not mean any person who renders service in the school district as any of the following:

(1) an independent contractor or the employee of an independent contractor;

(2) an employee who is a full-time teacher covered by the Teachers Retirement Association or by another teachers retirement fund association established pursuant to this chapter or chapter 354;

(3) an employee who is exempt from licensure pursuant to section 122A.30;

(4) an employee who is a teacher in a technical college located in a city of the first class unless the person elects coverage by the applicable first class city teacher retirement fund association under section 354B.21, subdivision 2;

(5) a teacher employed by a charter school, irrespective of the location of the school; or

(6) an employee who is a part-time teacher in a technical college in a city of the first class and who has elected coverage by the applicable first class city teacher retirement fund association under section 354B.21, subdivision 2, but (i) the teaching service is incidental to the regular nonteaching occupation of the person; (ii) the applicable technical college stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year; and (iii) the part-time teaching actually does not exceed 300 hours in the fiscal year to which the certification applies.

Sec. 21. Minnesota Statutes 2008, section 354A.39, is amended to read:

354A.39 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

Any person who has been a member of the Minnesota State Retirement System, the Public Employees Retirement Association including the Public Employees Retirement Association Police and Fire Fund, the Teachers Retirement Association, the Minnesota State Patrol Retirement Association, the legislators retirement plan, the constitutional officers retirement plan, ~~the Minneapolis Employees Retirement Fund,~~ the Duluth Teachers Retirement Fund Association new law coordinated program, the St. Paul Teachers Retirement Fund Association coordinated program, or any other public employee retirement system in the state of Minnesota having a like provision, but excluding all other funds providing retirement benefits for police officers or firefighters ~~shall be,~~ is entitled, when qualified, to an annuity from each fund if the person's total allowable service in all of the funds or in any two or more of the funds totals three or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is used again in the computation for a retirement annuity from another fund and provided further that the person has not taken a refund from any of funds or associations since the person's membership in the fund or association has terminated. The annuity from each fund or association ~~shall~~ must be determined by the appropriate provisions of the law governing each fund or association, except that the requirement that a person must have at least three years of allowable service in the respective fund or association ~~shall~~ does not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals three or more years.

Sec. 22. Minnesota Statutes 2008, section 355.095, subdivision 1, is amended to read:

Subdivision 1. **Agreement.** (a) The director, on behalf of the state, its political subdivisions, and its other governmental employers, is authorized to enter into an agreement with the Secretary of Health and Human Services to extend the provisions of United States Code, title 42, section 426, 426-1, and 1395c, to the employees in paragraph (b) who meet the requirements of United States Code, title 42, section 418(v)(2) and who do not have coverage by the federal old age, survivors, and disability insurance program for that employment under any previous modification of the agreement or previous Medicare referendum.

(b) The applicable employees are:

(1) employees who are members of one of the retirement plans in Minnesota Statutes 2008, section 356.30, subdivision 3, except clauses (4) and (8), based on continuous employment since March 31, 1986; and

(2) employees of a special authority or district who have been continuously employed by the special authority or district since March 31, 1986.

Sec. 23. Minnesota Statutes 2009 Supplement, section 356.20, subdivision 2, is amended to read:

Subd. 2. **Covered public pension plans and funds.** This section applies to the following public pension plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System;
- (2) the general employees retirement plan of the Public Employees Retirement Association;
- (3) the Teachers Retirement Association;
- (4) the State Patrol retirement plan;
- (5) the St. Paul Teachers Retirement Fund Association;
- (6) the Duluth Teachers Retirement Fund Association;
- ~~(7) the Minneapolis Employees Retirement Fund;~~
- ~~(8) (7)~~ the University of Minnesota faculty retirement plan;
- ~~(9) (8)~~ the University of Minnesota faculty supplemental retirement plan;
- ~~(10) (9)~~ the judges retirement fund;
- ~~(11) (10)~~ a police or firefighter's relief association specified or described in section 69.77, subdivision 1a;
- ~~(12) (11)~~ a volunteer firefighter relief association governed by section 69.771, subdivision 1;
- ~~(13) (12)~~ the public employees police and fire plan of the Public Employees Retirement Association;
- ~~(14) (13)~~ the correctional state employees retirement plan of the Minnesota State Retirement System;
- ~~(15) (14)~~ the local government correctional service retirement plan of the Public Employees Retirement Association; and
- ~~(16) (15)~~ the voluntary statewide lump-sum volunteer firefighter retirement plan.

Sec. 24. Minnesota Statutes 2008, section 356.214, subdivision 1, is amended to read:

Subdivision 1. **Actuary retention.** (a) The governing board or managing or administrative official of each public pension plan and retirement fund or plan enumerated in paragraph (b) shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services. The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c).

(b) Actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;
- (2) the general state employees retirement plan, Minnesota State Retirement System;

- (3) the correctional employees retirement plan, Minnesota State Retirement System;
- (4) the State Patrol retirement plan, Minnesota State Retirement System;
- (5) the judges retirement plan, Minnesota State Retirement System;
- ~~(6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;~~
- ~~(7)~~ (6) the public general employees retirement plan, Public Employees Retirement Association, including the MERF division;
- ~~(8)~~ (7) the public employees police and fire plan, Public Employees Retirement Association;
- ~~(9)~~ (8) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;
- ~~(10)~~ (9) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;
- ~~(11)~~ (10) the legislators retirement plan, Minnesota State Retirement System;
- ~~(12)~~ (11) the elective state officers retirement plan, Minnesota State Retirement System; and
- ~~(13)~~ (12) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contracts must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contracts must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and ~~(7)~~ (6), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) the rate of return on investments based on the current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

(d) The actuary shall annually prepare a report to the governing or managing board or administrative official and the legislature, summarizing the results of the actuarial valuation calculations. The actuary shall include with the report any recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations on the appropriateness of the actuarial valuation assumptions required for

evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, the governing or managing board or administrative official shall direct the actuary to prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), ~~(6)~~ (7), (8), (9), (10), (11), or (12), ~~or (13)~~, in the manner provided for in the standards for actuarial work adopted by the commission.

Sec. 25. Minnesota Statutes 2008, section 356.30, subdivision 3, is amended to read:

Subd. 3. **Covered plans.** This section applies to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(3) the unclassified employees retirement program, established under chapter 352D;

(4) the State Patrol retirement plan, established under chapter 352B;

(5) the legislators retirement plan, established under chapter 3A;

(6) the elective state officers retirement plan, established under chapter 352C;

(7) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353, including the MERF division of the Public Employees Retirement Association;

(8) the public employees police and fire retirement plan of the Public Employees Retirement Association, established under chapter 353;

(9) the local government correctional service retirement plan of the Public Employees Retirement Association, established under chapter 353E;

(10) the Teachers Retirement Association, established under chapter 354;

~~(11) the Minneapolis Employees Retirement Fund, established under chapter 422A;~~

~~(12)~~ (11) the St. Paul Teachers Retirement Fund Association, established under chapter 354A;

~~(13)~~ (12) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and

~~(14)~~ (13) the judges retirement fund, established by chapter 490.

Sec. 26. Minnesota Statutes 2008, section 356.302, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a disability benefit by the covered retirement plan and that is drawn from any period of credited service and successive years of covered salary

in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 7.

(d) "Duty-related" means a disabling illness or injury that occurred while the person was actively engaged in employment duties or that arose out of the person's active employment duties.

(e) "General employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (1) to ~~(8)~~ (6) and ~~(13)~~ (12).

(f) "Occupationally disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to satisfactorily perform the minimum requirements of the person's employment position or a substantially similar employment position.

(g) "Public safety employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses ~~(9)~~ (7) to ~~(12)~~ (11).

(h) "Totally and permanently disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to engage in any substantial gainful activity and that is expected to continue or has continued for a period of at least one year or that is expected to result directly in the person's death.

Sec. 27. Minnesota Statutes 2008, section 356.302, subdivision 7, is amended to read:

Subd. 7. **Covered retirement plans.** This section applies to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(2) the unclassified state employees retirement program of the Minnesota State Retirement System, established by chapter 352D;

(3) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;

(4) the Teachers Retirement Association, established by chapter 354;

(5) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(6) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

~~(7) the Minneapolis Employees Retirement Fund, established by chapter 422A;~~

~~(8)~~ (7) the state correctional employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

~~(9)~~ (8) the State Patrol retirement plan, established by chapter 352B;

~~(10)~~ (9) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;

~~(11)~~ (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E; and

~~(12)~~ (11) the judges retirement plan, established by chapter 490.

Sec. 28. Minnesota Statutes 2008, section 356.303, subdivision 4, is amended to read:

Subd. 4. **Covered retirement plans.** This section applies to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (10) the Teachers Retirement Association, established by chapter 354;
- (11) the Duluth Teachers Retirement Fund Association, established by chapter 354A;
- (12) the St. Paul Teachers Retirement Fund Association, established by chapter 354A; and
- ~~(13) the Minneapolis Employees Retirement Fund, established by chapter 422A; and~~
- ~~(14)~~ (13) the judges retirement fund, established by chapter 490.

Sec. 29. Minnesota Statutes 2009 Supplement, section 356.32, subdivision 2, is amended to read:

Subd. 2. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (3) the State Patrol retirement plan, established under chapter 352B;
- (4) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353, including the MERF division of the Public Employees Retirement

Association;

(5) the public employees police and fire plan of the Public Employees Retirement Association, established under chapter 353;

(6) the Teachers Retirement Association, established under chapter 354;

~~(7) the Minneapolis Employees Retirement Fund, established under chapter 422A;~~

~~(8) (7) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and~~

~~(9) (8) the St. Paul Teachers Retirement Fund Association, established under chapter 354A.~~

Sec. 30. Minnesota Statutes 2009 Supplement, section 356.401, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the legislators retirement plan, established by chapter 3A;

(2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(4) the State Patrol retirement plan, established by chapter 352B;

(5) the elective state officers retirement plan, established by chapter 352C;

(6) the unclassified state employees retirement program, established by chapter 352D;

(7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;

(8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;

(9) the public employees defined contribution plan, established by chapter 353D;

(10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;

(11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;

(12) the Teachers Retirement Association, established by chapter 354;

(13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

(15) the individual retirement account plan, established by chapter 354B;

- (16) the higher education supplemental retirement plan, established by chapter 354C;
- ~~(17) the Minneapolis Employees Retirement Fund, established by chapter 422A;~~
- ~~(18)~~ (17) the Minneapolis Police Relief Association, established by chapter 423B;
- ~~(19)~~ (18) the Minneapolis Firefighters Relief Association, established by chapter 423C; and
- ~~(20)~~ (19) the judges retirement fund, established by chapter 490.

Sec. 31. Minnesota Statutes 2008, section 356.407, subdivision 2, is amended to read:

Subd. 2. **Covered funds.** The provisions of this section apply to the following retirement funds:

- (1) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;
- (2) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;
- (3) the State Patrol retirement plan established under chapter 352B;
- (4) the legislators retirement plan established under chapter 3A;
- (5) the elective state officers retirement plan established under chapter 352C; and
- (6) the Teachers Retirement Association established under chapter 354; and
- ~~(7) the Minneapolis Employees Retirement Fund established under chapter 422A.~~

Sec. 32. Minnesota Statutes 2009 Supplement, section 356.415, subdivision 2, is amended to read:

Subd. 2. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan established under chapter 3A;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;
- (3) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;
- (4) the State Patrol retirement plan established under chapter 352B;
- (5) the elective state officers retirement plan established under chapter 352C;
- (6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;
- (7) the public employees police and fire retirement plan of the Public Employees Retirement Association established under chapter 353;

(8) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(9) the teachers retirement plan established under chapter 354; and

(10) the judges retirement plan established under chapter 490.

Sec. 33. Minnesota Statutes 2008, section 356.431, subdivision 1, is amended to read:

Subdivision 1. **Lump-sum postretirement payment conversion.** For benefits paid after December 31, 2001, to eligible persons under ~~sections~~ section 356.42 and 356.43, the amount of the most recent lump-sum benefit payable to an eligible recipient under ~~sections~~ section 356.42 and 356.43 must be divided by 12. The result must be added to the monthly annuity or benefit otherwise payable to an eligible recipient, must become a permanent part of the benefit recipient's pension, and must be included in any pension benefit subject to future increases.

Sec. 34. Minnesota Statutes 2008, section 356.465, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the legislators retirement plan established under chapter 3A;

(5) the judges retirement plan established under chapter 490;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353, including the MERF division of the Public Employees Retirement Association;

(7) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;

(8) the teachers retirement plan established under chapter 354;

(9) the Duluth Teachers Retirement Fund Association established under chapter 354A;

(10) the St. Paul Teachers Retirement Fund Association established under chapter 354A;

~~(11) the Minneapolis Employees Retirement Fund established under chapter 422A;~~

~~(12)~~ (11) the Minneapolis Firefighters Relief Association established under chapter 423C;

~~(13)~~ (12) the Minneapolis Police Relief Association established under chapter 423B; and

~~(14)~~ (13) the local government correctional service retirement plan of the Public Employees Retirement Association established under chapter 353E.

Sec. 35. Minnesota Statutes 2008, section 356.64, is amended to read:

356.64 REAL ESTATE INVESTMENTS.

(a) Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the State Board of Investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust if the investment is consistent with section 356A.04.

~~(b) Except to the extent authorized in the case of the Minneapolis Employees Retirement Fund under section 422A.05, subdivision 2c, paragraph (a),~~ An investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.

Sec. 36. Minnesota Statutes 2008, section 356.65, subdivision 2, is amended to read:

Subd. 2. **Disposition of abandoned amounts.** Any unclaimed public pension fund amounts existing in any public pension fund are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts cancel and must be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the applicable public pension plan or applies for a retirement annuity under section 3A.12, 352.72, 352B.30, 353.71, 354.60, or 356.30, ~~or 422A.16, subdivision 8,~~ whichever applies, the canceled amount must be restored to the credit of the person.

Sec. 37. Minnesota Statutes 2008, section 356.91, is amended to read:

356.91 VOLUNTARY MEMBERSHIP DUES DEDUCTION.

(a) Upon written authorization of a person receiving an annuity from a public pension fund administered by the Minnesota State Retirement System, or the Public Employees Retirement Association, ~~or the Minneapolis Employees Retirement Fund,~~ the executive director of the public pension fund may deduct from the retirement annuity an amount requested by the annuitant to be paid as dues to any labor organization that is an exclusive bargaining agent representing public employees or an organization representing retired public employees of which the annuitant is a member and shall pay the amount to the organization so designated by the annuitant.

(b) A pension fund and the plan fiduciaries which authorize or administer deductions of dues payments under paragraph (a) are not liable for failure to properly deduct or transmit the dues amounts, provided that the fund and the fiduciaries have acted in good faith.

(c) The deductions under paragraph (a) may occur no more frequently than two times per year and may not be used for political purposes.

(d) Any labor organization specified in paragraph (a) shall reimburse the public pension fund for the administrative expense of withholding premium amounts.

Sec. 38. Minnesota Statutes 2009 Supplement, section 356.96, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the executive director of a covered pension plan or the executive director's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.20, subdivision 2, clauses (1) to (4), ~~(10)~~ (9), and ~~(13)~~ (12) to ~~(16)~~ (15), but does not mean the deferred compensation plan administered under sections 352.965 and 352.97 or to the postretirement health care savings plan administered under section 352.98.

(d) "Governing board" means the Board of Trustees of the Public Employees Retirement Association, the Board of Trustees of the Teachers Retirement Association, or the Board of Directors of the Minnesota State Retirement System.

(e) "Person" includes an active, retired, deferred, or nonvested inactive participant in a covered pension plan or a beneficiary of a participant, or an individual who has applied to be a participant or who is or may be a survivor of a participant, or a state agency or other governmental unit that employs active participants in a covered pension plan.

Sec. 39. Minnesota Statutes 2008, section 473.511, subdivision 3, is amended to read:

Subd. 3. **Existing sanitary districts, joint sewer boards.** Effective January 1, 1971, the corporate existence of the Minneapolis-St. Paul Sanitary District, the North Suburban Sanitary Sewer District, and any joint board created by agreement among local government units ~~pursuant to~~ under section 471.59, to provide interceptors and treatment works for such local government units, ~~shall terminate.~~ All persons regularly employed by such sanitary districts and joint boards on that date or on any earlier date on which the former waste control commission pursuant to subdivisions 1 and 2 assumed ownership and control of any interceptors or treatment works owned or operated by such sanitary districts and joint boards, and who are employees of the commission on July 1, 1994, ~~shall be~~ are employees of the council, ~~and may at their option become members of the Minnesota State Retirement System or may continue as members of a public retirement association under chapter 422A or any other law, to which they belonged before such date, and shall retain all pension rights which they may have under such latter laws, and all other rights to which they are entitled by contract or law.~~ Members of trades who are employed by the former Metropolitan Waste Control Commission, who have trade union pension coverage ~~pursuant to~~ under a collective bargaining agreement, and who elected exclusion from coverage ~~pursuant to~~ under section 473.512, or who are first employed after July 1, 1977, ~~shall may~~ not be covered by the Minnesota State Retirement System. The council shall make the employer's contributions to pension funds of its employees. Such employees shall perform such duties as may be prescribed by the council. All funds of such sanitary districts and joint boards then on hand, and all subsequent collections of taxes, special assessments or service charges levied or imposed by or for such sanitary districts or joint boards ~~shall~~ must be transferred to the council. The local government units otherwise entitled to such cash, taxes, assessments or service charges ~~shall~~ must be credited with such amounts, and such credits ~~shall~~ must be offset against any amounts to be paid by them to the council as provided in section 473.517. The former Metropolitan Waste Control Commission, and on July 1, 1994, the council shall succeed to and become vested by action of law with all right, title and interest in and to any property, real or personal, owned or operated by such sanitary districts and joint boards. Prior to that date the proper officers of such sanitary districts and joint boards, or the former Metropolitan Waste Control Commission, shall execute and deliver to the council all deeds, conveyances, bills of sale, and other documents or instruments required to vest in the council good and marketable title to all such real or personal property; provided that vesting

of the title ~~shall~~ must occur by operation of law and failure to execute and deliver the documents ~~shall~~ does not affect the vesting of title in the former Metropolitan Waste Control Commission or the council on the dates indicated in this subdivision. The council shall become obligated to pay or assume all bonded or other debt and contract obligations incurred by the former Metropolitan Waste Control Commission, or by such sanitary districts and joint boards, or incurred by local government units for the acquisition or betterment of any interceptors or treatment works owned or operated by such sanitary districts or joint boards.

Sec. 40. Minnesota Statutes 2008, section 473.606, subdivision 5, is amended to read:

Subd. 5. **Employees, others, affirmative action; prevailing wage.** The corporation shall have the power to appoint engineers and other consultants, attorneys, and such other officers, agents, and employees as it may see fit, who shall perform such duties and receive such compensation as the corporation may determine, and be removable at the pleasure of the corporation. The corporation ~~shall~~ must adopt an affirmative action plan, which shall be submitted to the appropriate agency or office of the state for review and approval. The plan ~~shall~~ must include a yearly progress report to the agency or office. ~~Officers and employees of the corporation who cannot qualify and participate in the municipal employees retirement fund under chapter 422A, shall be separated from service at the retirement age applicable to officers or employees of the state of Minnesota in the classified service of the state civil service as provided in section 43A.34, or as the same may from time to time be amended, regardless of the provisions of the Veteran's Preference Act.~~ Whenever the corporation performs any work within the limits of a city of the first class, or establishes a minimum wage for skilled or unskilled labor in the specifications or any contract for work within one of the cities, the rate of pay to such skilled and unskilled labor ~~shall~~ must be the prevailing rate of wage for such labor in that city.

Sec. 41. Minnesota Statutes 2008, section 475.52, subdivision 6, is amended to read:

Subd. 6. **Certain purposes.** Any municipality may issue bonds for paying judgments against it; for refunding outstanding bonds; for funding floating indebtedness; for funding actuarial liabilities to pay postemployment benefits to employees or officers after their termination of service; or for funding all or part of the municipality's current and future unfunded liability for a pension or retirement fund or plan referred to in section 356.20, subdivision 2, as those liabilities are most recently computed ~~pursuant to~~ under sections 356.215 and 356.216. The board of trustees or directors of a ~~pension fund or~~ relief association referred to in section 69.77 ~~or chapter 422A~~ must consent and must be a party to any contract made under this section with respect to the fund held by it for the benefit of and in trust for its members. For purposes of this section, the term "postemployment benefits" means benefits giving rise to a liability under Statement No. 45 of the Governmental Accounting Standards Board.

Sec. 42. Minnesota Statutes 2009 Supplement, section 480.181, subdivision 2, is amended to read:

Subd. 2. **Election to retain insurance and benefits; retirement.** (a) Before a person is transferred to state employment under this section, the person may elect to do either or both of the following:

(1) keep life insurance; hospital, medical, and dental insurance; and vacation and sick leave benefits and accumulated time provided by the county instead of receiving benefits from the state under the judicial branch personnel rules; or

(2) remain a member of the general employees retirement plan of the Public Employees Retirement Association or the Minneapolis employees retirement fund MERF division of the Public Employees Retirement Association instead of joining the Minnesota State Retirement System.

Employees who make an election under clause (1) remain on the county payroll, but the state shall reimburse the county on a quarterly basis for the salary and cost of the benefits provided by the county. The state shall make the employer contribution to the general employees retirement plan of the Public Employees Retirement Association or the employer contribution under section 422A.101 353.50, subdivision 1a 7, paragraphs (c) and (d), to the Minneapolis Employees Retirement Fund MERF division of the Public Employees Retirement Association on behalf of employees who make an election under clause (2).

(b) An employee who makes an election under paragraph (a), clause (1), may revoke the election, once, at any time, but if the employee revokes the election, the employee cannot make another election. An employee who makes an election under paragraph (a), clause (2), may revoke the election at any time within six months after the person becomes a state employee. Once an employee revokes this election, the employee cannot make another election.

(c) The Supreme Court, after consultation with the Judicial Council, the commissioner of management and budget, and the executive directors of the Public Employees Retirement Association and the Minnesota State Retirement Association, shall adopt procedures for making elections under this section.

(d) The Supreme Court shall notify all affected employees of the options available under this section. The executive directors of the Public Employees Retirement Association and the Minnesota State Retirement System shall provide counseling to affected employees on the effect of making an election to remain a member of the Public Employees Retirement Association.

Sec. 43. EFFECTIVE DATE.

Sections 1 to 42 are effective June 30, 2010.

ARTICLE 14

VOLUNTEER FIREFIGHTER RELIEF ASSOCIATION MODIFICATIONS

Section 1. Minnesota Statutes 2009 Supplement, section 69.772, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding ~~pursuant to~~ under subdivision 3, clause (2), subclause (e), ~~or~~ and if the municipality is required to provide financial support to the special fund of the relief association ~~pursuant to~~ under this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding ~~pursuant to~~ under subdivision 3, clause (2), subclause (e), and if the municipality

is not required to provide financial support to the special fund of the relief association ~~pursuant to~~ under this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification ~~pursuant to~~ under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association ~~pursuant to~~ under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 2. Minnesota Statutes 2009 Supplement, section 69.773, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding ~~pursuant to~~ under subdivision 4, ~~or~~ and if the municipality is required to provide financial support to the special fund of the relief association ~~pursuant to~~ under this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies is not effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding ~~pursuant to~~ under subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association ~~pursuant to~~ under this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which are effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association ~~pursuant to~~ under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal

ratification and any service pensions or retirement benefits payable after that date may be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 3. Minnesota Statutes 2008, section 356A.06, subdivision 8, is amended to read:

Subd. 8. **Minimum liquidity requirements.** A covered pension plan described by subdivision 6, ~~paragraph (a)~~ or 7, in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 1, is amended to read:

Subdivision 1. **Minors.** ~~(a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a firefighter, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.~~

~~(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.~~

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

Sec. 5. Minnesota Statutes 2009 Supplement, section 424A.01, subdivision 6, is amended to read:

Subd. 6. **Return to active firefighting after break in service.** (a) The requirements of this section apply to all breaks in service, except breaks in service mandated by federal or state law.

(b)(1) If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person firefighter may again become an active member of the relief association. A firefighter who returns to active service and membership is subject to the service pension calculation requirements under this section.

(2) A firefighter who has been granted an approved leave of absence not exceeding one year by the fire department or by the relief association is exempt from the minimum period of resumption service requirement of this section.

(3) A person who has a break in service not exceeding one year but has not been granted an

approved leave of absence and who has not received a service pension or disability benefit may be made exempt from the minimum period of resumption service requirement of this section by the relief association bylaws.

(4) If the bylaws so provide, a firefighter who returns to active relief association membership under this paragraph may continue to collect a monthly service pension, notwithstanding the service pension eligibility requirements under chapter 424A.

~~(b)~~ (c) If a former firefighter who has received a service pension or disability benefit returns to active relief association membership under paragraph (a) (b), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets a minimum period of resumption service specified in the relief association bylaws the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2.

(d) If a former firefighter who has not received a service pension or disability benefit returns to active relief association membership under paragraph (b), the firefighter may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets the minimum period of resumption service specified in the relief association bylaws and the service requirements of section 424A.016, subdivision 3, or 424A.02, subdivision 2.

~~(e)~~ (e) A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph (b) (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.016, subdivision 3, or 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(d)~~ (f) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (a) (b), who does not qualify for a service pension under paragraph (b) (d), but who does meet the minimum service requirement of section 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

~~(e)~~ (g) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a) (b), and if the relief association bylaws do not allow for the firefighter to continue collecting a monthly service pension, any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b) (c), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation

of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. ~~The A~~ suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

~~(f)~~ (h) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph ~~(a)~~ (b), who does not qualify for a service pension under paragraph ~~(b)~~ (d), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

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

Sec. 6. Minnesota Statutes 2009 Supplement, section 424A.015, is amended by adding a subdivision to read:

Subd. 5. **Minnesota deferred compensation plan transfers.** A relief association may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension amount to the requesting member's account in the Minnesota deferred compensation plan, if:

- (1) the governing articles of incorporation or bylaws so provide;
- (2) the volunteer firefighter participates in the Minnesota deferred compensation plan at the time of retirement; and
- (3) the applicable retiring firefighter requests in writing that the relief association do so.

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

Sec. 7. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 4, is amended to read:

Subd. 4. **Individual accounts.** (a) An individual account must be established for each firefighter who is a member of the relief association.

- (b) To each individual active member account must be credited an equal share of:
 - (1) any amounts of fire state aid received by the relief association;
 - (2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and
 - (3) any amounts equal to the share of the assets of the special fund to the credit of:
 - (i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in

subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) If the bylaws so permit and as the bylaws define, the relief association may credit any investment return on the assets of the special fund to the accounts of inactive members.

(d) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

~~(d)~~ (e) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

~~(e)~~ (f) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

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

Sec. 8. Minnesota Statutes 2009 Supplement, section 424A.016, subdivision 7, is amended to read:

Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested ~~or~~ and nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

(c)(1) If a survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(i) as a survivor benefit to the surviving spouse of the deceased firefighter;

(ii) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(iii) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(iv) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children, and no beneficiary designated.

(2) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(d) For purposes of this section, for a defined contribution volunteer fire relief association, a trust created under chapter 501B may be a designated beneficiary. If a trust payable to the surviving children organized under chapter 501B has been established as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding the requirements of this section.

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

Sec. 9. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 9, is amended to read:

Subd. 9. **Limitation on ancillary benefits.** A defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of a defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the

relief association is affiliated.

(3)(i) If a lump sum survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving children and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(4)(i) If a monthly benefit survivor or death benefit is payable under the articles of incorporation or bylaws, the benefit must be paid:

(A) as a survivor benefit to the surviving spouse of the deceased firefighter;

(B) as a survivor benefit to the surviving children of the deceased firefighter if no surviving spouse;

(C) as a survivor benefit to a designated beneficiary of the deceased firefighter if no surviving spouse or surviving children; or

(D) as a death benefit to the estate of the deceased active or deferred firefighter if no surviving spouse, no surviving children and no beneficiary designated.

(ii) If there are no surviving children, the surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit.

(iii) For purposes of this clause, if the relief association bylaws authorize a monthly survivor benefit payable to a designated beneficiary, the relief association bylaws may limit the total survivor benefit amount payable.

(5) For purposes of this section, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this section, for a lump-sum volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a trust created under chapter 501B may be a designated beneficiary. If a trust is payable to the surviving children organized under chapter 501B as authorized by this section and there is no surviving spouse, the survivor benefit may be paid to the trust, notwithstanding a requirement of this section to the contrary.

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 424A.02, subdivision 10, is amended to read:

Subd. 10. **Local approval of bylaw amendments; filing requirements.** (a) Each defined benefit relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding under section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association under section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized under section 69.80 payable from the special fund of the relief association is effective until it has been ratified ~~by the governing body or bodies of the appropriate municipalities as required under section 69.772, subdivision 6, or 69.773, subdivision 6.~~ If the special fund of the relief association has a surplus over full funding under section 69.772, subdivision 3, or 69.773, subdivision 4, and if the municipality is not required to provide financial support to the special fund under this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the subsequent calendar year's fire state aid to be received by the relief association if authorized under section 69.772, subdivision 6, or 69.773, subdivision 6.

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification is no longer effective without municipal ratification, and any service pensions or ancillary benefits payable after that date must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

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

Sec. 11. Minnesota Statutes 2009 Supplement, section 424A.05, subdivision 3, is amended to

read:

Subd. 3. **Authorized disbursements from the special fund.** ~~(a)~~ Disbursements from the special fund may not be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the purchase of an annuity for the applicable person under section 424A.015, subdivision 3, for the transfer of service pension or benefit amounts to the applicable person's individual retirement account under section 424A.015, subdivision 4, or to the applicable person's account in the Minnesota deferred compensation plan under section 424A.015, subdivision 5;

~~(2)~~ (3) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid under law and specified in amount in the bylaws governing the relief association;

~~(3)~~ (4) for the payment of survivor benefits ~~to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary,~~ or for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid under law and specified in amount in the bylaws governing the relief association;

~~(4)~~ (5) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition in order to entitle relief association members to membership in and the benefits of these associations or organizations;

~~(5)~~ (6) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

~~(6)~~ (7) for the payment of administrative expenses of the relief association as authorized under section 69.80.

~~(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump sum volunteer fire relief association, or for a combination lump sum and monthly benefit volunteer fire relief association where a lump sum service pension has been elected by or a lump sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.~~

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

Sec. 12. Minnesota Statutes 2009 Supplement, section 424A.05, is amended by adding a subdivision to read:

Subd. 3a. **Corrections of erroneous special fund deposits.** Upon notification of funds deposited in error in the special fund and after presentation of evidence that the error occurred in good faith,

the state auditor may require the relief association to provide a written legal opinion concluding that the transfer of funds from the special fund is consistent with federal and state law. Taking into consideration the evidence of good faith presented and the legal opinion, if any, provided, the state auditor may order the transfer from the special fund to the appropriate fund or account an amount equal to the funds deposited in error.

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

Sec. 13. **REPEALER.**

(a) Minnesota Statutes 2009 Supplement, section 424A.001, subdivision 6, is repealed.

(b) Laws 2009, chapter 169, article 10, section 32, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective retroactively from July 1, 2009.

ARTICLE 15

ONE PERSON/SMALL GROUP PENSION ISSUES

Section 1. **PERA-GENERAL; PURCHASE OF OMITTED INVER GROVE HEIGHTS SCHOOL DISTRICT OMITTED MEMBER CONTRIBUTIONS.**

(a) Notwithstanding any provision of law to the contrary, an eligible person described in paragraph (b) is entitled to purchase from the general employees retirement plan of the Public Employees Retirement Association allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, for the period of omitted member deductions described in paragraph (c).

(b) An eligible person is a person who:

(1) was born on April 17, 1948;

(2) is a current employee of Independent School District No. 199, Inver Grove Heights;

(3) is a current member of the general employees retirement plan of the Public Employees Retirement Association;

(4) was employed by Independent School District No. 199, Inver Grove Heights, on August 26, 1985; and

(5) was not reported by Independent School District No. 199, Inver Grove Heights, for retirement coverage by and membership in the general employees retirement plan of the Public Employees Retirement Association until September 1, 1986.

(c) The period of uncredited service authorized for purchase is the period of August 26, 1985, until August 31, 1986, during which no member contributions for the general employees retirement plan of the Public Employees Retirement Association were deducted from the eligible person's salary by Independent School District No. 199, Inver Grove Heights.

(d) The purchase payment amount payable by the eligible person is four percent of the eligible person's salary under Minnesota Statutes 1984, section 353.01, subdivision 10, from Independent School District No. 199, Inver Grove Heights, during the period of August 26, 1985, until August

31, 1986, plus annual compound interest on that amount at the rate of 8.5 percent from March 1, 1986, until the date on which payment is made to the Public Employees Retirement Association. The purchase payment amount payable by Independent School District No. 199, Inver Grove Heights, is the balance of the full actuarial value prior service credit purchase payment amount determined under Minnesota Statutes, section 356.551, as of the first day of the month next following the receipt of the eligible person's payment that is remaining after deducting the purchase payment amount payable by the eligible person.

(e) The school district purchase payment amount payable under paragraph (d) must be made on or before the 15th of the month next following the receipt of the eligible person's payment under paragraph (d). If the school district purchase payment amount is not paid in a timely fashion, the amount due accrues compound monthly interest at the rate of 0.71 percent per month from the first day of the month next following the receipt of the eligible person's payment until the school district purchase payment amount is received by the Public Employees Retirement Association. If the school district purchase payment amount is not paid to the Public Employees Retirement Association 90 days after the receipt of the eligible person's payment, the executive director shall notify the commissioner of Minnesota Management and Budget, the commissioner of education, and the commissioner of revenue of that unpaid obligation and the unpaid obligation must be deducted from any state aid otherwise payable to the school district, plus interest.

(f) The eligible person must provide the executive director of the Public Employees Retirement Association with any relevant requested information pertaining to this service credit purchase.

(g) Authority to make a service credit purchase under this section expires on June 30, 2011, or upon the termination from public employment under Minnesota Statutes, section 353.01, subdivision 11a, whichever occurs earlier.

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

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 1. Minnesota Statutes 2008, section 356.216, is amended to read:

356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.

(a) The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution, except that if the actuarial report for the Bloomington Fire Department Relief Association indicates an unfunded actuarial accrued

liability, the unfunded obligation is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later, and if subsequent actuarial valuations for the Bloomington Fire Department Relief Association determine a net actuarial experience loss incurred during the year which ended as of the day before the most recent actuarial valuation date, any unfunded liability due to that loss is to be amortized on a level dollar basis by December 31 of the year occurring 20 years later and except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, ~~clause (6)~~ paragraph (f), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) for active members:

1. retirement benefits;
2. disability benefits;
3. refund liability due to death or withdrawal;
4. survivors' benefits;

(ii) for deferred annuitants' benefits;

(iii) for former members without vested rights;

(iv) for annuitants;

1. retirement annuities;
2. disability annuities;
3. surviving spouses' annuities;
4. surviving children's annuities;

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

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

Sec. 2. Minnesota Statutes 2008, section 356.24, subdivision 1, is amended to read:

Subdivision 1. **Restriction; exceptions.** (a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or to contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits;

(3) to the individual retirement account plan established by chapter 354B;

(4) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(5) for employees other than personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and covered under the Higher Education Supplemental Retirement Plan under chapter 354C, but including city managers covered by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph (a), or by the defined contribution plan of the Public Employees Retirement Association under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is provided for in a personnel policy of the public employer or in the collective bargaining agreement between the public employer and the exclusive representative of public employees in an appropriate unit or in the individual employment contract between a city and a city manager, and if for each available investment all fees and historic rates of return for the prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an easily comprehended document not to exceed two pages, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of one-half of the available elective deferral permitted per year per employee, under the Internal Revenue Code:

(i) to the state of Minnesota deferred compensation plan under section 352.965;

(ii) in payment of the applicable portion of the contribution made to any investment eligible under section 403(b) of the Internal Revenue Code, if the employing unit has complied with any applicable pension plan provisions of the Internal Revenue Code with respect to the tax-sheltered annuity program during the preceding calendar year; or

(iii) any other deferred compensation plan offered by the employer under section 457 of the Internal Revenue Code;

(6) for personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and not covered by clause (5), to the supplemental retirement plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,700 a year for each employee;

(7) to a supplemental plan or to a governmental trust to save for postretirement health care expenses qualified for tax-preferred treatment under the Internal Revenue Code, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit;

(8) to the laborers national industrial pension fund or to a laborers local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(9) to the plumbers and pipefitters national pension fund or to a plumbers and pipefitters local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(10) to the international union of operating engineers pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee;

(11) to a supplemental plan organized and operated under the federal Internal Revenue Code, as amended, that is wholly and solely funded by the employee's accumulated sick leave, accumulated vacation leave, and accumulated severance pay;

(12) to the International Association of Machinists national pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per year per employee; ~~or~~

(13) for employees of United Hospital District, Blue Earth, to the state of Minnesota deferred compensation program, if the employee makes a contribution, in an amount that does not exceed the total percentage of covered salary under section 353.27, subdivisions 3 and 3a; or

(14) to the alternative retirement plans established by the Hennepin County Medical Center under section 383B.914, subdivision 5.

(b) No governmental subdivision may make a contribution to a deferred compensation plan operating under section 457 of the Internal Revenue Code for volunteer or emergency on-call firefighters in lieu of providing retirement coverage under the federal Old Age, Survivors, and Disability Insurance Program.

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

Sec. 3. Laws 2009, chapter 169, article 7, section 4, is amended to read:

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective January 1, 2010, ~~and~~ Sections 1 and 2 expire June 30, 2011.

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

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; increasing certain contribution rates; suspending certain postretirement adjustments; reducing certain postretirement adjustment increase rates; reducing interest rates on refunds; reducing deferred annuity augmentation rates; eliminating interest on reemployed annuitant earnings limitation deferred accounts; increasing certain vesting requirements; increasing certain early retirement reduction rates; reducing certain benefit accrual rates; extending certain amortization periods; making changes of an administrative nature for retirement plans administered by the Minnesota State Retirement Association; revising insurance withholding for certain retired public employees; authorizing state patrol plan service credit for leave procedures; addressing plan coverage errors and omitted contributions; revising unlawful discharge annuity repayment requirements; requiring employment unit accommodation of daily valuation of investment accounts; eliminating administrative fee maximum for the unclassified state employees retirement program; making changes of an administrative nature in the general employees retirement plan of the Public Employees Retirement Association, the public employees police and fire retirement plan, and the defined contribution retirement plan; making various administrative modifications in the voluntary statewide lump-sum volunteer firefighter retirement plan of the Public Employees Retirement Association; revising purchase of salary credit procedures in certain partial salary situations; adding new partial salary credit purchase authority for partial paid medical leaves and budgetary leaves; redefining TRA allowable service credit; defining annual base salary; requiring base salary reporting by TRA-covered employing units; making changes of an administrative nature in the Minnesota State Colleges and Universities System individual retirement account plan; setting deadline dates for actuarial reporting; extending and revising an early retirement incentive program; permitting the court-ordered revocation of an optional annuity election in certain marriage dissolutions; transfer of the administrative functions of the Minneapolis Employees Retirement Fund to the Public Employees Retirement Association; creation of MERF consolidation account within the Public Employees Retirement Association; making various technical corrections relating to volunteer fire relief associations; revising break-in-service return to firefighting authorizations; authorizing Minnesota deferred compensation plan service pension transfers; revising payout defaults in survivor benefits; authorizing corrections of certain special fund deposits; requiring a retirement fund investment authority study; authorizing certain bylaw amendments; making technical changes; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 4; 3A.07; 11A.04; 11A.23, subdivision 4; 13D.01, subdivision 1; 43A.17, subdivision 9; 43A.316, subdivision 8; 69.021, subdivision 10; 69.051, subdivision 3; 126C.41, subdivision 3; 256D.21; 352.01, subdivision 2a; 352.03, subdivision 4; 352.04, subdivision 9; 352.113, subdivision 1; 352.115, subdivisions 1, 10; 352.12, subdivision 2; 352.22, subdivisions 2, 3; 352.72, subdivisions 1, 2; 352.91, by adding a subdivision; 352.93, subdivisions 1, 2a, 3a; 352.931, subdivision 1; 352.965, subdivisions 1, 2, 6; 352B.02, as amended; 352B.08, subdivisions 1, 2a; 352B.11, subdivision 2b; 352B.30,

subdivisions 1, 2; 352D.015, subdivisions 4, 9, by adding a subdivision; 352D.02, subdivisions 1, 1c, 2, 3; 352D.03; 352D.04, subdivisions 1, 2; 352D.05, subdivisions 3, 4; 352D.06, subdivision 3; 352D.065, subdivision 3; 352D.09, subdivisions 3, 7; 352F.07; 353.01, subdivisions 2b, 2d, by adding subdivisions; 353.0161, subdivision 2; 353.03, subdivision 1; 353.05; 353.27, as amended; 353.29, subdivision 1; 353.30, subdivision 1c; 353.32, subdivisions 1, 1a; 353.34, subdivisions 1, 2, 3, 6; 353.37, subdivisions 1, 2, 3, 3a, 4, 5; 353.46, subdivisions 2, 6; 353.64, subdivision 7; 353.651, subdivisions 1, 4; 353.657, subdivisions 1, 2a; 353.71, subdivisions 1, 2, 4; 353.86, subdivisions 1, 2; 353.87, subdivisions 1, 2; 353.88; 353D.01, subdivision 2; 353D.03, subdivision 1; 353D.04, subdivisions 1, 2; 353E.04, subdivisions 1, 4; 353E.07, subdivisions 1, 2; 353F.025, subdivisions 1, 2; 353F.03; 354.05, by adding a subdivision; 354.07, subdivision 5; 354.091; 354.42, subdivisions 3, 7, by adding subdivisions; 354.52, subdivision 6, by adding a subdivision; 354.66, subdivision 3; 354.71; 354A.011, subdivision 27; 354A.12, subdivisions 1, 3c, by adding a subdivision; 354A.27, subdivisions 5, 6, by adding a subdivision; 354A.31, subdivision 1; 354A.35, subdivision 1; 354A.37, subdivisions 2, 3, 4; 354A.39; 354B.25, subdivisions 1, 3; 354C.14; 355.095, subdivision 1; 356.214, subdivision 1; 356.215, subdivisions 3, 8; 356.216; 356.24, subdivision 1; 356.30, subdivisions 1, 3; 356.302, subdivisions 1, 3, 4, 5, 7; 356.303, subdivisions 2, 4; 356.315, subdivision 5; 356.351, subdivision 1; 356.407, subdivision 2; 356.431, subdivision 1; 356.465, subdivision 3; 356.47, subdivision 3; 356.50, subdivision 4; 356.64; 356.65, subdivision 2; 356.91; 356.96, subdivisions 2, 3, 7, 8; 356A.06, subdivision 8; 422A.101, subdivision 3; 422A.26; 473.511, subdivision 3; 473.606, subdivision 5; 475.52, subdivision 6; 490.123, by adding a subdivision; 518.58, subdivisions 3, 4; Minnesota Statutes 2009 Supplement, sections 6.67; 69.011, subdivision 1; 69.031, subdivision 5; 69.772, subdivision 6; 69.773, subdivision 6; 352.01, subdivision 2b; 352.75, subdivision 4; 352.95, subdivision 2; 352B.011, subdivision 3; 353.01, subdivisions 2, 2a, 16; 353.06; 353.27, subdivisions 2, 3, 7; 353.33, subdivision 1; 353.371, subdivision 4; 353.65, subdivisions 2, 3; 353F.02, subdivision 4; 353G.05, subdivision 2; 353G.06, subdivision 1; 353G.08; 353G.09, subdivision 3; 353G.11, subdivision 1, by adding a subdivision; 354.42, subdivision 2; 354.47, subdivision 1; 354.49, subdivision 2; 354.52, subdivision 4b; 354.55, subdivision 11; 354A.12, subdivision 2a; 356.20, subdivision 2; 356.215, subdivision 11; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivision 3; 356.415, subdivisions 1, 2, by adding subdivisions; 356.96, subdivisions 1, 5; 423A.02, subdivision 3; 424A.01, subdivisions 1, 6; 424A.015, by adding a subdivision; 424A.016, subdivisions 4, 7; 424A.02, subdivisions 9, 10; 424A.05, subdivision 3, by adding a subdivision; 424A.08; 480.181, subdivision 2; Laws 2006, chapter 271, article 3, section 43, as amended; Laws 2009, chapter 169, article 4, section 49; article 5, section 2; article 7, section 4; proposing coding for new law in Minnesota Statutes, chapters 352B; 353; 353G; 356; repealing Minnesota Statutes 2008, sections 13.63, subdivision 1; 69.011, subdivision 2a; 352.91, subdivision 5; 353.01, subdivision 40; 353.46, subdivision 1a; 353.88; 353D.03, subdivision 2; 353D.12; 354A.27, subdivision 1; 354C.15; 356.43; 422A.01, subdivisions 1, 2, 3, 4, 4a, 5, 6, 7, 8, 9, 10, 11, 12, 13a, 17, 18; 422A.02; 422A.03; 422A.04; 422A.05, subdivisions 1, 2a, 2b, 2c, 2d, 2e, 2f, 5, 6, 8; 422A.06, subdivisions 1, 2, 3, 5, 6, 7; 422A.08, subdivision 1; 422A.09; 422A.10; 422A.101, subdivisions 1, 1a, 2, 2a; 422A.11; 422A.12; 422A.13; 422A.14, subdivision 1; 422A.15; 422A.151; 422A.155; 422A.156; 422A.16, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; 422A.17; 422A.18, subdivisions 1, 2, 3, 4, 5, 7; 422A.19; 422A.20; 422A.21; 422A.22, subdivisions 1, 3, 4, 6; 422A.23, subdivisions 1, 2, 5, 6, 7, 8, 9, 10, 11, 12; 422A.231; 422A.24; 422A.25; Minnesota Statutes 2009 Supplement, sections 422A.06, subdivision 8; 422A.08, subdivision 5; 424A.001, subdivision 6; Laws 2009, chapter 169, article 10, section 32."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture and Veterans, to which was re-referred

S.F. No. 2971: A bill for an act relating to energy; making technical changes and modifying provisions related to utility report filings, hydrogen energy projects, weatherization programs, public utility commission assessments, and utility metering for supporting housing; removing obsolete and redundant language; authorizing individuals and entities to take certain easements in agricultural land; providing for wind and solar easements; amending Minnesota Statutes 2008, sections 16E.15, subdivision 2; 216B.16, by adding a subdivision; 216B.241, subdivision 2; 216B.812, subdivision 2; 216C.264; 216E.18, subdivision 3; 326B.106, subdivision 12; 500.221, subdivision 2; Laws 2008, chapter 296, article 1, section 25; repealing Minnesota Statutes 2008, sections 216C.19, subdivisions 2, 3, 13, 14, 15, 16, 18, 19, 20; 216C.262; Minnesota Statutes 2009 Supplement, section 216C.19, subdivision 17.

Reports the same back with the recommendation that the bill be amended as follows:

Page 8, after line 8, insert:

"Sec. 9. Minnesota Statutes 2008, section 500.221, subdivision 4, is amended to read:

Subd. 4. **Reports.** (a) Any natural person, corporation, partnership, limited partnership, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land lawfully acquired within this state prior to June 1, 1981, but shall file a report with the commissioner of agriculture annually before January 31 containing a description of all agricultural land held within this state, the purchase price and market value of the land, the use to which it is put, the date of acquisition and any other reasonable information required by the commissioner.

(b) An individual or entity that qualifies for an exemption under subdivision 2, clause (2) or (9), and owns an interest in agricultural land shall file a report with the commissioner of agriculture within 30 days of acquisition and annually thereafter by January 31, containing a description of all interests in agricultural land held within this state, the purchase price of the interest and market value of the land, the use to which it is put, the date of acquisition, and any other reasonable information required by the commissioner.

(c) The commissioner shall make the information available to the public.

(d) All required annual reports shall include a filing fee of \$50 plus \$10 for each additional quarter section of land."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "supporting" and insert "supportive"

Page 1, line 6, after the semicolon, insert "providing for certain reporting requirements;"

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture and Veterans, to which was referred

S.F. No. 3274: A bill for an act relating to state lottery; directing the lottery to develop a special scratch lottery game to benefit Minnesota veterans, members of the military, and their families; amending Minnesota Statutes 2008, section 349A.10, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 349A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Murphy from the Committee on Transportation, to which was re-referred

S.F. No. 3031: A bill for an act relating to eminent domain; modifying right of first refusal offers for property obtained with federal transit funding; amending Minnesota Statutes 2008, section 117.226.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Pappas from the Committee on Higher Education, to which was referred

S.F. No. 3205: A bill for an act relating to higher education; providing information on textbook prices to students; amending Minnesota Statutes 2008, sections 135A.25, by adding a subdivision; 136F.58, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 2839: A bill for an act relating to commerce; regulating various licensees and other entities; modifying informational requirements, continuing education requirements, and notice requirements; making various housekeeping, technical, and clarifying changes; reorganizing various provisions relating to real estate brokers, salespersons, and closing agents; modifying the membership requirements of, and appointment authority to, the real estate appraiser advisory board; amending Minnesota Statutes 2008, sections 45.0112; 60A.084; 60A.204; 60K.31, subdivision 10; 61A.092, subdivision 3; 62A.17, subdivision 5; 62A.65, subdivision 2; 62E.02, subdivision 15; 62E.14, subdivision 4c; 62L.05, subdivision 4; 62S.24, subdivision 8; 62S.266, subdivision 4; 62S.29, subdivision 1; 72A.20, subdivisions 36, 37; 72A.492, subdivision 2; 80A.41; 82.17, subdivision 15, by adding a subdivision; 82.19; 82.21, subdivision 2; 82.24, subdivision 3; 82.29, subdivisions 4, 5, 8; 82.31, subdivisions 1, 2; 82.33, subdivisions 1, 2, by adding a subdivision; 82.34, subdivisions 1, 2, 4, 5, 13; 82.39; 82.41, subdivisions 1, 2, by adding a subdivision; 82.45, subdivision 3, by adding subdivisions; 82.48, subdivisions 2, 3; 82B.05, as amended; Minnesota

Statutes 2009 Supplement, sections 45.027, subdivision 1; 45.30, subdivision 4; 60A.9572, subdivision 6; 65A.29, subdivision 13; 82.31, subdivision 4; 82.32; proposing coding for new law in Minnesota Statutes, chapter 82; repealing Minnesota Statutes 2008, sections 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3, 7; 332.335; Minnesota Statutes 2009 Supplement, section 65B.133, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MISCELLANEOUS COMMERCE PROVISIONS

Section 1. Minnesota Statutes 2008, section 45.0112, is amended to read:

45.0112 STREET AND E-MAIL ADDRESSES REQUIRED.

Licensees or applicants for licenses issued by the commissioner shall provide to the commissioner a residence telephone number, a street address where the licensee actually resides, ~~and a street address where the licensee's business is physically located, and a current e-mail address for business use. A post office box address is not sufficient to satisfy this requirement.~~ The individual shall notify the department of any change in street address, e-mail address for business use, or residence telephone number within ten days.

Sec. 2. Minnesota Statutes 2009 Supplement, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner;

(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after

the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and

(8) assess a licensee natural person or entity subject to the jurisdiction of the commissioner the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day or fraction thereof so as to provide for the total cost of the investigation. All money collected must be deposited into the general fund. A natural person licensed under chapter 60K or 82 shall not be charged costs of an investigation if the investigation results in no finding of a violation. This clause does not apply to a natural person or entity already subject to the assessment provisions of sections 60A.03 and 60A.031.

Sec. 3. Minnesota Statutes 2009 Supplement, section 45.30, subdivision 4, is amended to read:

Subd. 4. **Credit earned.** (a) Upon completion of approved courses, students must earn one hour of continuing education credit for each hour approved by the commissioner. Continuing education courses must be attended in their entirety in order to receive credit for the number of approved hours.

(b) Qualified instructors will earn three hours of continuing education credit for each classroom hour of approved instruction that they deliver (1) independently, or (2) as part of a team presentation in a course of two hours or less, if they attend the course in its entirety. For licensees other than appraisers, no more than half of the continuing education hours required for renewal of a license may be earned as a qualified instructor at the rate of three hours of continuing education credit for each classroom hour of approved instruction. For licensed appraisers, no more than one-half of the continuing education hours required for renewal of a license may be earned as a qualified instructor. No credit will be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

(c) A licensee must not receive credit for more than eight hours of continuing education in one day.

Sec. 4. Minnesota Statutes 2008, section 60A.031, subdivision 4, is amended to read:

Subd. 4. **Examination report; foreign and domestic companies.** (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the

verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refile the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the Commerce Department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision, or in the course of market analysis, must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners (NAIC), the National Association of Securities Dealers Financial Industry Regulatory Authority, and any national securities association registered under the Securities Exchange Act of 1934. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained. For purposes of this section, "market analysis" means a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports, such as the NAIC Market Conduct Annual Statement, or other sources in order to develop a baseline profile of an insurer, review the operation or activity of an insurer, or to identify patterns or practices of insurers licensed to do business in this state that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.

Sec. 5. Minnesota Statutes 2008, section 60A.084, is amended to read:

60A.084 NOTIFICATION ON GROUP POLICIES.

An employer providing life or health benefits may not change benefits, limit coverage, or otherwise restrict participation until the certificate holder or enrollee has been notified of any changes, limitations, or restrictions. Notice in a format which meets the requirements of the ~~Employee Retirement Income Security Act, United States Code Annotated, title 29, sections 1001 to 1461,~~ United States Department of Labor is satisfactory for compliance with this section.

Sec. 6. Minnesota Statutes 2008, section 60A.204, is amended to read:

60A.204 ADDITIONAL CHARGES AND FEES AND COMMISSIONS.

~~Subdivision 1. **Placement fees.** A surplus lines licensee may charge, in addition to the premium charged by an eligible or ineligible surplus lines insurer, a fee to cover the cost incurred in the placement of the policy which exceeds \$25, but only to the extent that the actual additional cost incurred for services performed by persons or entities unrelated to the licensee exceeds that amount.~~

~~Subd. 2. **Regulation of fees.** A surplus lines licensee may charge a fee charged pursuant to subdivision 1 shall and commission, in addition to the premium, that is not be excessive or discriminatory. The licensee shall maintain complete documentation of all fees and commissions charged. Those fees shall not be included as part of the premium for purposes of the computation of the premium taxes.~~

~~Subd. 3. **Commission charges.** Notwithstanding the provisions of subdivision 1, a licensee may add a commission charge if the insurer quotes a rate net of commission and the commission is not excessive or discriminatory.~~

Sec. 7. Minnesota Statutes 2008, section 60A.36, is amended by adding a subdivision to read:

Subd. 2a. **Third-party notices.** An insurer shall provide notice to a third party if:

(1) the policyholder has, separately from the certificate, notified the insurer of the identity of the third party; and

(2) the third party is a licensing authority authorized by statute to receive the notice or a state, city, or county governmental unit on whose behalf the insured is providing services.

Sec. 8. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 1, is amended to read:

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~~ For the purposes of this chapter, a certificate of insurance is to provide a document that provides evidence of property or liability insurance coverage and the amount of insurance issued, and does not convey any contractual rights to the certificate holder.

Sec. 9. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 4, is amended to read:

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 or a period of notice specified in the policy.

Sec. 10. Minnesota Statutes 2009 Supplement, section 60A.39, subdivision 5, is amended to read:

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~~ a similar alternative "Certificate of Insurance" covering the same information for use by the insurer. Filed forms may not be amended at the request of a third party.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 11. Minnesota Statutes 2009 Supplement, section 60A.9572, subdivision 6, is amended to read:

Subd. 6. **Disclosures.** The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders who hold more than ten percent of the shares of the company, partners, officers, members, and employees, and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member of the legal entity who may materially influence the applicant's conduct meets the standards of sections 60A.957 to 60A.9585.

Sec. 12. Minnesota Statutes 2008, section 60K.31, subdivision 10, is amended to read:

Subd. 10. **Limited lines insurance.** "Limited lines insurance" means those lines of insurance defined in section 60K.38, subdivision 1, paragraph (c), or any other line of insurance that the commissioner considers necessary to recognize for the purposes of complying with section 60K.39, subdivision 5 6.

Sec. 13. Minnesota Statutes 2008, section 61A.092, subdivision 3, is amended to read:

Subd. 3. **Notice of options.** Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee within 14 days after termination or layoff of:

- (1) the employee's right to elect to continue the coverage;
- (2) the amount the employee must pay monthly to the employer to retain the coverage;
- (3) the manner in which and the office of the employer to which the payment to the employer must be made; and
- (4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

If the covered employee or covered dependent dies during the 60-day election period and before the covered employee makes an election to continue or reject continuation, then the covered employee will be considered to have elected continuation of coverage. The beneficiary previously selected by the former employee or covered dependent would then be entitled to a death benefit equal to the amount of insurance that could have been continued less any unpaid premium owing as of the date of death.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits, in an amount equal to the amount of insurance in effect on the date you terminated or were laid off from employment, for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of

this notice that you intend to retain this coverage and must make a monthly payment of \$..... at by the of each month."

Sec. 14. Minnesota Statutes 2008, section 62A.046, subdivision 6, is amended to read:

Subd. 6. **Coordination of benefits.** Insurers, vendors of risk management services, nonprofit health service plan corporations, fraternal, and health maintenance organizations may coordinate benefits to prohibit greater than 100 percent coverage when an insured, subscriber, or enrollee is covered by both an individual and a group contract providing coverage for hospital and medical treatment or expenses. Benefits coordinated under this paragraph must provide for 100 percent coverage of an insured, subscriber, or enrollee. To the extent appropriate, all coordination of benefits provisions currently applicable by law or rule to insurers, vendors of risk management services, nonprofit health service plan corporations, fraternal, and health maintenance organizations, shall apply to coordination of benefits between individual and group contracts, ~~except that the group contract shall always be the primary plan.~~ Notwithstanding the definition of "plan" in Minnesota Rules, part 2742.0200, subpart 2, and in Minnesota Rules, part 4685.0910, subpart 7, an individual contract must coordinate benefits with a group contract under this subdivision consistent with applicable coordination of benefit rules. When a covered person's other coverage is Medicare or TRICARE, a health plan company must determine primacy and coordinate benefits in accordance with the Medicare Secondary Payor or TRICARE provisions of federal law. This paragraph does not apply to specified accident, hospital indemnity, specified disease, or other limited benefit insurance policies.

Sec. 15. Minnesota Statutes 2008, section 62A.046, is amended by adding a subdivision to read:

Subd. 7. **High-deductible health plans.** If a health carrier is advised by a covered person that all health plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in section 223(c)(2)(C) of the Internal Revenue Code of 1986.

Sec. 16. Minnesota Statutes 2008, section 62A.17, subdivision 5, is amended to read:

Subd. 5. **Notice of options.** Upon the termination of or lay off from employment of an eligible employee, the employer shall inform the employee within ~~ten~~ 14 days after termination or lay off of:

- ~~(a)~~ (1) the right to elect to continue the coverage;
- ~~(b)~~ (2) the amount the employee must pay monthly to the employer to retain the coverage;
- ~~(c)~~ (3) the manner in which and the office of the employer to which the payment to the employer must be made; and
- ~~(d)~~ (4) the time by which the payments to the employer must be made to retain coverage.

If the policy, contract, or health care plan is administered by a trust, the employer is relieved of the obligation imposed by clauses ~~(a)~~ (1) to ~~(d)~~ (4). The trust shall inform the employee of the information required by clauses ~~(a)~~ (1) to ~~(d)~~ (4).

The employee shall have 60 days within which to elect coverage. The 60-day period shall begin to run on the date plan coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided the employer or trust.

A notice in substantially the following form shall be sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group medical insurance for a period of up to 18 months. To do so you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$..... to at by the of each month."

Sec. 17. Minnesota Statutes 2009 Supplement, 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, or any policy issued to an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage, or any policy issued to a labor union or similar employee organization.

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

Sec. 18. Minnesota Statutes 2008, section 62A.65, subdivision 2, is amended to read:

Subd. 2. **Guaranteed renewal.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the health plan provides that the plan is guaranteed renewable at a premium rate that does not take into account the claims experience or any change in the health status of any covered person that occurred after the initial issuance of the health plan to the person. The premium rate upon renewal must also otherwise comply with this section. A health carrier must not refuse to renew an individual health plan ~~prior to enrollment in Medicare Parts A and B,~~ except for nonpayment of premiums, fraud, or misrepresentation.

Sec. 19. Minnesota Statutes 2008, section 62E.02, subdivision 15, is amended to read:

Subd. 15. **Medicare.** "Medicare" means ~~part A and part B of the United States Social Security Act, title XVIII, as amended, United States Code, title 42, sections 1394, et seq. the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments of 1965, United States Code, title 42, sections 1395 to 1395hhh, as amended, or title I, part I, of Public Law 89-97, as amended.~~

Sec. 20. Minnesota Statutes 2008, section 62E.14, subdivision 4c, is amended to read:

Subd. 4c. **Waiver of preexisting conditions for persons whose coverage is terminated or who exceed the maximum lifetime benefit.** (a) A Minnesota resident may enroll in the comprehensive health plan with a waiver of the preexisting condition limitation described in subdivision 3 if that person's application for coverage is received by the writing carrier no later than 90 days after termination of prior coverage and if the termination is for reasons other than fraud or nonpayment of premiums.

For purposes of this paragraph, termination of prior coverage includes exceeding the maximum lifetime benefit of existing coverage.

Coverage in the comprehensive health plan is effective on the date of termination of prior coverage. The availability of conversion rights does not affect a person's rights under this paragraph.

This section does not apply to prior coverage provided under policies designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or policies providing only accident coverage.

(b) An eligible individual, as defined under the Health Insurance Portability and Accountability Act (HIPAA), United States Code, chapter 42, section 300gg-41(b) may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3 and a waiver of the evidence of rejection or similar events described in subdivision 1, clause (c). The eligible individual must apply for enrollment under this paragraph by submitting a substantially complete application that is received by the writing carrier no later than 63 days after termination of prior coverage, and coverage under the comprehensive health insurance plan is effective as of the date of receipt of the complete application. The six-month durational residency requirement provided in section 62E.02, subdivision 13, does not apply with respect to eligibility for enrollment under this paragraph, but the applicant must be a Minnesota resident as of the date that the application was received by the writing carrier. A person's eligibility to enroll under this paragraph does not affect the person's eligibility to enroll under any other provision.

(c) A qualifying individual, as defined in the Internal Revenue Code of 1986, section 35(e)(2)(B), who is eligible under the Federal Trade Act of 2002 for the ~~credit~~ Health Coverage Tax Credit (HCTC) for health insurance costs under the Internal Revenue Code of 1986, section 35, may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3, and without presenting evidence of rejection or similar requirements described in subdivision 1, paragraph (c). The six-month durational residency requirement provided in section 62E.02, subdivision 13, does not apply with respect to eligibility for enrollment under this paragraph, but the applicant must be a Minnesota resident as of the date of application. A person's eligibility to enroll under this paragraph does not affect the person's eligibility to enroll under any other provision. This paragraph is intended solely to meet the minimum requirements necessary to qualify the comprehensive health insurance plan as qualified health coverage under the Internal Revenue Code of 1986, section 35(e)(2).

Sec. 21. Minnesota Statutes 2008, section 62L.05, subdivision 4, is amended to read:

Subd. 4. **Benefits.** The medical services and supplies listed in this subdivision are the benefits that must be covered by the small employer plans described in subdivisions 2 and 3. Benefits under this subdivision may be provided through the managed care procedures practiced by health carriers:

(1) inpatient and outpatient hospital services, excluding services provided for the diagnosis, care, or treatment of chemical dependency or a mental illness or condition, other than those conditions specified in clauses (10), and (11), and (12). The health care services required to be covered under this clause must also be covered if rendered in a nonhospital environment, on the same basis as coverage provided for those same treatments or services if rendered in a hospital, provided, however, that this sentence must not be interpreted as expanding the types or extent of services covered;

(2) physician, chiropractor, and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions;

(3) diagnostic x-rays and laboratory tests;

(4) ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier;

(5) services of a home health agency if the services qualify as reimbursable services under Medicare;

(6) services of a private duty registered nurse if medically necessary, as determined by the health carrier;

(7) the rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

(8) child health supervision services up to age 18, as defined in section 62A.047;

(9) maternity and prenatal care services, as defined in sections 62A.041 and 62A.047;

(10) inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9 codes 295 to 299; and

~~(11) ten hours per year of outpatient mental health diagnosis or treatment for illnesses or conditions not described in clause (10);~~

~~(12) 60 hours per year of outpatient treatment of chemical dependency; and~~

~~(13) (11) 50 percent of eligible charges for prescription drugs, up to a separate annual maximum out-of-pocket expense of \$1,000 per individual for prescription drugs, and 100 percent of eligible charges thereafter.~~

Sec. 22. Minnesota Statutes 2008, section 62S.24, subdivision 8, is amended to read:

Subd. 8. **Exchange for long-term care partnership policy; addition of policy rider.** (a) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the long-term care partnership program referenced in section 256B.0571, issuers of long-term care policies may voluntarily exchange a current long-term care insurance policy for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, after the effective date of the state plan amendment implementing the partnership program in this state. The exchange may be in the form of: (1) an amendment or rider; or (2) a disclosure statement indicating that the coverage is now partnership qualified.

(b) ~~If authorized by federal law or a federal waiver is granted~~ With respect to the long-term care partnership program referenced in section 256B.0571, ~~allowing to allow~~ an existing long-term care insurance policy to qualify as a partnership policy by addition of a policy rider or amendment or disclosure statement, the issuer of the policy is authorized to add the rider or amendment or disclosure statement to the policy after the effective date of the state plan amendment implementing the partnership program in this state.

(c) The commissioner, in cooperation with the commissioner of human services, shall pursue any federal law changes or waivers necessary to allow the implementation of paragraphs (a) and (b).

Sec. 23. Minnesota Statutes 2008, section 62S.266, subdivision 4, is amended to read:

Subd. 4. **Contingent benefit upon lapse.** (a) After rejection of the offer required under subdivision 2, for individual and group policies without nonforfeiture benefits issued after July 1, 2001, the insurer shall provide a contingent benefit upon lapse.

(b) If a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) The contingent benefit on lapse must be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium based on the insured's issue age provided in this paragraph, and the policy or certificate lapses within 120 days of the due date of the premium increase. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
29 and Under	200
30-34	190
35-39	170
40-44	150
45-49	130
50-54	110
55-59	90
60	70
61	66
62	62
63	58
64	54
65	50

66	48
67	46
68	44
69	42
70	40
71	38
72	36
73	34
74	32
75	30
76	28
77	26
78	24
79	22
80	20
81	19
82	18
83	17
84	16
85	15
86	14
87	13
88	12
89	11
90 and over	10

(d) A contingent benefit on lapse must also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in paragraph ~~(e)~~ (f), clause (2), is 40 percent or more. Unless otherwise required, policyholders shall be notified at least 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%

65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by paragraph (c) and where both are triggered, the benefit provided must be at the option of the insured.

(e) On or before the effective date of a substantial premium increase as defined in paragraph (c), the insurer shall:

(1) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(2) offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subdivision 5. This option may be elected at any time during the 120-day period referenced in paragraph (c); and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period referenced in paragraph (c) is deemed to be the election of the offer to convert in clause (2).

(f) On or before the effective date of a substantial premium increase as defined in paragraph (d), the insurer shall:

(1) offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(2) offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90 percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in paragraph (d); and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period referenced in paragraph (d) shall be deemed to be the election of the offer to convert in clause (2) if the ratio is 40 percent or more.

Sec. 24. Minnesota Statutes 2008, section 62S.29, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** An insurer or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures and agent training requirements to assure that any marketing activities, including any comparison of policies by its agents or other producers, are fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy, the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all

policy limitations.";

(4) provide copies of the disclosure forms required in section 62S.081, subdivision 4, to the applicant;

(5) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has long-term care insurance and the types and amounts of the insurance;

(6) establish auditable procedures for verifying compliance with this subdivision;

(7) if applicable, provide written notice to the prospective policyholder and certificate holder, at solicitation, that a senior insurance counseling program approved by the commissioner, the Senior LinkAge Line, is available and the name, address, and telephone number of the program;

(8) use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to section 62S.14; and

(9) provide an explanation of contingent benefit upon lapse provided for in section 62S.266.

Sec. 25. Minnesota Statutes 2009 Supplement, section 65A.29, subdivision 13, is amended 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~~ 59 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.

Sec. 26. Minnesota Statutes 2008, section 72A.08, subdivision 1, is amended to read:

Subdivision 1. **Rebate defined and prohibited.** No insurance company or association, however constituted or entitled, including any affiliate of the insurance company or association, doing business in this state, nor any officer, agent, subagent, solicitor, employee, intermediary, or representative thereof, shall make or permit any advantage or distinction in favor of any insured individual, firm, corporation, or association with respect to the amount of premium named in, or to be paid on, any policy of insurance, or shall offer to pay or allow directly or indirectly or by means of any device or artifice, as inducements to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other profit to accrue thereon, or any valuable consideration or inducement not specified in the policy contract of insurance, or give, sell, or purchase, offer to give, sell or purchase, as inducement to insure or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association,

partnership, or individual, or any dividends or profits accrued or to accrue thereon, or anything of value, not specified in the policy. For purposes of this section, "affiliate" has the meaning given in section 60D.15, subdivision 2. Nothing in this section shall be construed as prohibiting a life insurer, property insurer, or casualty insurer, or agents who are marketing life insurance, annuities, accident and health insurance, property insurance, or casualty insurance, from providing to a policyholder or prospective policyholder of life, property, or casualty insurance, any prizes, goods, wares, merchandise, articles, or property of an aggregate value of \$25 or less.

Sec. 27. Minnesota Statutes 2008, section 72A.20, subdivision 10, is amended to read:

Subd. 10. **Rebates.** Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, annuity, or accident and health insurance, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or paying or allowing or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving or selling or purchasing, or offering to give, sell, or purchase, as inducement to such insurance or annuity, or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract, shall constitute an unfair method of competition and an unfair and deceptive act or practice. Nothing in this section shall be construed as prohibiting providing to a policyholder or prospective policyholder of life insurance, annuities, or accident and health insurance, any prizes, goods, wares, merchandise, articles, or property of an aggregate value of \$25 or less.

Sec. 28. Minnesota Statutes 2008, section 72A.20, subdivision 36, is amended to read:

Subd. 36. **Limitations on the use of credit information.** (a) No insurer or group of affiliated insurers may reject, cancel, or nonrenew a policy of private passenger motor vehicle insurance as defined under section 65B.01 or a policy of homeowner's insurance as defined under section 65A.27, for any person in whole or in part on the basis of credit information, including a credit reporting product known as a "credit score" or "insurance score," without consideration and inclusion of any other applicable underwriting factor.

(b) If credit information, credit scoring, or insurance scoring is to be used in underwriting, the insurer must disclose to the consumer that credit information will be obtained and used as part of the insurance underwriting process.

(c) Insurance inquiries and non-consumer-initiated inquiries must not be used as part of the credit scoring or insurance scoring process.

(d) If a credit score, insurance score, or other credit information relating to a consumer, with respect to the types of insurance referred to in paragraph (a), is adversely impacted or cannot be generated because of the absence of a credit history, the insurer must exclude the use of credit as a factor in the decision to reject, cancel, or nonrenew.

(e) Insurers must upon the request of a policyholder reevaluate the policyholder's score. Any change in premium resulting from the reevaluation must be effective upon the renewal of the policy. An insurer is not required to reevaluate a policyholder's score pursuant to this paragraph more than twice in any given calendar year.

(f) Insurers must upon request of the applicant or policyholder provide reasonable underwriting exceptions based upon prior credit histories for persons whose credit information is unduly influenced by expenses related to a catastrophic injury or illness, temporary loss of employment, or the death of an immediate family member. The insurer may require reasonable documentation of these events prior to granting an exception.

(g) A credit scoring or insurance scoring methodology must not be used by an insurer if the credit scoring or insurance scoring methodology incorporates the gender, race, nationality, or religion of an insured or applicant.

(h) Insurers that employ a credit scoring or insurance scoring system in underwriting of coverage described in paragraph (a) must have on file with the commissioner:

- (1) the insurer's credit scoring or insurance scoring methodology; and
- (2) information that supports the insurer's use of a credit score or insurance score as an underwriting criterion.

(i) Insurers described in paragraph ~~(g)~~ (h) shall file the required information with the commissioner within 120 days of August 1, 2002, or prior to implementation of a credit scoring or insurance scoring system by the insurer, if that date is later.

(j) Information provided by, or on behalf of, an insurer to the commissioner under this subdivision is trade secret information under section 13.37.

Sec. 29. Minnesota Statutes 2008, section 72A.20, subdivision 37, is amended to read:

Subd. 37. **Electronic transmission of required information.** (a) A health carrier, as defined in section 62A.011, subdivision 2, is not in violation of this chapter for electronically transmitting or electronically making available information otherwise required to be delivered in writing under chapters 62A to 62Q and 72A to an enrollee as defined in section 62Q.01, subdivision 2a, or to a health plan as defined in paragraph (b), and with the requirements of those chapters if the following conditions are met:

(1) the health carrier informs the group policyholder or the enrollee or both that electronic transmission or access is available and, at the discretion of the health carrier, the enrollee is given one of the following options:

(i) electronic transmission or access will occur only if the group policyholder or the enrollee or both affirmatively requests to the health carrier that the required information be electronically transmitted or available and a record of that request is retained by the health carrier; or

(ii) electronic transmission or access will automatically occur if the group policyholder or the enrollee or both has not opted out of that manner of transmission by request to the health carrier and requested that the information be provided in writing. If the group policyholder or the enrollee or both opts out of electronic transmission, a record of that request must be retained by the health carrier;

(2) the group policyholder or the enrollee or both is allowed to withdraw the request at any time;

(3) if the information transmitted electronically contains individually identifiable data, it must be transmitted to a secured mailbox. If the information made available electronically contains

individually identifiable data, it must be made available at a password-protected secured Web site;

(4) the group policyholder or the enrollee or both is provided a customer service number on the enrollee's member card that may be called to request a written copy of the document; and

(5) the electronic transmission or electronic availability meets all other requirements of this chapter including, but not limited to, size of the typeface and any required time frames for distribution.

(b) For the purpose of this section, "health plan" means a health plan as defined in section 62A.011 or a policy of accident and sickness insurance as defined in section 62A.01.

Sec. 30. Minnesota Statutes 2008, section 72A.492, subdivision 2, is amended to read:

Subd. 2. **Covered persons.** The rights granted by sections 72A.49 to 72A.505 extend to:

~~(1) a person who is a resident of this state and is the subject of information collected, received, or maintained in connection with an insurance transaction; and~~

~~(2) a person who is a resident of this state and engages in or seeks to engage in an insurance transaction.~~

Sec. 31. Minnesota Statutes 2008, section 72B.01, is amended to read:

72B.01 PURPOSE AND SCOPE.

It is the purpose of sections 72B.01 to 72B.14 to provide high quality service to insureds and insurance claimants in the state of Minnesota by providing for well trained adjusters and persons engaged in soliciting business for adjusters, who are qualified to deal with the public in the interest of a fair resolution of insurance claims. ~~Sections 72B.01 to 72B.14 shall apply to all adjusters, and adjusters' solicitors, except as specifically stated to the contrary; but nothing in sections 72B.01 to 72B.14 shall apply to:~~

~~(a) An attorney at law who is licensed or otherwise allowed to practice law in this state and who does not hold out to be an adjuster, or adjuster's solicitor.~~

~~(b) A licensed agent of an authorized insurer who adjusts losses for such insurer solely under policies issued by the agent or the agent's agency or on which the agent is the agent of record, provided the agent receives no extra compensation for such services.~~

~~(c) Personnel of township mutual companies.~~

~~(d) Adjusters for crop hail and farm windstorm damage claims who are on the staff of companies covering such risks.~~

~~(e) Persons who process life insurance annuity contract or accident and health insurance claims.~~

~~(f) Persons processing or adjusting wet marine or inland transportation claims or losses.~~

Sec. 32. Minnesota Statutes 2009 Supplement, section 72B.03, subdivision 2, is amended to read:

Subd. 2. **Classes of licenses.** (a) Unless denied licensure pursuant to section 72B.08, persons who have met the requirements of section ~~72B.04~~ 72B.041 must be issued an adjuster license. There

shall be four classes of licenses, as follows:

- (1) independent adjuster's license;
- (2) public adjuster's license;
- (3) public adjuster solicitor's license; and
- (4) crop hail adjuster's license.

(b) An independent adjuster and a public adjuster may qualify for a license in one or more of the following lines of authority:

- (1) property and casualty; or
- (2) workers' compensation; or
- (3) crop.

(c) Any person holding a license pursuant to this section is not required to hold any other independent adjuster, public adjuster, insurance, or self-insurance administrator license in this state pursuant to section 60A.23, subdivision 8, or any other provision, provided that the person does not act as an adjuster with respect to life, health, or annuity insurance, other than disability insurance.

(d) An adjuster license remains in effect unless probated, suspended, revoked, or refused as long as the fee set forth in section ~~72B.04, subdivision 10~~ 72B.041, subdivision 9, is paid and all other requirements for license renewal are met by the due date, otherwise, the license expires.

(e) An adjuster whose license expires may, within 12 months of the renewal date, be reissued an adjuster license upon receipt of the renewal request, as prescribed by the commissioner; however, a penalty in the amount of double the unpaid renewal fee is required to reissue the expired license.

(f) An adjuster who is unable to comply with license renewal procedures and requirements due to military service, long-term medical disability, or some other extenuating circumstance may request a waiver of same and a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

(g) An adjuster is subject to sections 72A.17 to 72A.32.

(h) The adjuster must inform the commissioner by any means acceptable of any change in resident or business addresses for the home state or in legal name within 30 days of the change.

(i) The license must contain the licensee's name, address, and personal identification number; the dates of issuance and expiration; and any other information the commissioner deems necessary.

(j) In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, to perform any ministerial functions related to licensing that the commissioner may deem appropriate, including the collection of fees and data.

Sec. 33. Minnesota Statutes 2009 Supplement, section 72B.045, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** An individual who holds an independent or public adjuster license

and who is not exempt under this section must satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with the individual's license renewal cycle.

Sec. 34. Minnesota Statutes 2009 Supplement, section 72B.06, is amended to read:

72B.06 CATASTROPHE OR EMERGENCY SITUATIONS.

(a) ~~In the event of a declared catastrophe or the occurrence of an emergency situation, For purposes of this chapter, a catastrophe exists when, due to a specific, infrequent, and sudden natural or man-made disaster or phenomenon, there have arisen losses to property in Minnesota that are covered by insurance, and the losses are so numerous and severe that resolution of claims related to such covered property losses will not occur expeditiously without the licensing of emergency independent adjusters due to the magnitude of the catastrophic damage. A failure of claims to be resolved expeditiously shall exist upon an insurer's filing with the department a written statement that one of the following conditions exists: (1) the insurer expects to incur at least 500 claims as a result of the event; or (2) the magnitude of the event is expected to generate twice the mean number of claims for one month for the affected area. Such written statement may be sent electronically to the commissioner. An insurer must notify the commissioner via an application for registration of each individual independent adjuster not already licensed in the state where the catastrophe has been declared or an emergency situation has occurred Minnesota, that will act as an emergency independent adjuster on behalf of the insurer pursuant to paragraph (b).~~

(b) A person who is otherwise qualified to adjust claims, but not already licensed in ~~the state where the catastrophe has been declared or an emergency situation has occurred~~ Minnesota, may act as an emergency independent adjuster and adjust claims, if, within five days of deployment to adjust claims arising from the ~~declared catastrophe or the occurrence of an emergency situation,~~ the insurer or the independent adjuster's employer, in the notification required by paragraph (a), notifies the commissioner by providing the following information in a format prescribed by the commissioner:

- (1) the name of the individual;
- (2) the Social Security number of the individual;
- (3) the name of the insurer the independent adjuster will represent;
- (4) the effective date of the contract between the insurer and independent adjuster or the independent adjuster's employer;
- (5) the catastrophe, ~~emergency situation,~~ or loss control number;
- (6) the catastrophe ~~or emergency situation event~~ name; and
- (7) other information the commissioner deems necessary.

(c) An emergency independent adjuster's license or registration remains in force for ~~the period of time established by the commissioner~~ 180 days; such license or registration shall be effective for all catastrophes described in paragraph (a), clauses (1) and (2). Such license or registration may be extended for 180 days.

The commissioner may summarily suspend or revoke the right of any person adjusting in this

state under the authority of this section to continue to adjust in this state, if the commissioner finds that that person has engaged in any of the practices forbidden to a licensed adjuster under sections 72B.01 to 72B.14. Notice of such suspension or revocation may be given personally or by mail sent to the temporary address stated in the registration and to the insurer or independent adjusting firm company who submitted the independent adjuster information.

Sec. 35. Minnesota Statutes 2008, section 72B.08, subdivision 8, is amended to read:

Subd. 8. **Bond.** In the case of any licensee or permit holder who has had a license or permit suspended or revoked or whose license renewal has been prohibited by a lawful order of the commissioner, the commissioner may condition the issuance of a new license on the filing of a surety bond in an amount not to exceed \$10,000, made and conditioned in accordance with the requirements of section ~~72B.04, subdivision 4~~ 72B.041, subdivision 3, relating to public adjusters' bonds. Nothing in this subdivision shall reduce or alter the bonding requirements for a public adjuster.

Sec. 36. Minnesota Statutes 2008, section 79A.03, subdivision 8, is amended to read:

Subd. 8. **Processing application.** The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant. The commissioner shall grant approval for self-insurance upon a determination that the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies that may arise under chapter 176 or this chapter; the gross annual premium of the group members is at least ~~\$300,000~~ 150 percent of the WCRA minimum retention in effect at the time of the application; the group has established a fund pursuant to Minnesota Rules, parts 2780.4100 to 2780.5000; the group has contracted with a licensed workers' compensation service company to administer its program; and the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member. Approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

Sec. 37. Minnesota Statutes 2008, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **Private employers who have ceased to be self-insured.** (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self-insured, whether or not reported during that period, the policy will:

(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self-insurers' security fund; provided, however, that a member that terminates its self-insurance authority on or after August 1, 2010, shall be liable for an assessment under paragraph (b). The actuarial opinion shall not take into consideration any transfer of the member's liabilities to an insurance policy if the member obtains a replacement policy as described in this subdivision within one year of the date of terminating its self-insurance.

A private employer who has ceased to be a private self-insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self-insured; purchase of such a policy discharges any obligation that the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported during that period.

A policy described in this clause may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage the services of an actuary for this purpose. The expense of this actuarial opinion must be assessed against and be the obligation of the self-insurer. The commissioner may issue a certificate of default against the self-insurer for failure to pay this assessment to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must may discount each liabilities up to four percent per annum to net present value. Within 30 60 days after notification of approval of the actuarial opinion by the commissioner, the exiting member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination determined as follows: a percentage will be determined by dividing the security fund's members' deficit as determined by the most recent audited financial statement of the security fund by the total actuarial liability of all members of the security fund as calculated by the commissioner within 30

days of the exit date of the member. This quotient will then be multiplied by that exiting member's total future liability as contained in the exiting member's actuarial opinion. If the payment is not made within 30 days of the notification, interest on it at the rate prescribed by section 549.09 must be paid by the former member to the security fund until the principal amount is paid in full.

(c) A former member who terminated its self-insurance authority before April 1, 1998, who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is \$15,000 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability for medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to terminations of self-insurance authority that become effective on or after that date.

Sec. 38. Minnesota Statutes 2008, section 79A.21, subdivision 3, is amended to read:

Subd. 3. **Approval.** The commissioner shall approve an application for self-insurance upon a determination that all of the following conditions are met:

(1) a completed application and all required documents have been submitted to the

commissioner;

(2) the financial ability of the commercial self-insurance group is sufficient to fulfill all obligations that may arise under this chapter or chapter 176;

(3) the annual premium of the commercial self-insurance group to be charged to initial members is at least ~~\$400,000~~ 150 percent of the WCRA minimum retention in effect at the time of the application;

(4) the commercial self-insurance group has contracted with a service company to administer its program; and

(5) the required securities or surety bond shall be on deposit prior to the effective date of coverage for the commercial self-insurance group.

Sec. 39. Minnesota Statutes 2008, section 80A.41, is amended to read:

80A.41 SECTION 102; DEFINITIONS.

In this chapter, unless the context otherwise requires:

(1) "Accredited investor" means an accredited investor as the term is defined in Rule 501(a) of Regulation D adopted pursuant to the Securities Act of 1933.

(2) "Administrator" means the commissioner of commerce.

(3) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this chapter.

(4) "Bank" means:

(A) a banking institution organized under the laws of the United States;

(B) a member bank of the Federal Reserve System;

(C) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading this chapter; and

(D) a receiver, conservator, or other liquidating agent of any institution or firm included in subparagraph (A), (B), or (C).

(5) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include:

(A) an agent;

(B) an issuer;

(C) a depository institution; provided such activities are conducted in accordance with such rules as may be adopted by the administrator;

(D) an international banking institution; or

(E) a person excluded by rule adopted or order issued under this chapter.

(6) "Depository institution" means:

(A) a bank; or

(B) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include:

(i) an insurance company or other organization primarily engaged in the business of insurance;

(ii) a Morris Plan bank; or

(iii) an industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the Federal Deposit Insurance Act, United States Code, title 12, section 1813(c)(2), or any successor federal statute.

(7) "Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

(8) "Federal covered security" means a security that is, or upon completion of a transaction will be, a covered security under Section 18(b) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)) or rules or regulations adopted pursuant to that provision.

(9) "Filing" means the receipt under this chapter of a record by the administrator or a designee of the administrator.

(10) "Fraud," "deceit," and "defraud" are not limited to common law deceit.

(11) "Guaranteed" means guaranteed as to payment of all principal and all interest.

(12) "Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:

(A) a depository institution or international banking institution;

(B) an insurance company;

(C) a separate account of an insurance company;

(D) an investment company as defined in the Investment Company Act of 1940;

(E) a broker-dealer registered under the Securities Exchange Act of 1934;

(F) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(G) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of \$10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under this chapter, a depository institution, or an insurance company;

(H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository institution, and its participants are exclusively plans of the types identified in subparagraph (F) or (G), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans;

(I) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3)), corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$10,000,000;

(J) a small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c)) with total assets in excess of \$10,000,000;

(K) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets in excess of \$10,000,000;

(L) a federal covered investment adviser acting for its own account;

(M) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A);

(N) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6);

(O) any other person, other than an individual, of institutional character with total assets in excess of \$10,000,000 not organized for the specific purpose of evading this chapter; or

(P) any other person specified by rule adopted or order issued under this chapter;

(13) "Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

(14) "Insured" means insured as to payment of all principal and all interest.

(15) "International banking institution" means an international financial institution of which the United States is a member and whose securities are exempt from registration under the Securities Act of 1933.

(16) "Investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation. The term does not include:

(A) an investment adviser representative;

(B) a lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person's profession;

(C) a broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice;

(D) a publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(E) a federal covered investment adviser;

(F) a bank or savings institution;

(G) any other person that is excluded by the Investment Advisers Act of 1940 from the definition of investment adviser; or

(H) any other person excluded by rule adopted or order issued under this chapter.

(17) "Investment adviser representative" means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing. The term does not include an individual who:

(A) performs only clerical or ministerial acts;

(B) is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and who does not receive special compensation for investment advisory services;

(C) is employed by or associated with a federal covered investment adviser, unless the individual has a "place of business" in this state as that term is defined by rule adopted under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a) and is

(i) an "investment adviser representative" as that term is defined by rule adopted under Section

203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

(ii) not a "supervised person" as that term is defined in Section 202(a)(25) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(25)); or

(D) is excluded by rule adopted or order issued under this chapter.

(18) "Issuer" means a person that issues or proposes to issue a security, subject to the following:

(A) The issuer of a voting trust certificate, collateral trust certificate, certificate of deposit for a security, or share in an investment company without a board of directors or individuals performing similar functions is the person performing the acts and assuming the duties of depositor or manager pursuant to the trust or other agreement or instrument under which the security is issued.

(B) The issuer of an equipment trust certificate or similar security serving the same purpose is the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate.

(C) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale.

(19) "Nonissuer transaction" or "nonissuer distribution" means a transaction or distribution not directly or indirectly for the benefit of the issuer.

(20) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78n(d)).

(21) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(22) "Place of business" of a broker-dealer, an investment adviser, or a federal covered investment adviser means:

(A) an office at which the broker-dealer, investment adviser, or federal covered investment adviser regularly provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients; or

(B) any other location that is held out to the general public as a location at which the broker-dealer, investment adviser, or federal covered investment adviser provides brokerage or investment advice or solicits, meets with, or otherwise communicates with customers or clients.

(23) "Predecessor Act" means Minnesota Statutes 2002, sections 80A.01 to 80A.31.

(24) "Price amendment" means the amendment to a registration statement filed under the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus supplement filed under the Securities Act of 1933 that includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other

matters dependent upon the offering price.

(25) "Principal place of business" of a broker-dealer or an investment adviser means the executive office of the broker-dealer or investment adviser from which the officers, partners, or managers of the broker-dealer or investment adviser direct, control, and coordinate the activities of the broker-dealer or investment adviser.

(26) Only for purposes of calculating the number of purchasers under section 80A.46(1) and 80A.46(14), "purchaser" does not include:

(A) any relative, spouse, or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(B) any trust or estate in which a purchaser and any of the persons related to him as specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(C) any corporation or other organization of which a purchaser and any of the persons related to the purchaser as specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(D) any accredited investor.

A corporation, partnership, or other entity must be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor, then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of Regulation D, except to the extent provided in Regulation D, Rule 501(e)(1).

A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.

(27) "Record," except in the phrases "of record," "official record," and "public record," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(28) "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.

(A) A security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(B) A gift of assessable stock is considered to involve an offer and sale.

(C) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, are each considered to include an offer of the other security.

(29) "Securities and Exchange Commission" means the United States Securities and Exchange Commission.

(30) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. The term:

(A) includes both a certificated and an uncertificated security;

(B) does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or other specified period;

(C) does not include an interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974;

(D) includes as an "investment contract," among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement or similar agreement; and

(E) does not include any equity interest of a closely held corporation or other entity with not more than 35 holders of the equity interest of such entity offered or sold pursuant to a transaction in which 100 percent of the equity interest of such entity is sold as a means to effect the sale of the business of the entity if the transaction has been negotiated on behalf of all purchasers and if all purchasers have access to inside information regarding the entity before consummating the transaction.

(31) "Self-regulatory organization" means a national securities exchange registered under the Securities Exchange Act of 1934, a national securities association of broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency registered under the Securities Exchange Act of 1934, or the Municipal Securities Rulemaking Board established under the Securities Exchange Act of 1934.

(32) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach or logically associate with the record an electronic symbol, sound, or process.

(33) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(34) "Associated with" with respect to a person means any partner, officer, director, or manager of such person or any person occupying a similar status or performing similar functions or any

person directly or indirectly controlling, controlled by, or in common control with, such person, but does not include a person whose primary duties are ministerial or clerical.

Sec. 40. Minnesota Statutes 2008, section 80A.46, is amended to read:

80A.46 SECTION 202; EXEMPT TRANSACTIONS.

The following transactions are exempt from the requirements of sections 80A.49 through 80A.54 and 80A.71:

(1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers in Minnesota during any period of 12 consecutive months, whether effected by or through a broker-dealer or not;

(2) a nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, if, at the date of the transaction:

(A) the issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) the security is sold at a price reasonably related to its current market price;

(C) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(D) a nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this chapter or a record filed with the Securities and Exchange Commission that is publicly available contains:

(i) a description of the business and operations of the issuer;

(ii) the names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) an audited balance sheet of the issuer as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) an audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(E) any one of the following requirements is met:

(i) the issuer of the security has a class of equity securities listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System;

(ii) the issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(iii) the issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or

(iv) the issuer of the security has total assets of at least \$2,000,000 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Sections 78m or 78o(d));

(5) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(A) is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories; or

(B) has a fixed maturity or a fixed interest or dividend, if:

(i) a default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) the issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous 12 months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) a nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) a nonissuer transaction by a federal covered investment adviser with investments under management in excess of \$100,000,000 acting in the exercise of discretionary authority in a signed record for the account of others;

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the

administrator after a hearing;

(10) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) a transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) the note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) a general solicitation or general advertisement of the transaction is not made; and

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent;

(12) a transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(13) a sale or offer to sell to:

(A) an institutional investor;

(B) an accredited investor;

(C) a federal covered investment adviser; or

(D) any other person exempted by rule adopted or order issued under this chapter;

(14) a sale or an offer to sell securities by an issuer, if the transaction is part of a single issue in which:

(A) not more than 35 purchasers are present in this state during any 12 consecutive months, other than those designated in paragraph (13);

(B) a general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(D) the issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (13), are purchasing for investment.

Any issuer selling to purchasers in this state in reliance on this clause (14) exemption must provide to the administrator notice of the transaction by filing a statement of issuer form as adopted by rule. Notice must be filed at least ten days in advance of any sale or such shorter period as permitted by the administrator. However, an issuer who makes sales to ten or fewer purchasers in Minnesota during any period of 12 consecutive months is not required to provide this notice;

(15) a transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or

indirectly, for soliciting a security holder in this state. The person making the offer and effecting the transaction must provide to the administrator notice of the transaction by filing a written description of the transaction. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(16) an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) a registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) a stop order of which the offeror is aware has not been issued against the offeror by the administrator or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) a registration statement has been filed under this chapter, but is not effective;

(B) a solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) a transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties. The person distributing the issuer's securities must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(19) a rescission offer, sale, or purchase under section 80A.77; The person making the rescission offer must provide to the administrator notice of the transaction by filing a written description of the transaction and a copy of the record that must be delivered to the offeree under section 80A.77. Notice must be filed at least ten days in advance of any rescission offer under section 80A.77 or a shorter period as permitted by the administrator;

(20) an offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the

participation of their employees including offers or sales of such securities to:

(A) directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered; and

(D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than 50 percent of their annual income from those organizations.

A person establishing an employee benefit plan under the exemption in this clause (21) must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(22) a transaction involving:

(A) a stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) the solicitation of tenders of securities by an offeror in a tender offer in compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

(23) a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 14, the administrator, by rule adopted or order issued under this chapter, may revoke the designation of a securities exchange under this paragraph, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors;

(24) any transaction effected by or through a Canadian broker-dealer exempted from

broker-dealer registration pursuant to section 80A.56(b)(3); or

(25)(A) the offer and sale by a cooperative organized under chapter 308A, or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when the securities are issued as patronage dividends. This paragraph applies to a cooperative organized under chapter 308A, or under the laws of another state, only if the cooperative has filed with the administrator a consent to service of process under section 80A.88 and has, not less than ten days before the issuance or delivery, furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise;

(B) the offer and sale by a cooperative organized under chapter 308B of its securities when the securities are offered and sold to its existing members or when the purchase of the securities is necessary or incidental to establishing patron membership in the cooperative, or when such securities are issued as patronage dividends. The administrator has the power to define "patron membership" for purposes of this paragraph. This paragraph applies to securities, other than securities issued as patronage dividends, only when:

(i) the issuer, before the completion of the sale of the securities, provides each offeree or purchaser disclosure materials that, to the extent material to an understanding of the issuer, its business, and the securities being offered, substantially meet the disclosure conditions and limitations found in rule 502(b) of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502; and

(ii) within 15 days after the completion of the first sale in each offering completed in reliance upon this exemption, the cooperative has filed with the administrator a consent to service of process under section 80A.88 (or has previously filed such a consent), and has furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise; and

(C) a cooperative may, at or about the same time as offers or sales are being completed in reliance upon the exemptions from registration found in this subpart and as part of a common plan of financing, offer or sell its securities in reliance upon any other exemption from registration available under this chapter. The offer or sale of securities in reliance upon the exemptions found in this subpart will not be considered or deemed a part of or be integrated with any offer or sale of securities conducted by the cooperative in reliance upon any other exemption from registration available under this chapter, nor will offers or sales of securities by the cooperative in reliance upon any other exemption from registration available under this chapter be considered or deemed a part of or be integrated with any offer or sale conducted by the cooperative in reliance upon this paragraph.

Sec. 41. Minnesota Statutes 2008, section 80A.65, subdivision 6, is amended to read:

Subd. 6. **Rescission offer filing fee.** The filing of a rescission offer under section ~~80A.77~~ 80A.46(19), shall be accompanied by the fees as calculated in subdivision 1.

Sec. 42. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision to read:

Subd. 1a. **Brokerage; business entity.** "Brokerage" or "business entity" means a corporation, partnership, limited liability company, limited liability partnership, or other business structure that

holds a real estate broker license.

Sec. 43. Minnesota Statutes 2008, section 82.17, subdivision 15, is amended to read:

Subd. 15. **Protective list.** "Protective list" means the written list of names and addresses of prospective ~~purchasers~~ buyers with whom a licensee has negotiated the sale or rental of the property or to whom a licensee has exhibited the property before the expiration of the listing agreement. For the purposes of this subdivision, "property" means the property that is the subject of the listing agreement in question.

Sec. 44. Minnesota Statutes 2008, section 82.17, is amended by adding a subdivision to read:

Subd. 20a. **Responsible person.** "Responsible person" means a natural person that is an officer of a corporation, a partner of a partnership, a general partner of a limited liability partnership, or a manager of a limited liability company.

Sec. 45. Minnesota Statutes 2008, section 82.19, is amended to read:

82.19 COMPENSATION.

Subdivision 1. **Licensee to receive only from broker.** A licensee shall not accept a commission, compensation, referral fee, or other valuable consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom the licensee is licensed or to whom the licensee was licensed at the time of the transaction.

Subd. 1a. **Commission-splitting, rebates, referral fee, and fees.** (a) In connection with a real estate or business opportunity transaction, a real estate broker or real estate salesperson shall not offer, pay, or give, and a person shall not accept, any compensation or other thing of value from a real estate broker or real estate salesperson by way of commission-splitting, rebate, referral fees, finder's fees, or otherwise.

(b) This subdivision does not apply to transactions:

- (1) between a licensed real estate broker or salesperson and the parties to the transaction;
- (2) among persons licensed as provided in this chapter;
- (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction;
- (4) involving timeshare or other recreational lands where the amount offered or paid does not exceed \$150, and payment is not conditioned upon any sale but is made merely for providing the referral and the person paying the fee is bound by any representations made by the person receiving the fee; and
- (5) involving a person who receives a referral fee from a person or an agent of a person licensed under this section, provided that in any 12-month period, no recipient may earn more than the value of one month's rent, that the recipient is a resident of the property or has lived there within 60 days of the payment of the fee, and that the person paying the fee is bound by any representations made by the recipient of the fee.

Subd. 2. **Undisclosed compensation.** A licensee shall not accept, give, or charge any

undisclosed compensation or realize any direct or indirect remuneration that inures to the benefit of the licensee on an expenditure made for a principal.

Subd. 2a. **Sharing of compensation with other brokers.** The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer.

Subd. 3. Limitation on broker when transaction not completed. When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

Subd. 3a. **Directing payment of compensation.** A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with a real estate or business opportunity transaction be paid to a corporation, limited liability company, or sole proprietorship of which the licensed real estate broker or salesperson is the sole owner.

Subd. 3b. **Closing agent fee.** A real estate closing agent may not charge a fee for closing services to a borrower, and a borrower may not be required to pay such a fee at settlement, if the fee was not previously disclosed in writing at least one business day before the settlement. This disclosure requirement is satisfied if a disclosure is made or an estimate given under section 507.45.

Sec. 46. Minnesota Statutes 2008, section 82.21, subdivision 2, is amended to read:

Subd. 2. Listing agreements. (a) **Requirement.** Licensees shall obtain a signed listing agreement or other signed written authorization from the owner of real property or from another person authorized to offer the property for sale or lease before advertising to the general public that the real property is available for sale or lease.

For the purposes of this section "advertising" includes placing a sign on the owner's property that indicates that the property is being offered for sale or lease.

(b) **Contents.** All listing agreements must be in writing and must include:

- (1) a definite expiration date;
- (2) a description of the real property involved;
- (3) the list price and any terms required by the seller;
- (4) the amount of any compensation or commission or the basis for computing the commission;
- (5) a clear statement explaining the events or conditions that will entitle a broker to a commission;
- (6) a clear statement explaining if the agreement may be canceled and the terms under which the agreement may be canceled;

~~(6)~~ (7) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement;

~~(7)~~ (8) the following notice in not less than ten point boldface type immediately preceding any

provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE COMPENSATION FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND THE BROKER'S CLIENT.";

~~(8)~~ (9) for residential property listings, the following "dual agency" disclosure statement:

If a buyer represented by broker wishes to buy the seller's property, a dual agency will be created. This means that broker will represent both the seller(s) and the buyer(s), and owe the same duties to the buyer(s) that broker owes to the seller(s). This conflict of interest will prohibit broker from advocating exclusively on the seller's behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, the seller(s) will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless the seller(s) instruct broker in writing to disclose specific information about the seller(s). All other information will be shared. Broker cannot act as a dual agent unless both the seller(s) and the buyer(s) agree to it. By agreeing to a possible dual agency, the seller(s) will be giving up the right to exclusive representation in an in-house transaction. However, if the seller(s) should decide not to agree to a possible dual agency, and the seller(s) want broker to represent the seller(s), the seller(s) may give up the opportunity to sell the property to buyers represented by broker.

Seller's Instructions to Broker

Having read and understood this information about dual agency, seller(s) now instructs broker as follows:

..... Seller(s) will agree to a dual agency representation and will consider offers made by buyers represented by broker.

..... Seller(s) will not agree to a dual agency representation and will not consider offers made by buyers represented by broker.

.....
Seller Real Estate Company Name

..... By:
Seller Salesperson

Date :

~~(9)~~ (10) a notice requiring the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing; and

~~(10)~~ (11) for residential listings, a notice stating that after the expiration of the listing agreement, the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question. This notice may be used in the listing agreement for any other type of real estate.

(c) **Prohibited provisions.** Except as otherwise provided in paragraph (d), clause (2), licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

(d) **Override clauses.** (1) Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

(2) A listing agreement may contain an override clause of up to two years in length when used in conjunction with the purchase or sale of a business. The length of the override clause must be negotiable between the licensee and the seller of the business. The protective list provided in connection with the override clause must include the written acknowledgment of each party named on the protective list, that the business which is the subject of the listing agreement was presented to that party by the licensee.

(e) **Protective lists.** A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this section, the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

For listings of nonresidential real property which do not contain the notice described in paragraph (b), clause ~~(10)~~ (11), the protective list must contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

Sec. 47. Minnesota Statutes 2008, section 82.24, subdivision 3, is amended to read:

Subd. 3. **Broker payment consolidation.** For all license renewal fees, recovery fund renewal fees, and recovery fund assessments pursuant to this section and section 82.43, the broker must remit the fees or assessments for the company, broker, and all salespersons licensed to the broker, in the form of a single ~~check~~ payment.

Sec. 48. Minnesota Statutes 2008, section 82.29, subdivision 4, is amended to read:

Subd. 4. **Broker's examination.** (a) The examination for a real estate broker's license shall be more exacting than that for a real estate salesperson, and shall require a higher degree of knowledge of the fundamentals of real estate practice and law.

(b) Every application for a broker's examination shall be accompanied by proof that the applicant has had a minimum of two years of actual experience within the previous five-year period prior to application as a licensed real estate salesperson in this or in another state having comparable requirements or is, in the opinion of the commissioner, otherwise or similarly qualified by reason of education or practical experience. The applicant shall have completed educational requirements in accordance with subdivision 8.

~~(c) An applicant for a limited broker's license pursuant to section 82.34, subdivision 13, shall not be required to have a minimum of two years of actual experience as a real estate person in order to obtain a limited broker's license to act as principal only.~~

Sec. 49. Minnesota Statutes 2008, section 82.29, subdivision 5, is amended to read:

Subd. 5. **Waivers.** The commissioner may ~~waive~~ grant a waiver of the real estate licensing experience requirement for the broker's examination to a qualified applicant for a waiver.

(a) ~~An~~ A qualified applicant for a waiver shall provide evidence of is an individual who:

~~(1) successful completion of a minimum of 90 quarter credits or 270 classroom hours of real estate related studies~~ has a degree in real estate from an accredited college or university;

~~(2) a minimum of five consecutive years of practical experience in real estate related areas~~ is a licensed practicing attorney whose practice involves real estate law; or

~~(3) successful completion of 30 credits or 90 classroom hours and three consecutive years of practical experience in real estate related areas~~ is a public officer whose official duties involve real estate law or real estate transactions.

(b) A request for a waiver shall be submitted to the commissioner in writing on a form prescribed by the commissioner and be accompanied by documents necessary to evidence qualification as set forth in paragraph (a).

(c) The waiver will lapse if the applicant fails to successfully complete the broker's examination within one year from the date of the granting of the waiver.

Sec. 50. Minnesota Statutes 2008, section 82.29, subdivision 8, is amended to read:

Subd. 8. **Instruction; new licenses.** (a) ~~Every~~ An applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. ~~Every~~ An applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, and of which two hours must consist of training in laws and regulations on agency representation and disclosure, before filing an application for the license. This subdivision does not apply to salespeople licensed in Minnesota before July 1, 1969.

(b) An applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within 12 months prior to the date of application for the broker's license.

~~(c) An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.~~

Sec. 51. Minnesota Statutes 2008, section 82.31, subdivision 1, is amended to read:

Subdivision 1. **Qualification of applicants.** ~~Every~~ An applicant for a real estate broker, ~~or~~ real

estate salesperson, or real estate closing agent license shall be at least 18 years of age at the time of making application for said license.

Sec. 52. Minnesota Statutes 2008, section 82.31, subdivision 2, is amended to read:

Subd. 2. **Application for license; contents.** (a) ~~Every~~ An applicant for a license as a real estate broker, or real estate salesperson, or closing agent shall make an application in ~~writing upon forms prepared and furnished~~ the format prescribed by the commissioner. ~~Each~~ The application shall be signed and sworn to by ~~the applicant and shall be~~ accompanied by the license fee required by this chapter.

(b) Each application for a real estate broker license, or real estate salesperson license, or real estate closing agent license shall contain such information as required by the commissioner consistent with the administration of the provisions and purposes of this chapter.

(c) ~~Each~~ The application for a real estate salesperson license shall give the applicant's legal name, age, residence address, and the name and place of business of the real estate broker on whose behalf the salesperson is to be acting.

~~(d) Each application for a real estate closing agent license shall give the applicant's name, age, residence address, and the name and place of business of the closing agent.~~

~~(e)~~ (d) The commissioner may require such further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

~~(f) Applicants~~ (e) An applicant for a real estate salesperson license shall submit to the commissioner, along with the application for licensure, a copy of the course completion certificate for courses I, II, and III and passing examination results.

Sec. 53. Minnesota Statutes 2009 Supplement, section 82.31, subdivision 4, is amended to read:

Subd. 4. **Corporate and partnership Business entity; brokerage licenses.** (a) A ~~corporation~~ business entity applying for a license shall have at least one ~~officer~~ responsible person individually licensed to act as broker for the ~~corporation~~ brokerage. The ~~corporation~~ business entity broker's license shall extend no authority to act as broker to any person other than the ~~corporation~~ business entity. Each ~~officer~~ responsible person who intends to act as a broker shall obtain a license.

(b) A ~~partnership~~ business entity applying for a license shall have at least one ~~partner~~ responsible person individually licensed to act as broker for the ~~partnership~~ business entity. Each ~~partner~~ responsible person who intends to act as a broker shall obtain a license.

(c) ~~Applications~~ An application for a business entity 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~~ responsible persons for the business entity.

(d) ~~Any partner or officer~~ A responsible person who ceases to act as broker for a ~~partnership or corporation~~ business entity shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf of a ~~corporation or partnership,~~ brokerage are automatically ineffective upon the revocation or suspension of the license of the ~~partnership or corporation~~ brokerage. The commissioner may suspend or revoke the license of an ~~officer or partner~~ a responsible person licensee without suspending or revoking the license of the ~~corporation~~

~~or partnership~~ business entity.

(e) The application of all ~~officers~~ responsible persons of a ~~corporation or partners in a partnership~~ business entity who intend to act as a ~~broker~~ brokers on behalf of a ~~corporation or partnership~~ business entity shall accompany the initial license application of the ~~corporation or partnership~~ business entity. ~~Officers or partners~~ Responsible persons intending to act as brokers subsequent to the licensing of the ~~corporation or partnership~~ business entity shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No ~~corporate officer, or partner,~~ responsible person 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~~ business entity 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. 54. Minnesota Statutes 2009 Supplement, section 82.32, is amended to read:

82.32 LICENSING: CONTINUING EDUCATION AND INSTRUCTION.

(a) All real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during the initial license period and during each succeeding 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner may adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of prelicense instruction as required under section 82.29, subdivision 8, and continuing education as required under this section and sections 82.29; 82.31, ~~subdivisions~~ subdivision 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44. The commissioner may not approve a course which can be completed by the student at home or outside the classroom without the supervision of an instructor except accredited courses using new delivery technology, including interactive technology, and the Internet. The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the National Association of Realtors, its affiliates, or private real estate schools. Courses in motivation, salesmanship, psychology, or time management shall not be approved by the commissioner for continuing education credit. The commissioner may approve courses in any other subjects, including, but not limited to, communication, marketing, negotiation, and technology for continuing education credit.

(c) As part of the continuing education requirements of this section and sections 82.29; 82.31, subdivisions 5 and 6; 82.33, subdivisions 1 and 4 to 6; and 82.44, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least one hour of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least one hour of training during each license period in courses in state and federal fair housing laws, regulations, and rules, other antidiscrimination laws, or courses designed to help licensees to meet the housing needs of immigrant and other underserved populations.

Clauses (1) and (2) do not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(d) The commissioner is authorized to establish a procedure for renewal of course accreditation.

(e) Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under this chapter. All continuing education course offerings must be open to any interested individuals. Access may be restricted by the education provider based on class size only. Courses must not be approved if attendance is restricted to any particular group of people. A broker must comply with all continuing education rules prescribed by the commissioner. The commissioner shall not approve any prelicense instruction courses offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business.

(f) Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

(g) The real estate education course completion certificate must be in the form set forth by the commissioner. Students are responsible for maintaining copies of course completion certificates.

(h) An approved prelicense 30-hour broker course may be used for continuing education credit by a real estate salesperson or broker if the course is completed during the appropriate licensing period.

Sec. 55. Minnesota Statutes 2008, section 82.33, subdivision 1, is amended to read:

Subdivision 1. **Duration.** ~~No~~ The renewal of a salesperson's license shall be is not effective beyond a date two years after the granting of such the salesperson's license unless the salesperson has furnished evidence of compliance with section 82.29, subdivision 8. The commissioner shall cancel the license of any a salesperson who fails to comply with section 82.29, subdivision 8. This subdivision shall not apply to salespeople licensed in Minnesota prior to July 1, 1969.

Sec. 56. Minnesota Statutes 2008, section 82.33, is amended by adding a subdivision to read:

Subd. 1a. **Broker's responsibility.** (a) A broker shall renew the license of each eligible salesperson who is and will continue to be associated with the broker. For the purposes of this subdivision, an eligible salesperson is one who has demonstrated compliance with all renewal requirements before June 15 of the renewal year.

(b) When a broker does not intend to renew the license of an eligible salesperson who is associated with the broker, the broker must notify the salesperson in writing 30 days before June 15 of the renewal year.

(c) When the broker responsible for the salesperson's license renewal does not renew an eligible salesperson's license before the renewal deadline, the broker shall pay on the salesperson's behalf any additional higher license fees that result.

Sec. 57. Minnesota Statutes 2008, section 82.33, subdivision 2, is amended to read:

Subd. 2. **Timely renewals.** ~~Persons~~ A person whose applications have application for a license renewal has not been properly and timely filed and who has not received notice of denial approval of renewal are deemed to have been approved for renewal and may not continue to transact business either as a real estate broker, salesperson, or closing agent whether or not the renewed license has been received on or before July 1 after June 30 of the renewal year until approval of renewal is received. Application for renewal of a license ~~shall be deemed to have been~~ is timely filed if ~~received by the commissioner by, or mailed with proper postage and postmarked by,~~

(1) all requirements for renewal, including continuing education requirements, have been completed by June 15 of the renewal year. ~~Applications for renewal shall be deemed properly filed if made; and~~

(2) the application is submitted before the renewal deadline in the manner prescribed by the commissioner upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter, and contain containing any information which the commissioner may require requires.

Sec. 58. Minnesota Statutes 2008, section 82.34, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) The commissioner shall issue a license as a real estate broker, or real estate salesperson, or closing agent to any person who qualifies for such the license under the terms of this chapter.

(b) The commissioner is authorized to establish by rule a special license for real estate brokers and real estate salespeople engaged solely in the rental or management of an interest or estate in real estate, to prescribe qualifications for the license, and to issue the license consistent with the terms of this chapter. This clause shall not be construed to require those owners or managers or their agents or employees who are excluded by section 82.23, clause (d), from the definition of real estate broker, to obtain the special license.

Sec. 59. Minnesota Statutes 2008, section 82.34, subdivision 2, is amended to read:

Subd. 2. **Additional broker's license.** An individual who holds a broker's license in his or her the broker's own name or for or on behalf of a corporation or partnership business entity must be issued an additional broker's license only upon demonstrating:

(1) that the additional license is necessary in order to serve a legitimate business purpose;

(2) that the broker will be capable of supervising all salespersons over whom he or she the broker will have supervisory responsibility or, in the alternative, that the broker will have no supervisory responsibilities under the additional license; and

(3) that the broker:

(i) has a substantial at least 51 percent ownership interest in each corporation or partnership business entity for or on whose behalf he or she the broker holds or will hold a broker's license; or

(ii) is an elected or appointed officer, signing partner, or managing member of both the business entity for which or on whose behalf the broker already holds a license, and an affiliated business entity for which or on whose behalf the broker is applying for an additional license.

~~The requirement of a substantial ownership interest does not apply where the broker seeking the additional license or licenses is an officer of a corporation for or on whose behalf the broker already holds a license and the broker is applying for the additional license or licenses for or on behalf of an affiliated corporation or corporations of which he or she is also an officer. For the purpose of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, "affiliated corporation business entity" means a corporation which is directly or indirectly controlled business entity that is majority-owned by the same persons as the corporation business entity for which or on whose behalf the broker is already licensed to act.~~

For the purposes of this section and sections 82.31, subdivisions 1 to 4; 82.33, subdivisions 1 to 3; 82.35, subdivision 2; and 82.39, a legitimate business purpose includes engaging in a different and specialized area of real estate or maintaining an existing business name.

Sec. 60. Minnesota Statutes 2008, section 82.34, subdivision 4, is amended to read:

~~Subd. 4. **Issuance of license; salesperson.** A salesperson must be licensed to act on behalf of a licensed broker and may not be licensed to act on behalf of more than one broker in this state during the same period of time. The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until canceled or until such licensee leaves such broker.~~

Sec. 61. Minnesota Statutes 2008, section 82.34, subdivision 5, is amended to read:

~~Subd. 5. **Effective date of license.** Licenses A license renewed pursuant to this chapter are is valid for a period of 24 months. New licenses A new license issued during a 24-month licensing period will expire on June 30 of the expiration year assigned to the license. Implementation of the 24-month licensing program must be staggered so that approximately one half of the licenses will expire on June 30 of each even-numbered year and the other one half on June 30 of each odd-numbered year. Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule will pay for the license a fee reduced by an amount equal to one half the fee for renewal of the license.~~

Sec. 62. Minnesota Statutes 2008, section 82.34, subdivision 13, is amended to read:

~~Subd. 13. **Limited broker's license.** (a) The commissioner shall have the authority to issue a limited real estate broker's license authorizing the licensee to engage in transactions as principal only. Such license shall be issued only after receipt of the application described in section 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. No salesperson may be licensed to act on behalf of an individual holding a limited broker's license. An officer of a corporation or partner of a partnership licensed as a limited broker may act on behalf of that corporation or partnership without being subject to the licensing requirements. following limited activities:~~

~~(b) A limited broker's license shall also authorize the licensee to engage in negotiation of mortgage loans, other than residential mortgage loans, as described in section 82.17, subdivision 18, clause (b).~~

(1) the licensee to engage in transactions as principal only; or

(2) the licensee to engage in negotiations of mortgage loans, other than residential mortgage loans, as described in section 82.17, subdivision 18, clause (b).

The license may be issued only after receipt of the application described in section 82.31, subdivision 2, and payment of the fee prescribed by section 82.24, subdivision 1. A salesperson may not be licensed to act on behalf of an individual holding a limited broker's license. A responsible person of a business entity licensed as a limited broker may act on behalf of that business entity without being subject to the licensing requirements.

Sec. 63. Minnesota Statutes 2008, section 82.39, is amended to read:

82.39 NOTICE TO COMMISSIONER.

Subdivision 1. **Notice Change of application information.** Notice in writing or in the format prescribed by the commissioner shall be given to the commissioner by ~~each~~ a licensee of any change ~~in~~ of information contained in the license application on file with the commissioner, including but not limited to personal name, trade name, address or business location not later than ten days after such the change. ~~The commissioner shall issue a new license if required for the unexpired period.~~

Subd. 2. **Mandatory.** Licensees The licensee shall notify the commissioner in writing or in the format prescribed by the commissioner within ten days of the facts in subdivisions 3 to 5.

Subd. 3. **Civil judgment.** Licensees The licensee must notify the commissioner in writing within ten days of a final adverse decision or order of a court, whether or not the decision or order is appealed, regarding any proceeding in which the licensee was named as a defendant, and which alleged fraud, misrepresentation, or the conversion of funds, if the final adverse decision relates to the allegations of fraud, misrepresentation, or the conversion of funds.

Subd. 4. **Disciplinary action.** The licensee must notify the commissioner in writing ~~within ten days~~ of the suspension or revocation of the licensee's real estate or other occupational license issued by this state or another jurisdiction.

Subd. 5. **Criminal offense.** The licensee must notify the commissioner in writing ~~within ten days~~ if the licensee is charged with, adjudged guilty of, or enters a plea of guilty or nolo contendere to a charge of any felony, or of any gross misdemeanor alleging fraud, misrepresentation, conversion of funds, or a similar violation of any real estate licensing law.

Sec. 64. Minnesota Statutes 2008, section 82.41, subdivision 1, is amended to read:

Subdivision 1. **License required.** No person shall act as a real estate broker, ~~or real estate salesperson, or real estate closing agent~~ unless licensed as ~~herein~~ provided in this section.

Sec. 65. Minnesota Statutes 2008, section 82.41, subdivision 2, is amended to read:

Subd. 2. **Misrepresenting status as licensee.** No persons shall advertise or represent themselves to be real estate brokers, ~~salespeople, or closing agents~~ or real estate salespersons unless licensed as ~~herein~~ provided in this section.

Sec. 66. Minnesota Statutes 2008, section 82.41, is amended by adding a subdivision to read:

Subd. 3a. **Limitation on broker when transaction not completed.** When the owner fails or is unable to consummate a real estate transaction, through no fault of the purchaser, the listing broker may not claim any portion of any trust funds deposited with the broker by the purchaser, absent a separate agreement with the purchaser.

Sec. 67. Minnesota Statutes 2008, section 82.45, subdivision 3, is amended to read:

Subd. 3. **Retention.** A licensed real estate broker shall retain for ~~three~~ six years copies of all listings, buyer representation and facilitator services contracts, deposit receipts, purchase money contracts, canceled checks, trust account records, and such other documents as may reasonably be related to carrying on a real estate brokerage business. The retention period shall run from the date of the closing of the transaction, or from the date of the document if the document is not consummated. The following documents need not be retained:

(1) agency disclosure forms provided to prospective buyers or sellers, where no contractual relationship is subsequently created and no services are provided by the licensee; and

(2) facilitator services contracts or buyer representation contracts entered into with prospective buyers, where the prospective buyer abandons the contractual relationship before any services have been provided by the licensee.

Sec. 68. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision to read:

Subd. 4. **Storage.** Storage of documents identified in subdivision 3 may be stored by electronic means.

Sec. 69. Minnesota Statutes 2008, section 82.45, is amended by adding a subdivision to read:

Subd. 5. **Destruction.** After the retention period specified in subdivision 3 has elapsed and the broker no longer wishes to retain the documents, the broker must ensure that the documents are disposed of according to the confidential record destruction procedures of the Fair and Accurate Credit Transaction Act of 2003, Public Law 108-159.

Sec. 70. Minnesota Statutes 2008, section 82.48, subdivision 2, is amended to read:

Subd. 2. **Penalty for noncompliance.** The methods, acts, or practices set forth in subdivisions 1 and 3 and sections 82.19; 82.22; 82.27; ~~82.31, subdivision 6;~~ 82.37; and 82.41, subdivision 11, are standards of conduct governing the activities of real estate brokers and salespersons. Failure to comply with these standards shall constitute grounds for license denial, suspension, or revocation, or for censure of the licensee.

Sec. 71. Minnesota Statutes 2008, section 82.48, subdivision 3, is amended to read:

Subd. 3. **Responsibilities of brokers.** (a) **Supervision of personnel.** ~~Brokers~~ A broker shall adequately supervise the activities of ~~their~~ the broker's salespersons and employees. Supervision includes the ongoing monitoring of listing agreements, purchase agreements, other real estate-related documents which are prepared or drafted by the broker's salespersons or employees or which are otherwise received by the broker's office, and the review of all trust account books and records. If an individual broker maintains more than one place of business, each place of business shall be under the broker's direction and supervision. If a ~~partnership or corporate broker~~ brokerage maintains more than one place of business, each place of business shall be under the direction and supervision of an individual broker licensed to act on behalf of the ~~partnership or corporation~~ brokerage.

The primary broker shall maintain records specifying the name of each broker responsible for the direction and supervision of each place of business. If an individual broker, who may be the primary

broker, is responsible for supervising more than one place of business, the primary broker shall, upon written request of the commissioner, file a written statement specifying the procedures which have been established to ensure that all salespersons and employees are adequately supervised. Designation of another broker to supervise a place of business does not relieve the primary broker of the ultimate responsibility for the actions of licensees.

(b) **Preparation and safekeeping of documents.** ~~Brokers shall be~~ A broker is responsible for the preparation, custody, safety, and accuracy of all real estate contracts, documents, and records, even though another person may be assigned these duties by the broker.

(c) **Documentation and resolution of complaints.** ~~Brokers~~ A broker shall investigate and attempt to resolve complaints made regarding the practices of any individual licensed to ~~them~~ the broker and shall maintain, with respect to each individual licensed to ~~them~~ the broker, a complaint file containing all material relating to any complaints received in writing for a period of three years.

(d) **Disclosure of listed property information.** A broker may allow any unlicensed person, who is authorized by the broker, to disclose any factual information pertaining to the properties listed with the broker, if the factual information is provided to the unlicensed person in written form by the broker representing or assisting the seller(s).

Sec. 72. [82.52] ADVERTISING REQUIREMENTS.

A licensee shall identify himself or herself as either a broker or an agent salesperson in any advertising for the purchase, sale, lease, exchange, mortgaging, transfer, or other disposition of real property, whether the advertising pertains to the licensee's own property or the property of others.

If a salesperson or broker is part of a team or group within the brokerage, the licensee may include the team or group name in the advertising only under the following conditions:

(1) the inclusion of the team or group name is authorized by the primary broker of the brokerage to which the salesperson or broker is licensed; and

(2) the real estate brokerage name is included and more prominently displayed than the team or group name in the advertising.

Sec. 73. [82.53] REAL ESTATE CLOSING AGENT LICENSING.

Subdivision 1. **Generally.** The commissioner shall issue a license as a closing agent to a person who qualifies for the license under the terms of this chapter.

Subd. 2. **Qualification of applicants.** An applicant for a real estate closing agent license must be at least 18 years of age at the time of making application for the license.

Subd. 3. **Application for license; contents.** (a) An applicant for a real estate closing agent license shall make an application in the format prescribed by the commissioner. The application must be accompanied by the license fee required by this chapter.

(b) An application for a real estate closing agent license must contain the information required by the commissioner consistent with this chapter.

(c) An application for a real estate closing agent license shall give the applicant's legal name, age, residence address, and the name and place of business of the closing agent.

(d) The commissioner may require further information the commissioner considers appropriate to administer this chapter.

Subd. 4. **Instruction.** An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

Subd. 5. **Change of application information.** The commissioner must be notified in the format prescribed by the commissioner of a change of information contained in the license application on file with the commissioner within ten days of the change.

Subd. 6. **Exemption.** The following persons, when acting as closing agents, are exempt from the requirements of sections 82.41 and 82.50 unless otherwise required in this chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account;

(5) a bank, trust company, savings association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law;

(6) a title insurance company authorized to do business in this state; and

(7) a title company that has a contractual agency relationship with a title insurance company authorized to do business in this state, where the title insurance company assumes responsibility for the actions of the title company and its employees or agents as if they were employees or agents of the title insurance company.

Sec. 74. **[82.54] OTHER DISCLOSURE REQUIREMENTS.**

Subdivision 1. **Agent of broker disclosure.** A salesperson shall only conduct business under the licensed name of and on behalf of the broker to whom the salesperson is licensed. An individual broker shall only conduct business under the brokerage's licensed name. A broker licensed to a business entity shall only conduct business under the licensed business entity name. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the brokerage under whom the licensee is authorized to conduct business according to this section.

Subd. 2. **Financial interests or relative or business associate disclosure; licensee.** (a) Before the negotiation or consummation of any transaction, a licensee shall affirmatively disclose to the owner of real property that the licensee is a real estate broker or agent salesperson, and in what

capacity the licensee is acting, if the licensee directly, or indirectly through a third party, purchases for himself or herself or acquires, or intends to acquire, any interest in, or any option to purchase, the owner's property.

(b) When a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing.

Subd. 3. **Material facts.** (a) A licensee shall disclose to a prospective purchaser all material facts of which the licensee is aware, which could adversely and significantly affect an ordinary purchaser's use or enjoyment of the property, or any intended use of the property of which the licensee is aware.

(b) It is not a material fact relating to real property offered for sale the fact or suspicion that the property:

(1) is or was occupied by an owner or occupant who is or was suspected to be infected with human immunodeficiency virus or diagnosed with acquired immunodeficiency syndrome;

(2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or

(3) is located in a neighborhood containing any adult family home, community-based residential facility, or nursing home.

(c) A licensee or employee of the licensee has no duty to disclose information regarding an offender who is required to register under section 243.166, or about whom notification is made under that section, if the broker or salesperson, in a timely manner, provides a written notice that information about the predatory offender registry and persons registered with the registry may be obtained by contacting local law enforcement where the property is located or the Department of Corrections.

(d) A licensee or employee of the licensee has no duty to disclose information regarding airport zoning regulations if the broker or salesperson, in a timely manner, provides a written notice that a copy of the airport zoning regulations as adopted can be reviewed or obtained at the office of the county recorder where the zoned area is located.

(e) A licensee is not required to disclose, except as otherwise provided in paragraph (f), information relating to the physical condition of the property or any other information relating to the real estate transaction, if a written report that discloses the information has been prepared by a qualified third party and provided to the person. For the purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the broker, salesperson, or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report and who is acceptable to the person to whom the disclosure is being made.

(f) A licensee shall disclose to the parties to a real estate transaction any facts known by the broker or salesperson that contradict any information included in a written report described in paragraph (e), if a copy of the report is provided to the licensee.

(g) The limitation on disclosures in paragraphs (b) and (c) shall modify any common law duties with respect to disclosure of material facts.

Subd. 4. **Nonperformance of party.** If a licensee is put on notice by a party to a real estate transaction that the party will not perform according to the terms of a purchase agreement or other similar written agreement to convey real estate, the licensee shall immediately disclose the fact of that party's intent not to perform to the other party or parties to the transaction. The licensee shall, if reasonably possible, inform the party who will not perform of the licensee's obligation to disclose this fact to the other party or parties to the transaction before making the disclosure. The obligation required by this section does not apply to notice of a party's inability to keep or fulfill any contingency to which the real estate transaction has been made subject.

Sec. 75. Minnesota Statutes 2008, section 82B.05, as amended by Laws 2009, chapter 63, section 62, is amended to read:

82B.05 REAL ESTATE APPRAISER ADVISORY BOARD.

Subdivision 1. **Members.** The Real Estate Appraiser Advisory Board consists of ~~15~~ nine members appointed by the commissioner of commerce. Three of the members must be ~~public members, four must be consumers of appraisal services, of whom one member must be employed in the financial lending industry, and eight~~ six must be real estate appraisers who are currently licensed in good standing, of whom ~~not less than two~~ three members must be ~~trainee real property appraisers, licensed real property appraisers, or certified residential real property appraisers, not less than two~~ and three members must be certified general real property appraisers, ~~and not less than~~. At least one member of the board must be certified by the Appraisal Qualification Board of the Appraisal Foundation to teach the Uniform Standards of Professional Appraisal Practice. The board is governed by section 15.0575.

Subd. 3. **Terms.** The term of office for members is three years.

Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. No person may serve as a member of the board for more than two consecutive terms. The commissioner may remove a member for cause.

~~Subd. 4. **Practice of public members prohibited.** The public members of the board may not be engaged in the practice of real estate appraising.~~

Subd. 5. **Conduct of meetings.** Places of regular board meetings must be decided by the vote of members. Written notice must be given to each member of the time and place of each meeting of the board at least ten days before the scheduled date of regular board meetings. The board shall establish procedures for emergency board meetings and other operational procedures, subject to the approval of the commissioner.

The members of the board shall elect a chair to preside at board meetings, a vice-chair, and a secretary from among the members ~~to preside at board meetings.~~

A quorum of the board is ~~eight~~ five members.

The board shall meet at least once every ~~six~~ three months as determined by a majority vote of the members or a call of the commissioner.

Subd. 6. **Compensation.** Each member of the board is entitled to a per diem allowance of \$35 for each meeting of the board at which the member is present and for each day or substantial part of a day actually spent in the conduct of the business of the board, plus all appropriate expenses unless

a greater amount is authorized by section 15.0575.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 76. Minnesota Statutes 2008, section 326.3382, subdivision 3, is amended to read:

Subd. 3. Proof of insurance. (a) No license may be issued to a private detective or protective agent applicant until the applicant has complied with the requirements in this subdivision.

(b) The applicant shall execute a surety bond to the state of Minnesota in the penal sum of \$10,000 and file it with the board. The surety bond must be executed by a company authorized to do business in the state of Minnesota, must name the applicant as principal, and must state that the applicant and each of the applicant's employees shall faithfully observe all of the laws of Minnesota and of the United States and shall pay all damages suffered by any person by reason of a violation of law by the applicant or by the commission of any willful and malicious wrong by the applicant in the course of business.

(c) The applicant shall furnish proof, acceptable to the board, of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings arising out of the ownership and operation of a private detective or protective agent business. Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility for purposes of this paragraph.

(d) The applicant may file with the board a certificate of insurance demonstrating coverage for general liability, completed operations, and personal injury. Personal injury insurance must include coverage for:

- (1) false arrest, detention, imprisonment, and malicious prosecution;
- (2) libel, slander, defamation, and violation of rights of privacy; and
- (3) wrongful entry, eviction, and other invasion of rights of private occupancy.

~~The certificate must provide that the insurance may not be modified or canceled unless 30 days prior notice is given to the board.~~ In the event of a policy cancellation, the insurer will send notice to the board at the same time that a cancellation request is received from or a notice is sent to the insured.

(e) The applicant may file with the board an annual net worth statement, signed by a licensed certified public accountant, evidencing that the applicant has a net worth of at least the following:

- (1) for an applicant with no employees, \$10,000;
- (2) for an applicant with one to ten employees, \$15,000;
- (3) for an applicant with 11 to 25 employees, \$25,000;
- (4) for an applicant with 26 to 50 employees, \$50,000; or
- (5) for an applicant with 51 or more employees, \$100,000.

Data indicating with which of the above requirements an applicant must comply is public data. The contents of the net worth statement are private data on individuals or nonpublic data, as defined in section 13.02.

(f) The applicant may file with the board an irrevocable letter of credit from a financial institution acceptable to the board in the amount listed in the appropriate category in paragraph (e).

Sec. 77. Minnesota Statutes 2008, section 326B.33, subdivision 16, is amended to read:

Subd. 16. **Insurance required.** Each contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$50,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each contractor shall maintain on file with the commissioner a certificate evidencing such insurance ~~which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner of such cancellation.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 78. Minnesota Statutes 2009 Supplement, section 326B.46, subdivision 2, is amended to read:

Subd. 2. **Bond; insurance.** Any person contracting to do plumbing work must give bond to the state in the amount of at least \$25,000 for (1) all plumbing work entered into within the state or (2) all plumbing work and subsurface sewage treatment work entered into within the state. If the bond is for both plumbing work and subsurface sewage treatment work, the bond must comply with the requirements of this section and section 115.56, subdivision 2, paragraph (e). The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the State Plumbing Code and, if the bond is for both plumbing work and subsurface sewage treatment work, financial loss by reason of failure to comply with the requirements of sections 115.55 and 115.56. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or restricted master plumber license, or renewal thereof, shall provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the commissioner a certificate evidencing the insurance ~~providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 79. Minnesota Statutes 2008, section 326B.56, subdivision 2, is amended to read:

Subd. 2. **Insurance.** (a) Each applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining the insurance described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 80. Minnesota Statutes 2008, section 326B.86, subdivision 2, is amended to read:

Subd. 2. **Insurance.** Each licensee shall have and maintain in effect commercial general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. The insurance must be written by an insurer licensed to do business in this state. Each licensee shall maintain on file with the commissioner a certificate evidencing the insurance ~~which provides that the insurance shall not be canceled without the insurer first giving 15 days' written notice of cancellation to the commissioner.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

Sec. 81. Minnesota Statutes 2008, section 326B.921, subdivision 6, is amended to read:

Subd. 6. **Insurance.** In addition to the bond described in subdivision 5, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least \$100,000 per person and \$300,000 per occurrence and property damage insurance with limits of at least \$50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person holding a high pressure pipefitting business license shall maintain on file with the department a certificate evidencing the insurance. ~~Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.~~ In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 82. Minnesota Statutes 2008, section 327B.04, subdivision 4, is amended to read:

Subd. 4. **License prerequisites.** No application shall be granted nor license issued until the applicant proves to the commissioner that:

(a) the applicant has a permanent, established place of business at each licensed location. An "established place of business" means a permanent enclosed building other than a residence, or a commercial office space, either owned by the applicant or leased by the applicant for a term of at least one year, located in an area where zoning regulations allow commercial activity, and where the books, records and files necessary to conduct the business are kept and maintained. The owner of a licensed manufactured home park who resides in or adjacent to the park may use the residence as the established place of business required by this subdivision, unless prohibited by local zoning ordinance.

If a license is granted, the licensee may use unimproved lots and premises for sale, storage, and display of manufactured homes, if the licensee first notifies the commissioner in writing;

(b) if the applicant desires to sell, solicit or advertise the sale of new manufactured homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor of the new manufactured home it proposes to deal in;

(c) the applicant has secured: (1) a surety bond in the amount of \$20,000 for each agency and each subagency location that bears the applicant's name and the name under which the applicant will be licensed and do business in this state. Each bond is for the protection of consumer customers, and must be executed by the applicant as principal and issued by a surety company admitted to do business in this state. Each bond shall be exclusively for the purpose of reimbursing consumer customers and shall be conditioned upon the faithful compliance by the applicant with all of the laws and rules of this state pertaining to the applicant's business as a dealer or manufacturer, including sections 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its legal obligations to consumer customers; and (2) a certificate of liability insurance in the amount of \$1,000,000 that provides aggregate coverage for the agency and each subagency location. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured;

(d) the applicant has established a trust account as required by section 327B.08, subdivision 3, unless the applicant states in writing its intention to limit its business to selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

(e) the applicant has provided evidence of having had at least two years' prior experience in the sale of manufactured homes, working for a licensed dealer.

Sec. 83. [332.3351] EXEMPTION FROM LICENSURE.

A collection agency shall be exempt from the licensing and registration requirements of this chapter if all of the following conditions are met:

(1) the agency is located in another state that regulates and licenses collection agencies, but does not require a Minnesota collection agency to obtain a license to collect debts in their state if the agency's collection activities are limited in the same manner;

(2) the agency's collection activities are limited to collecting debts not incurred in this state from consumers located in this state; and

(3) the agency's collection activities in Minnesota are conducted by means of interstate communications, including telephone, mail, electronic mail, or facsimile transmission.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 84. Minnesota Statutes 2008, section 332.34, is amended to read:

332.34 BOND.

The commissioner of commerce shall require each collection agency licensee to ~~annually~~ file and maintain in force a corporate surety bond, in a form to be prescribed by, and acceptable to, the commissioner, and in a sum of at least ~~\$20,000~~ \$50,000 plus an additional \$5,000 for each \$100,000 received by the collection agency from debtors located in Minnesota during the previous calendar year, less commissions earned by the collection agency on those collections for the previous calendar year. The total amount of the bond shall not exceed \$100,000. A collection agency may deposit cash in and with a depository acceptable to the commissioner in an amount and in the manner prescribed and approved by the commissioner in lieu of a bond.

EFFECTIVE DATE. This section is effective for bonds obtained or renewed after January 1, 2011.

Sec. 85. Minnesota Statutes 2008, section 340A.409, subdivision 1, is amended to read:

Subdivision 1. **Insurance required.** (a) No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by section 340A.801. The issuing authority must submit to the commissioner the applicant's proof of financial responsibility. This subdivision does not prohibit a local unit of government from requiring higher insurance or bond coverages, or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility may be given by filing:

(1) a certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under section 60A.07, subdivision 4, or by an insurer recognized as an eligible surplus lines carrier pursuant to section 60A.206 or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence;

(2) a bond of a surety company with minimum coverages as provided in clause (1); or

(3) a certificate of the commissioner of management and budget that the licensee has deposited with the commissioner of management and budget \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

(b) This subdivision does not prohibit an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

(c) An annual aggregate policy limit for dram shop insurance of not less than \$300,000 per policy year may be included in the policy provisions.

(d) A liability insurance policy required by this section must provide that it may not be canceled for:

(1) any cause, except for nonpayment of premium, by either the insured or the insurer unless the

canceling party has first given ~~30~~ 60 days' notice in writing to the ~~issuing authority~~ insured of intent to cancel the policy; ~~and~~

(2) nonpayment of premium unless the canceling party has first given ten days' notice in writing to the ~~issuing authority~~ insured of intent to cancel the policy; ~~and~~

(3) in the event of a policy cancellation, the insurer will send notice to the issuing authority at the same time that a cancellation request is received from or a notice is sent to the insured.

Sec. 86. Laws 2007, chapter 147, article 12, section 14, is amended to read:

Sec. 14. AGRICULTURAL COOPERATIVE HEALTH PLAN FOR FARMERS.

~~Subdivision 1. Pilot project requirements.~~ Notwithstanding contrary provisions of Minnesota Statutes, chapter 62H, the following apply to a joint self-insurance ~~pilot project plan~~ administered by a ~~trust sponsored by~~ one or more agricultural cooperatives organized under Minnesota Statutes, chapter 308A, ~~or~~ 308B, under a federal charter, or a not-for-profit association of cooperatives, or any combination of these organizations, for the purpose of offering health coverage to members of the cooperatives and their families, provided the ~~project plan~~ satisfies the other requirements of Minnesota Statutes, chapter 62H, except as otherwise provided in this section:

(1) Minnesota Statutes, section 62H.02, paragraph (b), does not apply;

(2) the notice period required under Minnesota Statutes, section 62H.02, paragraph (e), is 90 days;

(3) a joint self-insurance plan may elect to treat the sale of a health plan to or for an employer that has only one eligible employee who has not waived coverage as the sale of an individual health plan as allowed under Minnesota Statutes, section 62L.02, subdivision 26;

(4) Minnesota Statutes, section 297I.05, subdivision 12, paragraph (c), applies; ~~and~~

(5) the ~~trust~~ plan must pay the assessment for the Minnesota Comprehensive Health Association as provided under Minnesota Statutes, section 62E.11; and

(6) the financial solvency, stop-loss, and reserve requirements established under chapter 62H and the rules adopted under it, and other laws and rules relating to finance and solvency of health plans that are cross-referenced in chapter 62H do not apply if the joint self-insurance plan obtains or arranges for a combination of insurance coverage and individual and aggregate stop-loss coverage that protect the plan against at least 95 percent of the total risk assumed by the plan, its sponsors, and its members, including coverage or reserves adequate to pay incurred but not paid claims on the termination of the plan. The commissioner shall grant a limited Minnesota stop-loss carrier license to a carrier or carriers not currently licensed in the state for purposes of providing insurance and stop-loss coverage to the joint self-insurance plan, provided the carrier or carriers enter into an agreement with the commissioner of commerce under which the carriers agree to submit to the limited jurisdiction of the commissioner pertaining to their insurance and stop-loss coverage for the joint self-insurance program. Notwithstanding other laws to the contrary, insurance and stop-loss coverage provided under this section to the plan, its sponsors, or the persons enrolled in the plan shall be deemed by the commissioner to be stop-loss coverage for a joint self-insurance plan authorized under this section and shall not be considered health insurance under Minnesota law.

~~Subd. 2. **Evaluation and renewal.** The pilot project authorized under this section is for a period of four years from the date of initial enrollment. The commissioner of commerce shall grant an extension of four additional years if the trust provides evidence that it remains in compliance with the requirements of this section and other applicable laws and rules. If the commissioner determines that the operation of the trust has not improved access, expanded health plan choices, or improved the affordability of health coverage for farm families, or that it has significantly damaged access, choice, or affordability for other consumers not enrolled in the trust, the commissioner shall provide at least 180 days' advance written notice to the trust and to the chairs of the senate and house finance and policy committees with jurisdiction over health and insurance of the commissioner's intention not to renew the pilot project at the expiration of a four-year period.~~

Sec. 87. 2011 APPOINTMENTS TO REAL ESTATE APPRAISER ADVISORY BOARD.

The terms of all members of the Real Estate Appraiser Advisory Board expire the effective date of this section. The commissioner of commerce shall, as soon as practicable after this date, appoint members to an initial term of office as follows: three years for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member; two years for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member; and one year for one consumer of appraisal services member, one certified residential real property appraiser member, and one certified general real property appraiser member.

Upon the expiration of the term of office established in this section, the successor must be appointed pursuant to Minnesota Statutes, section 82B.05.

All provisions of Minnesota Statutes, section 82B.05, not inconsistent with this section apply to the initial board appointed pursuant to this section.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 88. COORDINATION OF BENEFITS STUDY.

The commissioner of commerce, in consultation with the commissioner of health and health plan companies, shall consider the appropriateness of adopting the National Association of Insurance Commissioners 2005 Coordination of Benefits Model Regulation. The commissioner shall submit recommendations and draft legislation, if any, needed to implement the recommendations, to the legislature by January 15, 2011.

Sec. 89. REPEALER.

Minnesota Statutes 2008, sections 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, and 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3 and 7; 332.31, subdivision 7; and 332.335, are repealed.

Minnesota Statutes 2009 Supplement, section 65B.133, subdivision 3; and 72B.02, subdivision 11, are repealed.

Minnesota Statutes 2008, section 72B.04, is repealed effective July 1, 2010.

ARTICLE 2

MINNESOTA S.A.F.E. MORTGAGE LICENSING ACT OF 2010

Section 1. **[58A.01] TITLE.**

This chapter may be cited as the "Minnesota Secure and Fair Enforcement for Mortgage Licensing Act of 2010" or "Minnesota S.A.F.E. Mortgage Licensing Act of 2010."

Sec. 2. **[58A.02] DEFINITIONS.**

Subdivision 1. **Application.** For purposes of this chapter, the definitions in subdivisions 2 to 15 have the meanings given them.

Subd. 2. **Depository institution.** "Depository institution" has the meaning given in United States Code, title 12, section 1813, and includes a credit union.

Subd. 3. **Federal banking agencies.** "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the comptroller of the currency, the director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

Subd. 4. **Immediate family member.** "Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Subd. 5. **Individual.** "Individual" means a natural person.

Subd. 6. **Loan processor or underwriter.** "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under chapter 58. For purposes of this subdivision, the term "clerical or support duties" may include after the receipt of an application:

(1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

Subd. 7. **Mortgage loan originator.** "Mortgage loan originator":

(1) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan;

(2) does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 58A.03, subdivision 3;

(3) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered according to Minnesota law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by an agent of the lender, mortgage broker, or other mortgage loan originator;

(4) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in United States Code, title 11, section 101(53D); and

(5) does not include a licensed manufactured home retailer, licensed limited retailer, or salesperson selling manufactured or modular homes, provided that person only assists the consumer in filling out a loan application and does not offer or negotiate loan rates or terms, does not do any counseling with consumers about residential mortgage loan rates or terms, and does not receive any payment or fee from any company or individual for assisting the consumer.

Subd. 8. **Nationwide Mortgage Licensing System and Registry.** "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

Subd. 9. **Nontraditional mortgage product.** "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage loan.

Subd. 10. **Person.** "Person" means a natural person, corporation, company, limited liability company, partnership, or association.

Subd. 11. **Real estate brokerage activity.** "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(3) negotiating, on behalf of a party, a portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to the transaction;

(4) engaging in an activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(5) offering to engage in any activity, or act in any capacity, described in clause (1), (2), (3), or (4).

Subd. 12. **Registered mortgage loan originator.** "Registered mortgage loan originator" means an individual who:

(1) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(2) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

Subd. 13. **Residential mortgage loan.** "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in United States Code, title 15, section 1602(v), or residential real estate upon which a dwelling is constructed or intended to be constructed.

Subd. 14. **Residential real estate.** "Residential real estate" means real property located in Minnesota, upon which a dwelling is constructed or is intended to be constructed.

Subd. 15. **Unique identifier.** "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Sec. 3. **[58A.03] LICENSE AND REGISTRATION REQUIRED.**

Subdivision 1. **Generally.** An individual, unless specifically exempted from this chapter under subdivision 2, shall not engage in the business of a mortgage loan originator with respect to a dwelling located in this state without first obtaining and maintaining a license under this chapter. An individual may not engage in the mortgage loan business unless the individual is employed and supervised by an entity which is either licensed or exempt from licensing under chapter 58. A licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

Subd. 2. **Exemptions.** The following are exempt from this chapter:

(1) a registered mortgage loan originator, when acting for an entity described in section 58A.02, subdivision 12, clause (1);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence; and

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator.

Subd. 3. **Independent contractor loan processors or underwriters.** A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under subdivision 1. An independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

EFFECTIVE DATE. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for subdivision 1 is July 31, 2010, or a later date approved by the Secretary of the U.S. Department of Housing and Urban Development, under the authority granted in Public Law 110-289, section 1508(a).

Sec. 4. **[58A.04] STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

Subdivision 1. **Application form.** An applicant for a license shall apply in a form as prescribed by the commissioner. The form must contain content as set forth by rule, instruction, or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

Subd. 2. **Commissioner may establish relationships or contracts.** In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

Subd. 3. **Waive or modify requirements.** For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner is authorized to waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and to establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

Subd. 4. **Background checks.** In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation, and a governmental agency or entity authorized to receive the information for a state, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) an independent credit report obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(ii) information related to administrative, civil, or criminal findings by a governmental jurisdiction.

Subd. 5. **Agent for purposes of requesting and distributing criminal information.** For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subdivision 4, clauses (1) and (2), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

Subd. 6. **Agent for purposes of requesting and distributing noncriminal information.** For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subdivision 4, clause (2)(i) and (ii), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

Sec. 5. **[58A.045] TERM OF LICENSE AND FEES.**

Subdivision 1. **Term.** Licenses for mortgage loan originators issued under this chapter expire on

December 31 and are renewable on January 1 of each year after that date.

Subd. 2. **Fees.** The following fees must be paid to the commissioner:

- (1) for a mortgage loan originator license, \$100; and
- (2) for a renewal mortgage loan originator license, \$50.

Sec. 6. **[58A.05] ISSUANCE OF LICENSE.**

The commissioner shall not issue a mortgage loan originator license unless the commissioner finds at a minimum, that:

(1) the applicant has never had a mortgage loan originator license revoked in a governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation;

(2) the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(i) during the seven-year period preceding the date of the application for licensing and registration;

(ii) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(iii) provided that a pardon of a conviction is not a conviction for purposes of this clause;

(3) the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this chapter, a person has shown that the person is not financially responsible when the person has shown a disregard in the management of the person's own financial condition. A determination that an individual has not shown financial responsibility may include, but is not limited to:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; and

(iv) a pattern of seriously delinquent accounts within the past three years;

(4) the applicant has completed the prelicensing education requirement described in section 58A.06;

(5) the applicant has passed a written test that meets the test requirement described in section 58A.07; and

(6) the applicant has met the surety bond requirement as required under section 58A.13.

Sec. 7. **[58A.06] PRELICENSING AND RELICENSING EDUCATION OF LOAN ORIGINATORS.**

Subdivision 1. **Minimum educational requirements.** In order to meet the prelicensing education requirement referred to in section 58A.05, clause (4), a person shall complete at least 20 hours of education approved according to subdivision 2, that includes at least:

(1) three hours of federal law and regulations;

(2) three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and

(3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, prelicensing education courses must be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a prelicensing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes a prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Prelicensing education may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Reciprocity of education.** The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of prelicensing education requirements in Minnesota.

Subd. 6. **Relicensing education requirements.** A person previously licensed under this chapter after the effective date of this chapter applying to be licensed again must prove that the person has completed all of the continuing education requirements for the year in which the license was last held.

Sec. 8. **[58A.07] TESTING OF LOAN ORIGINATORS.**

Subdivision 1. **Generally.** In order to meet the written test requirement referred to in section 58A.05, clause (5), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

Subd. 2. **Qualified test.** A written test must not be treated as a qualified written test for purposes of subdivision 1 unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(1) ethics;

(2) federal law and regulation pertaining to mortgage origination;

(3) state law and rule pertaining to mortgage origination; and

(4) federal and state law and rule, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

Subd. 3. **Testing location.** Nothing in this section prohibits a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of a subsidiary or affiliate of the employer of the applicant, or the location of an entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

Subd. 4. **Minimum competence.** (a) An individual is not considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(b) An individual may retake a test three consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(c) After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator.

Sec. 9. **[58A.08] STANDARDS FOR LICENSE RENEWAL.**

Subdivision 1. **Generally.** The minimum standards for license renewal for a mortgage loan originator include that the mortgage loan originator:

- (1) continues to meet the minimum standards for license issuance under section 58A.05;
- (2) has satisfied the annual continuing education requirements described in section 58A.09; and
- (3) has paid all required fees for renewal of the license.

Subd. 2. **Failure to satisfy minimum standards of license renewal.** The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal expires. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

Sec. 10. **[58A.09] CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.**

Subdivision 1. **Generally.** In order to meet the annual continuing education requirements referred to in section 58A.08, subdivision 1, clause (2), a licensed mortgage loan originator shall complete at least eight hours of education approved according to subdivision 2 that includes at least:

- (1) three hours of federal law and regulations;
- (2) two hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and
- (3) two hours of training related to lending standards for the nontraditional mortgage product

marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, continuing education courses must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes an education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or a subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Continuing education may be offered either in a classroom, online, or by other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Calculation of continuing education credits.** A licensed mortgage loan originator:

(1) except for subdivision 9 and section 58A.08, subdivision 2, may only receive credit for a continuing education course in the year in which the course is taken; and

(2) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

Subd. 6. **Instructor credit.** A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

Subd. 7. **Reciprocity of education.** A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of continuing education requirements in Minnesota.

Subd. 8. **Lapse in license.** A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held before a new or renewed license is issued.

Subd. 9. **Deficiency.** A person meeting the requirements of section 58A.08, subdivision 1, clauses (1) and (3), may make up a deficiency in continuing education as established by rule of the commissioner.

Sec. 11. **[58A.10] AUTHORITY TO REQUIRE LICENSE.**

In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner may participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish by rule or order requirements as necessary, including but not limited to:

(1) background checks for:

- (i) criminal history through fingerprint or other databases;
 - (ii) civil or administrative records;
 - (iii) credit history; or
 - (iv) other information as determined necessary by the Nationwide Mortgage Licensing System and Registry;
- (2) the payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;
- (3) the setting or resetting as necessary of renewal or reporting dates; and
- (4) requirements for amending or surrendering a license or other activities the commissioner considers necessary for participation in the Nationwide Mortgage Licensing System and Registry.

Sec. 12. [58A.11] NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.

The commissioner shall establish a process that allows mortgage loan originators to challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

Sec. 13. [58A.12] ENFORCEMENT AUTHORITIES, VIOLATIONS, AND PENALTIES.

(a) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may, pursuant to chapter 14:

- (1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, rules issued under this chapter, or order or directive entered under this chapter;
- (2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at anytime to meet the requirements of section 58A.05 or 58A.08, or withholds information or makes a material misstatement in an application for a license or renewal of a license;
- (3) order restitution against persons subject to this chapter for violations of this chapter;
- (4) impose fines on persons subject to this chapter pursuant to paragraphs (b) to (d); and
- (5) issue orders or directives under this chapter as follows:
 - (i) order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;
 - (ii) order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;
 - (iii) enter immediate temporary orders to cease business under a license or interim license issued pursuant to the authority granted under section 58A.03 if the commissioner determines that the license was erroneously granted or the licensee is currently in violation of this chapter; and
 - (iv) order or direct other affirmative action the commissioner considers necessary.

(b) The commissioner may impose a civil penalty on a mortgage loan originator or person subject to this chapter, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under authority of this chapter.

(c) The maximum amount of penalty for each act or omission described in paragraph (b) is \$25,000.

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

Sec. 14. [58A.13] SURETY BOND REQUIRED.

Subdivision 1. **Coverage, form, and rules.** (a) Each mortgage loan originator must be covered by a surety bond meeting the requirements of this section. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person subject to this chapter can be used in lieu of the mortgage loan originator's surety bond requirement.

(b) The surety bond shall provide coverage for each mortgage loan originator in an amount as prescribed in subdivision 2.

(c) The surety bond must be in a form as prescribed by the commissioner.

Subd. 2. **Penal sum of surety bond.** The penal sum of the surety bond must be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner.

Subd. 3. **Action on bond.** When an action is commenced on a licensee's bond the commissioner may require the filing of a new bond.

Subd. 4. **New bond.** Immediately upon recovery upon any action on the bond the licensee shall file a new bond.

Sec. 15. [58A.14] CONFIDENTIALITY.

Subdivision 1. **Protections.** Except as otherwise provided in Public Law 110-289, section 1512, the requirements under chapter 13 or any federal law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by chapter 13 or federal law.

Subd. 2. **Agreements and sharing arrangements.** For purposes of this section, the commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

Subd. 3. **Nonapplicability of certain requirements.** Information or material that is subject to a privilege or confidentiality under subdivision 1 is not subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

Subd. 4. **Coordination with Minnesota Government Data Practices Act.** Chapter 13 relating to the disclosure of confidential supervisory information or any information or material described in subdivision 1 that is inconsistent with subdivision 1 is superseded by the requirements of this section.

Subd. 5. **Public access to information.** This section does not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that are included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Sec. 16. **[58A.15] INVESTIGATION AND EXAMINATION AUTHORITY.**

Subdivision 1. **Generally.** In addition to any authority allowed under this chapter, the commissioner may conduct investigations and examinations according to subdivisions 2 to 9.

Subd. 2. **Authority to access information.** For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this chapter, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to:

(1) criminal, civil, and administrative history information, including nonconviction data;

(2) personal history and experience information including independent credit reports obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(3) any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation regardless of the location, possession, control, or custody of the documents, information, or evidence.

Subd. 3. **Investigation, examination, and subpoena authority.** For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine a licensee, individual, or person subject to this chapter, as often as necessary in order to carry out the purposes of this chapter. The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents the commissioner considers relevant to the inquiry.

Subd. 4. **Availability of books and records.** A licensee, individual, or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual, or person subject to this chapter. The commissioner shall have access to the books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this chapter concerning the licensee's, individual's, or person's business.

Subd. 5. **Reports and other information as directed.** A licensee, individual, or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including but not limited to:

- (1) accounting compilations;
- (2) information lists and data concerning loan transactions in a format prescribed by the commissioner; or
- (3) other information the commissioner considers necessary to carry out the purposes of this section.

Subd. 6. **Control access to records.** In making an examination or investigation authorized by this chapter, the commissioner may control access to documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records has access to the documents or records as necessary to conduct its ordinary business affairs.

Subd. 7. **Additional authority.** In order to carry out the purposes of this section, the commissioner may:

- (1) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
- (2) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;
- (3) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;
- (4) accept and rely on examination or investigation reports made by other government officials, within or without this state; or
- (5) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

Subd. 8. **Effect of authority.** The authority of this section remains in effect, whether a licensee, individual, or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

Subd. 9. **Withhold records.** A licensee, individual, or person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Sec. 17. [58A.16] PROHIBITED ACTS AND PRACTICES.

Subdivision 1. **Generally.** It is a violation of this chapter for a person or individual subject to this chapter to:

(1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) engage in any unfair or deceptive practice toward any person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;

(7) fail to make disclosures as required by this chapter and any other applicable state or federal law or regulations;

(8) fail to comply with this chapter or rules adopted under this chapter or fail to comply with any other state or federal law or regulations applicable to any business authorized or conducted under this chapter;

(9) make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan; or engage in bait-and-switch advertising;

(10) negligently make a false statement or knowingly and willfully make an omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with an investigation conducted by the commissioner or another governmental agency;

(11) make a payment, threat, or promise, directly or indirectly, to a person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make a payment threat or promise, directly or indirectly, to an appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(13) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Subd. 2. **Loan processor or underwriter activities.** An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

Sec. 18. **[58A.17] MORTGAGE CALL REPORTS.**

A mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which must be in the form and contain the information the Nationwide Mortgage Licensing System and Registry requires.

Sec. 19. **[58A.18] REPORT TO NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

The commissioner shall regularly report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in section 58A.14.

Sec. 20. **[58A.20] UNIQUE IDENTIFIER SHOWN.**

The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or Web sites, and any other documents as established by rule or order of the commissioner.

Sec. 21. **EFFECTIVE DATE.**

This article is effective July 31, 2010.

ARTICLE 3

CONFORMING AND TRANSITIONAL PROVISIONS RELATING TO MINNESOTA STATUTES, CHAPTER 58

Section 1. Minnesota Statutes 2008, section 58.04, subdivision 1, is amended to read:

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and must have and maintain at all times ~~one of the following: approval as a mortgagee by either the federal Department of Housing~~

~~and Urban Development or the Federal National Mortgage Association; a minimum net worth, net of intangibles, of at least \$250,000; or a surety bond or irrevocable letter of credit in the amount of \$50,000 amounts prescribed under section 58.08. Net worth, net of intangibles, must be calculated in accordance with generally accepted accounting principles.~~

(c) The following persons are exempt from the residential mortgage originator licensing requirements:

- (1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period;
- (2) a financial institution as defined in section 58.02, subdivision 10;
- (3) an agency of the federal government, or of a state or municipal government;
- (4) an employee or employer pension plan making loans only to its participants;
- (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or
- (6) a person exempted by order of the commissioner.

Sec. 2. Minnesota Statutes 2009 Supplement, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) ~~A residential mortgage originator applicant must submit one of the following:~~

~~(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;~~

~~(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or~~

~~(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application. a surety bond that meets the requirements of section 58.08, subdivision 1a.~~

(c) The application must also include all of the following:

- (1) an affirmation under oath that the applicant:
- (i) is in compliance with the requirements of section 58.125;
 - ~~(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the dates that mandatory testing, initial education, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;~~
 - ~~(iii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;~~
 - ~~(iv) (iii) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;~~
 - ~~(v) (iv) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000 \$100,000;~~
 - ~~(vi) (v) complies with federal and state tax laws; and~~
 - ~~(vii) (vi) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;~~
- (2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;
- (3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;
- (4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;
- (5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and
- (6) other information required by the commissioner.

Sec. 3. Minnesota Statutes 2008, section 58.08, is amended by adding a subdivision to read:

Subd. 1a. **Residential mortgage originators.** (a) An applicant for a residential mortgage originator license must file with the department a surety bond in the amount of \$100,000, issued by an insurance company authorized to do so in this state. The bond must cover all mortgage loan originators who are employees or independent agents of the applicant. The bond must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers as a result of a licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.

(b) The bond must be submitted with the originator's license application and evidence of

continued coverage must be submitted with each renewal. Any change in the bond must be submitted for approval by the commissioner, within ten days of its execution. The bond or a substitute bond shall remain in effect during all periods of licensing.

(c) Upon filing of the mortgage call report as required by section 58A.17, a licensee shall maintain or increase its surety bond to reflect the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year in accordance with the table in this paragraph. A licensee may decrease its surety bond in accordance with the table in this paragraph if the surety bond required is less than the amount of the surety bond on file with the department.

<u>Dollar Amount of Closed Residential Mortgage Loans</u>	<u>Surety Bond Required</u>
<u>\$0 to \$5,000,000</u>	<u>\$100,000</u>
<u>\$5,000,000.01 to \$10,000,000</u>	<u>\$125,000</u>
<u>\$10,000,000.01 to \$25,000,000</u>	<u>\$150,000</u>
<u>Over \$25,000,000</u>	<u>\$200,000</u>

For purposes of this subdivision, "mortgage loan originator" has the meaning given the term in section 58A.02, subdivision 7.

Sec. 4. Minnesota Statutes 2008, section 58.09, is amended to read:

58.09 TERM OF LICENSE.

~~Initial~~ Licenses for residential mortgage originators and residential mortgage servicers issued under this chapter expire on ~~July 31, 2001,~~ December 31 and are renewable on ~~August 1, 2001,~~ and on ~~August 1~~ January 1 of each ~~odd-numbered~~ year after that date. ~~A new licensee whose license expires less than 12 months from the date of issuance shall pay a fee equal to one-half the applicable initial license fee set forth in section 58.10, subdivision 1, clause (1) or (3).~~

Sec. 5. Minnesota Statutes 2008, section 58.10, subdivision 1, is amended to read:

Subdivision 1. **Amounts.** The following fees must be paid to the commissioner:

(1) for ~~an initial~~ a residential mortgage originator license, ~~\$2,125~~ \$1,000, \$50 of which is credited to the consumer education account in the special revenue fund;

(2) for a renewal license, ~~\$1,125~~ \$500, \$50 of which is credited to the consumer education account in the special revenue fund;

(3) for ~~an initial~~ a residential mortgage servicer's license, ~~\$1,000~~ \$500;

(4) for a renewal license, ~~\$500~~ \$250; and

(5) for a certificate of exemption, \$100.

Sec. 6. Minnesota Statutes 2008, section 58.11, is amended to read:

58.11 LICENSE RENEWAL.

Subdivision 1. **Term.** Licenses are renewable on ~~August 1, 2001,~~ and on ~~August 1~~ January 1 of

each ~~odd-numbered year after that date.~~

Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed who has not received notice of denial of renewal is considered approved for renewal and the person may continue to transact business as a residential mortgage originator or servicer whether or not the renewed license has been received on or before ~~August~~ January 1 of the renewal year. Application for renewal of a license is considered timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, ~~July~~ December 15 of the renewal year. An application for renewal is considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter, and containing any information that the commissioner requires.

(b) A person who fails to make a timely application for renewal of a license and who has not received the renewal license as of ~~August~~ January 1 of the renewal year is unlicensed until the renewal license has been issued by the commissioner and is received by the person.

Subd. 3. **Contents of renewal application.** Application for the renewal of an existing license must contain the information specified in section 58.06, subdivision 2; however, only the requested information having changed from the most recent prior application need be submitted.

Subd. 4. **Cancellation.** A licensee ceasing an activity or activities regulated by this chapter and desiring to no longer be licensed shall so inform the commissioner in writing and, at the same time, surrender the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business.

Sec. 7. ASSESSMENT.

The commissioner may levy a pro rata assessment on institutions licensed under Minnesota Statutes, chapter 58, to recover the costs to the Department of Commerce for administering the licensing and registration requirements of Minnesota Statutes, section 58A.10. The assessment amount must be determined by dividing those costs by the number of licensees.

The commissioner shall levy the assessments and notify each institution of the amount of the assessment being levied by September 30, 2010. The institution shall pay the assessment to the department no later than November 30, 2010. If an institution fails to pay its assessment by this date, its license may be suspended by the commissioner until it is paid in full.

This section expires December 1, 2010.

Sec. 8. RESIDENTIAL MORTGAGE ORIGINATORS AND SERVICERS; TRANSITIONAL LICENSE FEE AND TERMS.

A residential mortgage originator licensee and a residential mortgage service licensee operating under a valid license under Minnesota Statutes, chapter 58, with an expiration date of July 31, 2011, shall pay a prorated renewal fee of \$200 for a residential mortgage originator, and \$100 for a residential mortgage servicer. The prorated license renewal fee must be paid by December 31, 2010, and such payment extends the license term until December 31, 2011.

Sec. 9. REPEALER.

Minnesota Statutes 2009 Supplement, section 58.126, is repealed.

Sec. 10. EFFECTIVE DATE.

This article is effective July 31, 2010."

Delete the title and insert:

"A bill for an act relating to commerce; regulating various licensees and other entities; modifying definitions, informational requirements, continuing education requirements, information reporting requirements, and notice requirements; making various housekeeping, technical, and clarifying changes; regulating securities; reorganizing and modifying various provisions relating to real estate brokers, salespersons, and closing agents; modifying the membership requirements of, and appointment authority to, the real estate appraiser advisory board; regulating certain workers' compensation self-insurers; regulating mortgage loan originators; amending Minnesota Statutes 2008, sections 45.0112; 58.04, subdivision 1; 58.08, by adding a subdivision; 58.09; 58.10, subdivision 1; 58.11; 60A.031, subdivision 4; 60A.084; 60A.204; 60A.36, by adding a subdivision; 60K.31, subdivision 10; 61A.092, subdivision 3; 62A.046, subdivision 6, by adding a subdivision; 62A.17, subdivision 5; 62A.65, subdivision 2; 62E.02, subdivision 15; 62E.14, subdivision 4c; 62L.05, subdivision 4; 62S.24, subdivision 8; 62S.266, subdivision 4; 62S.29, subdivision 1; 72A.08, subdivision 1; 72A.20, subdivisions 10, 36, 37; 72A.492, subdivision 2; 72B.01; 72B.08, subdivision 8; 79A.03, subdivision 8; 79A.06, subdivision 5; 79A.21, subdivision 3; 80A.41; 80A.46; 80A.65, subdivision 6; 82.17, subdivision 15, by adding subdivisions; 82.19; 82.21, subdivision 2; 82.24, subdivision 3; 82.29, subdivisions 4, 5, 8; 82.31, subdivisions 1, 2; 82.33, subdivisions 1, 2, by adding a subdivision; 82.34, subdivisions 1, 2, 4, 5, 13; 82.39; 82.41, subdivisions 1, 2, by adding a subdivision; 82.45, subdivision 3, by adding subdivisions; 82.48, subdivisions 2, 3; 82B.05, as amended; 326.3382, subdivision 3; 326B.33, subdivision 16; 326B.56, subdivision 2; 326B.86, subdivision 2; 326B.921, subdivision 6; 327B.04, subdivision 4; 332.34; 340A.409, subdivision 1; Minnesota Statutes 2009 Supplement, sections 45.027, subdivision 1; 45.30, subdivision 4; 58.06, subdivision 2; 60A.39, subdivisions 1, 4, 5; 60A.9572, subdivision 6; 62A.3099, subdivision 18; 65A.29, subdivision 13; 72B.03, subdivision 2; 72B.045, subdivision 1; 72B.06; 82.31, subdivision 4; 82.32; 326B.46, subdivision 2; Laws 2007, chapter 147, article 12, section 14; proposing coding for new law in Minnesota Statutes, chapters 82; 332; proposing coding for new law as Minnesota Statutes, chapter 58A; repealing Minnesota Statutes 2008, sections 72B.04; 82.19, subdivision 3; 82.22, subdivisions 1, 6, 7, 8, 9; 82.31, subdivision 6; 82.34, subdivision 16; 82.41, subdivisions 3, 7; 332.31, subdivision 7; 332.335; Minnesota Statutes 2009 Supplement, sections 58.126; 65B.133, subdivision 3; 72B.02, subdivision 11."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was referred

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

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 11, insert:

**"ARTICLE 1
LIFE INSURANCE"**

Page 20, after line 22, insert:

**"ARTICLE 2
FRATERNAL BENEFIT SOCIETIES"**

Section 1. Minnesota Statutes 2008, section 64B.19, is amended by adding a subdivision to read:

Subd. 4a. **Notice of extra assessments.** In the event that a society intends to make extra assessments, as provided in subdivision 4, it shall provide notice of the assessments it plans to make to the commissioner, and to the commissioner of its state of domicile if it is a foreign society, at least 90 days before the effective date of the assessments.

Sec. 2. [64B.40] DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 64B.40 to 64B.48, the terms defined in this section have the meanings given them.

Subd. 2. **Adjusted risk-based capital report.** "Adjusted risk-based capital report" means a risk-based capital report that has been adjusted by the commissioner according to section 64B.41, subdivision 3.

Subd. 3. **Corrective order.** "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.

Subd. 4. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

Subd. 5. **Negative trend.** "Negative trend" means, with respect to a society, negative trend over a period of time, as determined according to the "trend test calculation" included in the risk-based capital instructions.

Subd. 6. **Risk-based capital instructions.** "Risk-based capital instructions" means the risk-based capital report including risk-based capital instructions adopted by the NAIC, as those risk-based instructions may be amended by the NAIC from time to time according to the procedures adopted by the NAIC.

Subd. 7. **Risk-based capital level.** "Risk-based capital level" means a fraternal action level risk-based capital or fraternal authorized control level risk-based capital where:

(1) "fraternal action level risk-based capital" means the product of 2.0 and its authorized control level risk-based capital; and

(2) "fraternal authorized control level risk-based capital" means the number determined under the risk-based capital formula according to the risk-based capital instructions.

Subd. 8. **Risk-based capital plan.** "Risk-based capital plan" means a comprehensive financial plan containing the elements specified in section 64B.42. If the commissioner rejects the risk-based capital plan, and it is revised by the society, with or without the commissioner's recommendation,

the plan must be called the "revised risk-based capital plan."

Subd. 9. **Risk-based capital report.** "Risk-based capital report" means the report required in section 64B.41.

Subd. 10. **Society.** "Society" means a fraternal benefit society that is admitted to do business in this state under this chapter.

Subd. 11. **Total adjusted capital.** "Total adjusted capital" means the sum of:

(1) a society's statutory capital and surplus as determined in accordance with statutory accounting applicable to the annual statement required to be filed under section 60A.13; and

(2) other items, if any, as the risk-based capital instructions may provide.

Sec. 3. [64B.41] RISK-BASED CAPITAL REPORTS.

Subdivision 1. **General requirements.** Every society shall, on or before each March 1, prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing the information required by the risk-based capital instructions. In addition, every society shall file its risk-based capital report with the NAIC according to the risk-based capital instructions.

Subd. 2. **Specific requirements.** A society's risk-based capital must be determined according to the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between:

(1) the risk with respect to the society's assets;

(2) the risk of adverse insurance experience with respect to the society's liabilities and obligations;

(3) the interest rate risk with respect to the society's business; and

(4) all other business risks and other relevant risks set forth in the risk-based capital instructions;

determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

Subd. 3. **Adjusted risk-based capital report.** If a society files a risk-based capital report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the risk-based capital report to correct the inaccuracy and shall notify the society of the adjustment. The notice must contain a statement of the reason for the adjustment. A risk-based capital report as so adjusted is referred to as an "adjusted risk-based capital report."

Sec. 4. [64B.42] FRATERNAL ACTION LEVEL EVENT.

Subdivision 1. **Definition.** "Fraternal action level event" means, with respect to a society, any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that:

(i) the society's total adjusted capital is greater than or equal to its fraternal authorized control level risk-based capital but less than its fraternal action level risk-based capital; or

(ii) the society's total adjusted capital is greater than or equal to its fraternal action level risk-based capital but less than the product of its fraternal authorized control level risk-based capital and 2.5 and has a negative trend;

(2) the notification by the commissioner to a society of an adjusted risk-based capital report that indicates an event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates an event in clause (1), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(4) the failure of the society to file a risk-based capital report by March 1, unless the society has provided an explanation for the failure that is satisfactory to the commissioner and has cured the failure within ten days after March 1.

Subd. 2. **Commissioner's duties.** In the event of a fraternal action level event, the commissioner shall:

(1) require the society to prepare and submit a risk-based capital plan, or, if applicable, a revised risk-based capital plan that:

(i) identifies the conditions that contribute to the fraternal action level event;

(ii) contains proposals of corrective actions that the society intends to take and would be expected to result in the elimination of the fraternal action level event;

(iii) provides projections of the society's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projected statutory balance sheets, income statements, and cash flow statements. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(iv) identifies the key assumptions impacting the society's projections and the sensitivity of the projections to the assumptions; and

(v) identifies the quality of, and problems associated with, the society's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case;

(2) examine or analyze as the commissioner considers necessary the assets, liabilities, and operations of the society including reviewing its risk-based capital plan or revised risk-based capital plan; and

(3) subsequent to the examination or analysis, issue a corrective order specifying the corrective actions the commissioner determines are required.

Subd. 3. **Corrective action.** In determining corrective actions, the commissioner may take into account factors considered relevant with respect to the society based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital

instructions. The risk-based capital plan or revised risk-based capital plan must be submitted:

(1) within 45 days after the occurrence of the fraternal action level event;

(2) if the society challenges an adjusted risk-based capital report pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge;
or

(3) if the society challenges a revised risk-based capital plan pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge.

Subd. 4. **Examination and review.** The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the society's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the society; and formulate the corrective order with respect to the society. The fees, costs, and expenses relating to consultants must be borne by the affected society or other party as directed by the commissioner.

Sec. 5. [64B.43] FRATERNAL AUTHORIZED CONTROL LEVEL EVENT.

Subdivision 1. **Definition.** "Fraternal authorized control level event" means any of the following events:

(1) the filing of a risk-based capital report by the society that indicates that the society's total adjusted capital is less than its fraternal authorized control level risk-based capital;

(2) the notification by the commissioner to the society of an adjusted risk-based capital report that indicates the event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates the event in clause (1), notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge;

(4) the failure of the society to respond, in a manner satisfactory to the commissioner, to a corrective order, provided the society has not challenged the corrective order under section 64B.44;

(5) if the society has challenged a corrective order under section 64B.44 and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the society to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner;

(6) the failure of the society to submit a risk-based capital plan to the commissioner within the time period in section 64B.42;

(7) notification by the commissioner to the society that:

(i) the risk-based capital plan or revised risk-based capital plan submitted by the society is, in the judgment of the commissioner, unsatisfactory; and

(ii) the society has not challenged the determination under section 64B.44;

(8) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge;

(9) notification by the commissioner to the society that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the society to eliminate the fraternal action level event according to its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, provided the society has not challenged the determination under section 64B.44; or

(10) if, pursuant to section 64B.44, the society challenges a determination by the commissioner under clause (9), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the challenge.

Subd. 2. **Commissioner's duties.** In the event of a fraternal authorized control level event with respect to a society, the commissioner shall:

(1) take the actions required under section 64B.42 regarding a society with respect to which a fraternal action level event has occurred; or

(2) if the commissioner considers it to be in the best interests of the certificate holders of the society, require the society to take one or more of the following actions:

(i) merge or otherwise consolidate with another willing authorized society;

(ii) cede any individual risk or risks, in whole or in part, to a willing society or life insurer;

(iii) suspend the issuance of new business; and

(iv) discontinue its insurance operations; or

(3) take the actions necessary to cause the society to be placed under regulatory control under chapter 60B. In the event the commissioner takes these actions, the fraternal authorized control level event is considered sufficient grounds for the commissioner to take action under chapter 60B, and the commissioner has the rights, powers, and duties with respect to the society set forth in chapter 60B. In the event the commissioner takes actions under this clause pursuant to an adjusted risk-based capital report, the society is entitled to the protections afforded to societies under section 60B.11 pertaining to summary proceedings.

Sec. 6. [64B.44] HEARINGS.

Upon notification to a society by the commissioner:

(1) that the risk-based capital report is being adjusted by the commissioner;

(2) that the society's risk-based capital plan or revised risk-based capital plan is unsatisfactory, and that the notification constitutes a fraternal action level event or fraternal authorized control level event with respect to the society;

(3) that the society has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has substantial adverse effect on the ability of the society to eliminate the

fraternal action level event with respect to the society according to its risk-based capital plan or revised risk-based capital plan; or

(4) that a corrective order will be issued with respect to the society;

the society has the right to a contested case hearing conducted in accordance with chapter 14, on a record, at which the society may challenge a determination or action by the commissioner. The society shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under clause (1), (2), (3), or (4). Upon receipt of the society's request for a hearing, the commissioner shall set a date for the hearing no less than ten nor more than 30 days after the date of the society's request.

Sec. 7. [64B.45] PROHIBITION ON ANNOUNCEMENTS.

Except as otherwise required under sections 64B.40 to 64B.48, the making, publishing, dissemination, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of a society, or of any component derived in the calculation, by a society, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited.

Sec. 8. [64B.46] SUPPLEMENTAL PROVISIONS.

Sections 64B.40 to 64B.48 are supplemental to other laws of this state and do not preclude or limit other powers or duties of the commissioner under those laws, including, but not limited to, chapters 60B and 60G.

Sec. 9. [64B.47] IMMUNITY.

There is no liability on the part of, and no cause of action arises against, the commissioner or the Department of Commerce or its employees or agents for an action taken by them in the performance of their powers and duties under sections 64B.40 to 64B.48.

Sec. 10. [64B.48] NOTICES.

All notices by the commissioner to a society that may result in regulatory action under sections 64B.40 to 64B.48 are effective upon dispatch if transmitted by registered or certified mail, or, in the case of other transmission, are effective upon the society's receipt of the notice."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "regulating fraternal benefit societies;"

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred

S.F. No. 345: A bill for an act relating to drivers' licenses; creating enhanced driver's license and

enhanced identification card; providing for application, issuance, and appearance of card; directing commissioner of public safety to seek approval of card by Homeland Security secretary for proof of identity and citizenship and for use in entering United States; amending Minnesota Statutes 2008, sections 171.01, by adding subdivisions; 171.04, by adding a subdivision; 171.06, subdivisions 1, 2, 3, 6; 171.07, subdivision 3, by adding subdivisions; 171.071, by adding a subdivision; 171.12, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, delete section 6 and insert:

"Sec. 6. Minnesota Statutes 2009 Supplement, section 171.06, subdivision 3, is amended to read:

Subd. 3. Contents of application; other information. (a) An application must:

(1) state the full name, date of birth, sex, and either (i) the residence address of the applicant, or (ii) designated address under section 5B.05;

(2) as may be required by the commissioner, contain a description of the applicant and any other facts pertaining to the applicant, the applicant's driving privileges, and the applicant's ability to operate a motor vehicle with safety;

(3) state:

(i) the applicant's Social Security number; or

(ii) if the applicant does not have a Social Security number and is applying for a Minnesota identification card, instruction permit, or class D provisional or driver's license, that the applicant certifies that the applicant does not have a Social Security number;

(4) in the case of an application for an enhanced driver's license or enhanced identification card, present:

(i) proof satisfactory to the commissioner of the applicant's full legal name, United States citizenship, identity, date of birth, Social Security number, and residence address; and

(ii) a photographic identity document;

(5) contain a space where the applicant may indicate a desire to make an anatomical gift according to paragraph (b);

~~(5)~~ (6) contain a notification to the applicant of the availability of a living will/health care directive designation on the license under section 171.07, subdivision 7; and

~~(6)~~ (7) contain a space where the applicant may request a veteran designation on the license under section 171.07, subdivision 15, and the driving record under section 171.12, subdivision 5a.

(b) If the applicant does not indicate a desire to make an anatomical gift when the application is made, the applicant must be offered a donor document in accordance with section 171.07, subdivision 5. The application must contain statements sufficient to comply with the requirements of the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A, so that execution of the application or donor document will make the anatomical gift as provided in section 171.07, subdivision 5, for those indicating a desire to make an anatomical gift. The application must be

accompanied by information describing Minnesota laws regarding anatomical gifts and the need for and benefits of anatomical gifts, and the legal implications of making an anatomical gift, including the law governing revocation of anatomical gifts. The commissioner shall distribute a notice that must accompany all applications for and renewals of a driver's license or Minnesota identification card. The notice must be prepared in conjunction with a Minnesota organ procurement organization that is certified by the federal Department of Health and Human Services and must include:

(1) a statement that provides a fair and reasonable description of the organ donation process, the care of the donor body after death, and the importance of informing family members of the donation decision; and

(2) a telephone number in a certified Minnesota organ procurement organization that may be called with respect to questions regarding anatomical gifts.

(c) The application must be accompanied also by information containing relevant facts relating to:

(1) the effect of alcohol on driving ability;

(2) the effect of mixing alcohol with drugs;

(3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and

(4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations."

Page 7, line 3, delete "15" and insert "16"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred

S.F. No. 3040: A bill for an act relating to metropolitan government; authorizing the cities of Minneapolis and St. Paul to expand certain residential energy conservation programs to include commercial and industrial property; amending Laws 1981, chapter 222, sections 1; 2; 3; 4, subdivision 2; repealing Laws 1981, chapter 222, section 7.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 15, strike "existing"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred

S.F. No. 3124: A bill for an act relating to energy; expanding small city energy efficiency grant

program to include commercial buildings; amending Laws 2009, chapter 138, article 2, section 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Rest from the Committee on State and Local Government Operations and Oversight, to which was re-referred

S.F. No. 1112: A bill for an act relating to eminent domain; clarifying use of eminent domain authority by public service corporations; amending Minnesota Statutes 2008, section 117.225; Minnesota Statutes 2009 Supplement, section 117.189.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 3251: A bill for an act relating to human services; modifying certain provisions regarding persons with sexual psychopathic personalities; amending Minnesota Statutes 2008, sections 253B.05, subdivision 1; 253B.10, subdivision 5; 253B.15, subdivision 1; 253B.18, subdivision 5a; 253B.185; 253B.19, subdivision 2; Minnesota Statutes 2009 Supplement, section 253B.14.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 33, strike "or section 253B.185"

Page 4, lines 34 and 35, delete the new language

Page 6, line 15, strike "section 253B.18" and insert "subdivision 11"

Page 8, line 27, reinstate the stricken language and delete the new language

Page 10, line 18, after "where" insert "the conviction for the crime occurred or where"

Page 10, line 19, after "or" insert ", following commitment,"

Page 10, line 20, delete "head"

Page 10, line 21, delete everything before the period and insert "commissioner of human services"

Page 13, delete section 7 and insert:

"Sec. 7. Minnesota Statutes 2008, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **Petition; hearing.** (a) A person committed as mentally ill and dangerous to the public under section 253B.18, or the county attorney of the county from which the person was committed or the county of financial responsibility, may petition the judicial appeal panel for a rehearing and reconsideration of a decision by the commissioner under section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for relief other than those considered by the commissioner from which the appeal is taken. The petition must be filed with the Supreme Court within 30 days after the decision of the commissioner is signed. The hearing must be held within 45 days of the filing of the petition unless an extension is granted for good cause.

(b) A person committed as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185, or committed as both mentally ill and dangerous to the public under section 253B.18 and as a sexual psychopathic personality or as a sexually dangerous person under section 253B.185; the county attorney of the county from which the person was committed or the county of financial responsibility; or the commissioner may petition the judicial appeal panel for a rehearing and reconsideration of a decision of the special review board under section 253B.185, subdivision 9. The petition must be filed with the Supreme Court within 30 days after the decision is mailed by the commissioner as required in section 253B.185, subdivision 9, paragraph (f). The hearing must be held within 180 days of the filing of the petition unless an extension is granted for good cause. If no party petitions the judicial appeal panel for a rehearing or reconsideration within 30 days, the judicial appeal panel shall either issue an order adopting the recommendations of the special review board or set the matter on for a hearing pursuant to this paragraph.

(c) For an appeal under paragraph (a) or (b), the Supreme Court shall refer the petition to the chief judge of the judicial appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing.

(d) Any person may oppose the petition. The patient, the patient's counsel, the county attorney of the committing county or the county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel, except when the patient is committed solely as mentally ill and dangerous, and shall, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position. The judicial appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, the patient's counsel, and the county attorney of the committing county or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions. The petitioning party seeking discharge or provisional discharge bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief. If the petitioning party has met this burden, the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the respondent is in need of commitment discharge or provisional discharge should be denied. A party seeking transfer under section 253B.18, subdivision 6, or 253B.185, subdivision 11, must establish by a preponderance of the evidence that the transfer is appropriate."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2999: A bill for an act relating to children; modifying provisions relating to children in need of protection or services; amending Minnesota Statutes 2008, sections 260C.007, subdivisions 6, 14; 260C.163, subdivision 2; 260C.201, by adding a subdivision; 260C.301, subdivision 1; Minnesota Statutes 2009 Supplement, sections 260.012; 260C.175, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 260C.007, subdivision 6, is amended to read:

Subd. 6. Child in need of protection or services. "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant; ~~or~~

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.301, subdivision 3, is not in the best interests of the child.

Sec. 2. Minnesota Statutes 2008, section 260C.163, subdivision 2, is amended to read:

Subd. 2. **Right to participate in proceedings.** A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

If, in a permanency proceeding involving a child in need of protection or services, ~~the responsible social services agency recommends any party files a petition for transfer of permanent legal and physical custody to a named relative,~~ the relative has a right to participate in the permanency proceeding as a party on the issues of the relative's suitability to be a legal and physical custodian for the child, whether the transfer is in the child's best interests, and the needs of the child thereafter the named relative shall receive notice of any hearing in the proceedings.

Sec. 3. Minnesota Statutes 2009 Supplement, 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, which may include a shelter care facility; 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."

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was re-referred

S.F. No. 3087: A bill for an act relating to children; modifying parent notification of child maltreatment in a school facility; amending Minnesota Statutes 2008, section 626.556, subdivisions 7, 10d.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2952: A bill for an act relating to privacy; reinstating authority for release of financial records in response to a subpoena; amending Minnesota Statutes 2009 Supplement, section 13A.02, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2945: A bill for an act relating to public safety; amending a definition related to child pornography; amending Minnesota Statutes 2008, section 617.246, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 22, strike "exhibitions" and insert "exhibition"

Page 2, line 2, after "intended" insert "by a person who commits an act prohibited by this section or section 617.247"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was re-referred

S.F. No. 2928: A bill for an act relating to labor and industry; modifying construction codes and licensing provisions; modifying certain notice provisions; amending Minnesota Statutes 2008, sections 178.01; 178.03, subdivisions 3, 4; 178.06; 178.08; 178.11; 326.02, subdivision 5; 326B.04, subdivision 2; 326B.127, subdivision 3; 326B.13, subdivisions 3, 4, 5, 6; 326B.133, subdivision 5; 326B.139; 326B.142; 326B.148, subdivisions 2, 3; 326B.191; 326B.31, subdivision 28; 326B.33, subdivision 17; 326B.42, subdivisions 2, 6; 326B.435, subdivision 2; 326B.47; 326B.84; 326B.89, subdivisions 1, 5, 6, 7, 8, 10, 13, by adding subdivisions; 326B.921, subdivision 3; Minnesota Statutes 2009 Supplement, sections 14.14, subdivision 1a; 326B.145; Laws 2010, chapter 183, section 8; repealing Minnesota Statutes 2008, sections 299G.11; 299G.13, subdivisions 1, 6, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28; 299G.14; 299G.15; 299G.16; 299G.17; 299G.18; 326B.115; 326B.37, subdivision 13; Minnesota Rules, parts 5200.0020; 5200.0050; 5200.0080, subparts 2, 3, 4, 4a, 4b, 6, 7, 8.

Reports the same back with the recommendation that the bill be amended as follows:

Page 19, line 5, delete "is a presumption affecting" and insert "affects"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2869: A bill for an act relating to human rights; making technical amendments to the Human Rights Act; amending Minnesota Statutes 2008, section 363A.02, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Moua from the Committee on Judiciary, to which was re-referred

S.F. No. 2866: A bill for an act relating to health; modifying provisions for the statewide trauma system; amending Minnesota Statutes 2008, sections 144.603; 144.605, subdivisions 2, 3, by adding a subdivision; 144.608, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2008, section 144.607.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2008, section 13.3806, subdivision 13, is amended to read:

Subd. 13. **Traumatic injury.** Data on individuals with a brain or spinal injury or who sustain major trauma that are collected by the commissioner of health are classified under ~~section~~ sections 144.6071 and 144.665."

Page 3, line 1, delete "All" and insert "Data on patients in"

Page 3, line 2, delete "shall be"

Page 3, line 3, delete "classified as" and insert "are" and delete ", and" and insert a period

Page 3, delete line 4

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2773: A bill for an act relating to public safety; establishing a sale of or possession of *salvia divinorum* crime; providing for a penalty; amending Minnesota Statutes 2008, section 152.027, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 9 and 10, after "divinorum" insert "or salvinorin A"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was re-referred

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

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2008, section 13.681, is amended by adding a subdivision to read:

Subd. 8. **Public utility expense data.** Treatment of employee expense data submitted in a rate case petition is governed by section 216B.16, subdivision 17."

Page 2, delete lines 11 to 14 and insert:

"(c) Except as otherwise provided in this paragraph, data submitted to the commission under paragraph (a) are public data. The commission or an administrative law judge assigned to the case may treat the salary of one or more of the ten highest paid officers and employees, other than the five highest paid, as private data on individuals as defined in section 13.02, subdivision 12, or issue a protective order governing release of the salary, if the utility establishes that the competitive disadvantage to the utility that would result from release of the salary outweighs the public interest in access to the data. Access to the data by a government entity that is a party to the rate case must not be restricted."

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2493: A bill for an act relating to crime; including use of scanning device and reencoder to acquire information from payment cards as identity theft; amending Minnesota Statutes 2008, section 609.527, subdivisions 1, 6, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 388.23, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 6, after "card" insert ", driver's license, or state-issued identification card"

Page 3, lines 8 and 9, after "card" insert ", driver's license, or state-issued identification card,"

Page 3, after line 10, insert:

"(j) "Payment card" means a credit card, charge card, debit card, or any other card that:

(1) is issued to an authorized card user; and

(2) allows the user to obtain, purchase, or receive credit, money, a good, a service, or anything of value."

Page 3, line 31, delete the new language and reinstate the stricken language and after "5a" insert "or 5b"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2427: A bill for an act relating to property held in trust; clarifying status of certain distributions; changing certain relationship and inheritance provisions; providing for emergency and temporary conservators; amending Minnesota Statutes 2008, sections 501B.64, subdivision 3; 524.1-201; 524.2-114; Minnesota Statutes 2009 Supplement, section 524.5-409; proposing coding for new law in Minnesota Statutes, chapter 524.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, line 8, delete "6 or 7" and insert "4 or 5"

Page 8, line 21, delete "parents" and insert "parent"

Page 9, line 2, delete "this" and after "section" insert "524.2-120"

Page 10, after line 29, insert:

"Sec. 11. [524.2-712] DECEDENTS DYING AFTER DECEMBER 31, 2009, AND BEFORE JANUARY 1, 2011; FORMULA CLAUSES TO BE CONSTRUED TO REFER TO FEDERAL ESTATE TAX AND FEDERAL GENERATION-SKIPPING TRANSFER TAX LAWS.

(a) A governing instrument, including a will or trust agreement, of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula or provision referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "marital deduction," "maximum marital deduction," "unlimited marital deduction," "inclusion ratio," "applicable fraction," or any section of the Internal Revenue Code relating to the federal estate tax or federal generation-skipping transfer tax, or that measures a share of an estate or trust by reference to federal estate taxes or federal generation-skipping transfer taxes, is deemed to refer to the federal estate tax and federal generation-skipping transfer tax laws as they applied with respect to the estates of decedents dying on December 31, 2009. This paragraph does not apply to a governing instrument, including a will or trust agreement, that manifests an intent that a contrary rule will apply if the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

(b) If the federal estate or federal generation-skipping transfer tax becomes effective before January 1, 2011, then the reference to January 1, 2011, in paragraph (a) is deemed to refer to the first date on which this tax becomes legally effective, instead of January 1, 2011.

(c) The personal representative, trustee, or any interested person under the governing instrument, including a will or trust agreement, may bring a proceeding to determine whether the decedent intended that a formula or provision described in paragraph (a) be construed with respect to the law as it existed after December 31, 2009. This proceeding must be commenced by December 31, 2011.

EFFECTIVE DATE. This section is effective retroactive to January 1, 2010."

Page 10, line 32, delete "conservatory" and insert "conservator"

Page 13, after line 3, insert:

"Sec. 14. **EFFECTIVE DATE.**

Sections 1 and 12 are effective the day following final enactment. Sections 2 to 10 are effective August 1, 2010, and apply to the rights of successors of decedents dying on or after August 1, 2010, and to any instruments executed before August 1, 2010, unless there is a clear indication of contrary intent in the instrument."

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2328: A bill for an act relating to civil commitments; providing for oaths or affirmations without notarization and the acceptability of electronic signatures and documents; amending Minnesota Statutes 2008, section 253B.23, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 2186: A bill for an act relating to civil commitment; clarifying civil commitment venue; amending Minnesota Statutes 2008, sections 253B.02, by adding a subdivision; 253B.045, subdivision 2; 253B.05, subdivision 3; 253B.064, subdivision 1; 253B.07, subdivisions 1, 2, 2d; 253B.185, subdivision 1; 253B.20, subdivision 4; 253B.23, subdivision 1, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 253B.10, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 12, delete "Minnesota Statutes,"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was re-referred

S.F. No. 1886: A bill for an act relating to commerce; regulating contracts and insurance claims for residential roofing goods and services; proposing coding for new law in Minnesota Statutes, chapters 325E; 326B.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 8, before "A" insert "A residential building contractor, as defined in section 326B.802, subdivision 11, who is providing roofing services or" and after "roofer" insert a comma

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Moua from the Committee on Judiciary, to which was referred

S.F. No. 891: A bill for an act relating to dispute resolution; providing for arbitration of disputes; adopting the Uniform Arbitration Act; amending Minnesota Statutes 2008, sections 80C.146, subdivision 2; 122A.40, subdivision 15; 122A.41, subdivision 13; 179.09; 325E.37, subdivision 5; 325F.665, subdivision 6; 469.1762; 572A.02, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 572B; repealing Minnesota Statutes 2008, sections 572.08; 572.09; 572.10; 572.11; 572.12; 572.13; 572.14; 572.15; 572.16; 572.17; 572.18; 572.19; 572.20; 572.21; 572.22; 572.23; 572.24; 572.25; 572.26; 572.27; 572.28; 572.29; 572.30.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, lines 18, 19, 21, and 22, delete "2009" and insert "2011"

Page 7, delete section 14 and insert:

"Sec. 14. [572B.14] IMMUNITY OF ARBITRATOR; COMPETENCY TO TESTIFY; ATTORNEY FEES AND COSTS.

(a) An arbitrator is immune from civil liability to the same extent as a judge of a court in this state acting in a judicial capacity.

(b) The immunity afforded by this section supplements any other immunity.

(c) If an arbitrator does not make a disclosure required by section 572B.12, the nondisclosure does not cause a loss of immunity under this section.

(d) In any judicial, administrative, or similar proceeding, an arbitrator is not competent to testify or required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(1) to the extent necessary to determine the claim of an arbitrator against a party to the arbitration proceeding; or

(2) if a party to the arbitration proceeding files a motion to vacate an award under section 572B.23, subsection (a)(1) or (2), and establishes prima facie that a ground for vacating the award exists.

(e) If a person commences a civil action against an arbitrator arising from the services of the arbitrator or if a person seeks to compel an arbitrator to testify in violation of subsection (d), and the court decides that the arbitrator is immune from civil liability or that the arbitrator is incompetent to testify, the court shall award to the arbitrator reasonable attorney fees and other reasonable expenses of litigation."

Page 9, line 15, after the first "witness" insert "to provide testimony at the arbitration hearing"

Page 9, line 33, delete "in" and insert "under the laws and rules of civil procedure of"

Page 15, after line 18, insert:

"EFFECTIVE DATE. This section is effective August 1, 2012."

Page 15, line 20, delete "32" and insert "31" and delete "2009" and insert "2011"

Page 22, after line 11, insert:

"Sec. 9. **EFFECTIVE DATE.**

Sections 1 to 8 are effective August 1, 2011."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 3017 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3017	2413				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3017 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3017, the first engrossment; and insert the language after the enacting clause of S.F. No. 2413, the second engrossment; further, delete

the title of H.F. No. 3017, the first engrossment; and insert the title of S.F. No. 2413, the second engrossment.

And when so amended H.F. No. 3017 will be identical to S.F. No. 2413, and further recommends that H.F. No. 3017 be given its second reading and substituted for S.F. No. 2413, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 2879 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2879	2592				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2879 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2879, the second engrossment; and insert the language after the enacting clause of S.F. No. 2592, the first engrossment; further, delete the title of H.F. No. 2879, the second engrossment; and insert the title of S.F. No. 2592, the first engrossment.

And when so amended H.F. No. 2879 will be identical to S.F. No. 2592, and further recommends that H.F. No. 2879 be given its second reading and substituted for S.F. No. 2592, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 2709 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2709	2555				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2709 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2709, the second engrossment; and insert the language after the enacting clause of S.F. No. 2555, the first engrossment; further, delete the title of H.F. No. 2709, the second engrossment; and insert the title of S.F. No. 2555, the first engrossment.

And when so amended H.F. No. 2709 will be identical to S.F. No. 2555, and further recommends that H.F. No. 2709 be given its second reading and substituted for S.F. No. 2555, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 2925, 3013, 3005, 2971, 3031, 3205, 2839, 2825, 3040, 3124, 1112, 2999, 3087, 2952, 2945, 2928, 2869, 2866, 2773, 2519, 2493, 2427, 2328, 1886 and 891 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 3017, 2879 and 2709 were read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senator Olson, G. introduced—

S.F. No. 3291: A bill for an act relating to the city of Wayzata; extending time for certain activities in a tax increment financing district.

Referred to the Committee on Taxes.

Senators Gimse and Ingebrigtsen introduced—

S.F. No. 3292: A bill for an act relating to taxation; sales and use; exempting water used for public safety purposes; amending Minnesota Statutes 2008, section 297A.70, subdivision 3.

Referred to the Committee on Taxes.

Senator Rest introduced—

S.F. No. 3293: A bill for an act relating to campaign finance; requiring additional disclosure in certain circumstances; requiring a disclaimer on certain campaign materials; increasing certain contribution and expenditure limits and amount to be designated by certain taxpayers for payment to the state elections campaign fund; restoring an allotment for political contribution refunds; amending Minnesota Statutes 2008, sections 10A.20, subdivision 2, by adding a subdivision; 10A.25, subdivision 2; 10A.27, subdivision 1; 10A.31, subdivisions 1, 3; 211B.04.

Referred to the Committee on State and Local Government Operations and Oversight.

Senator Clark introduced—

S.F. No. 3294: A bill for an act relating to education finance; lengthening the time when school district lines of credit must be repaid; allowing tax or aid anticipation of credit certificates to be issued for up to two years; amending Minnesota Statutes 2008, sections 123B.12; 126C.54.

Referred to the Committee on Finance.

Senator Rest introduced—

S.F. No. 3295: A bill for an act relating to transportation; modifying certain aviation-related taxes; amending Minnesota Statutes 2008, sections 296A.09, subdivision 1; 296A.17, subdivision 3; 360.531, subdivisions 1, 2.

Referred to the Committee on Transportation.

Senators Lynch, Sheran, Erickson Ropes and Torres Ray introduced—

S.F. No. 3296: A bill for an act relating to health; making conforming and other changes related to federal health care reform; providing funding for health care subsidies; establishing accountable care organizations; establishing a publicly administered health plan; expanding eligibility for medical assistance; repealing the MinnesotaCare program and related taxes; amending Minnesota Statutes 2008, sections 16A.724, by adding a subdivision; 62U.05; 256.01, by adding subdivisions; 256B.055, by adding a subdivision; 256B.056, subdivisions 3, 4, by adding subdivisions; 256B.0754, by adding a subdivision; 256L.04, subdivision 1; 295.52, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62U; repealing Minnesota Statutes 2008, sections 62E.08; 62E.09; 62E.091; 62E.10; 62E.101; 62E.11; 62E.12; 62E.13; 62E.14; 62E.141; 62E.15; 62E.16; 62E.18; 62E.19; 256L.01, subdivisions 1, 1a, 2, 3, 3a, 5; 256L.02, subdivisions 1, 2, 3; 256L.03, subdivisions 1, 1a, 2, 3, 3a, 4, 6; 256L.04, subdivisions 1, 1a, 2, 2a, 7, 7a, 7b, 8, 9, 10, 12, 13; 256L.05, subdivisions 1a, 1b, 2, 3, 3a, 3b, 3c, 4, 5; 256L.06, subdivision 3; 256L.07, subdivisions 1, 2, 4, 5, 6, 7; 256L.10; 256L.11, subdivisions 2, 2a, 3, 4, 5, 6, 7; 256L.12; 256L.15; 256L.17, subdivisions 1, 2, 4, 7; 256L.18; 256L.22; 256L.24; 256L.26; 256L.28; 295.52, subdivisions 1, 1a, 2, 3, 4, 4a, 5, 6, 7; 295.53, subdivisions 1, 2, 3, 4a; 295.54; 295.55; 295.57, subdivisions 1, 2, 3, 4; 295.58; 295.582; 295.59; 297I.05, subdivision 5; Minnesota Statutes 2009 Supplement, sections 256L.01, subdivision 4a; 256L.03, subdivision 5; 256L.04, subdivision 10a; 256L.05, subdivision 1; 256L.11, subdivision 1; 256L.17, subdivisions 3, 5; 295.56; 295.57, subdivision 5.

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

Senators Chaudhary, Skogen, Fobbe and Ingebrigtsen introduced—

S.F. No. 3297: A bill for an act relating to natural resources; appropriating money for a pilot walk-in public access program.

Referred to the Committee on Finance.

Senators Koch, Hann, Jungbauer, Rosen and Parry introduced—

S.F. No. 3298: A bill for an act relating to energy; requiring a report on impact of certain energy-related requirements.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senator Rest introduced—

S.F. No. 3299: A bill for an act relating to state government; establishing statewide telework requirements; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 43A.

Referred to the Committee on State and Local Government Operations and Oversight.

Senators Higgins, Betzold, Erickson Ropes, Dille and Moua introduced—

S.F. No. 3300: A bill for an act relating to veterans; establishing a presumption of rehabilitation through a person's honorable military service following a prior offense; amending Minnesota Statutes 2008, section 364.03, subdivision 3.

Referred to the Committee on Agriculture and Veterans.

Senator Higgins introduced—

S.F. No. 3301: A bill for an act relating to higher education; providing a waiver of overdue payments.

Referred to the Committee on Finance.

Senator Dibble introduced—

S.F. No. 3302: A bill for an act relating to taxation; sales and use; providing an exemption for construction materials for the Orchestra Hall and Peavey Plaza renovation; amending Minnesota Statutes 2008, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Koering and Vickerman introduced—

S.F. No. 3303: A bill for an act relating to state flag; providing guidance for flag folding; amending Minnesota Statutes 2008, section 1.141, by adding subdivisions.

Referred to the Committee on State and Local Government Operations and Oversight.

Senators Cohen, Tomassoni, Dibble, Senjem and Marty introduced—

S.F. No. 3304: A bill for an act relating to housing; appropriating a portion of the proceeds of the mortgage registry tax and the deed tax to the Minnesota Housing Finance Agency to be used for creation of affordable housing units.

Referred to the Committee on Finance.

Senator Prettner Solon introduced—

S.F. No. 3305: A bill for an act relating to economic development; extending the duration of JOBZ tax incentives; amending Minnesota Statutes 2009 Supplement, section 469.312, subdivision 5.

Referred to the Committee on Taxes.

Senators Erickson Ropes, Skoe, Rosen, Dille and Kubly introduced—

S.F. No. 3306: A bill for an act relating to natural resources; creating a native perennials establishment program; proposing coding for new law in Minnesota Statutes, chapter 103C.

Referred to the Committee on Agriculture and Veterans.

Senators Moua, Dibble, Senjem and Marty introduced—

S.F. No. 3307: A bill for an act relating to housing; providing a Minnesota low-income housing tax credit; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Taxes.

Senators Pappas, Tomassoni, Scheid and Moua introduced—

S.F. No. 3308: A bill for an act relating to local government; relating to certain public improvement special assessment amounts on tax-forfeited property; amending Minnesota Statutes 2008, section 282.01, subdivision 3.

Referred to the Committee on Taxes.

MOTIONS AND RESOLUTIONS

Senator Fobbe moved that the name of Senator Sieben be added as a co-author to S.F. No. 1682. The motion prevailed.

Senator Hann moved that his name be stricken as a co-author to S.F. No. 2789. The motion prevailed.

Senator Ortman moved that her name be stricken as a co-author to S.F. No. 2789. The motion prevailed.

Senator Saxhaug moved that the name of Senator Fobbe be added as a co-author to S.F. No. 2909. The motion prevailed.

Senator Stumpf moved that the name of Senator Saxhaug be added as a co-author to S.F. No. 3028. The motion prevailed.

Senator Clark moved that the name of Senator Bonoff be added as a co-author to S.F. No. 3107.

The motion prevailed.

Senator Rummel moved that the name of Senator Fobbe be added as a co-author to S.F. No. 3119. The motion prevailed.

Senator Clark moved that the name of Senator Fobbe be added as a co-author to S.F. No. 3131. The motion prevailed.

Senator Sparks moved that his name be stricken as chief author, and the name of Senator Pappas be added as chief author to S.F. No. 3180. The motion prevailed.

Senator Bonoff moved that the name of Senator Wiger be added as a co-author to S.F. No. 3205. The motion prevailed.

Senators Pogemiller and Senjem introduced –

Senate Concurrent Resolution No. 8: A Senate concurrent resolution relating to adjournment for more than three days.

BE IT RESOLVED, by the Senate of the State of Minnesota, the House of Representatives concurring:

1. Upon their adjournments on Monday, March 29, 2010, the Senate and House of Representatives may each set its next day of meeting for Tuesday, April 6, 2010.
2. 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.

Pursuant to Rule 26, Senator Pogemiller, Chair of the Committee on Rules and Administration, designated S.F. No. 3223 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 3223: A bill for an act relating to the financing of state government; making supplemental appropriations and reductions in appropriations for higher education, environment and natural resources, energy, agriculture, veterans affairs, economic development, transportation, public safety, judiciary, and state government; modifying certain statutory provisions and laws; providing for certain programs; fixing and limiting fees; authorizing rulemaking; requiring reports; modifying the payment of aids to local units of government and certain property tax provisions; appropriating money; amending Minnesota Statutes 2008, sections 15.06, subdivision 8; 16B.03; 43A.08, subdivision 1; 45.013; 80A.46; 80A.65, subdivision 1; 84.01, subdivision 3; 116.03, subdivision 1; 116J.01, subdivision 5; 116J.035, subdivision 4; 136A.1701, subdivisions 4, 7; 136A.29, subdivision 9; 136A.69, subdivisions 1, 3, 4; 141.255; 161.04, by adding a subdivision; 174.02, subdivision 2; 241.01, subdivision 2; 273.1384, by adding a subdivision; 297I.06, subdivision 3; 477A.013, subdivision 9; 477A.03, subdivisions 2a, 2b; Minnesota Statutes 2009 Supplement, sections 45.30, subdivision 6; 136F.98, subdivision 1; 273.111, subdivision 9; 275.70, subdivision 5; 477A.011, subdivision 36; Laws 2008, chapter 366, article 2, section 12; Laws 2009, chapter 78, article 1, section 3, subdivision 2; Laws 2009, chapter 83, article 1,

sections 10, subdivision 4; 11; Laws 2009, chapter 95, article 1, sections 3, subdivisions 6, 12, 21; 4, subdivision 4, as amended; 5, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 477A; repealing Minnesota Statutes 2008, sections 43A.08, subdivision 1b; 103G.705, subdivision 2; 136A.1701, subdivision 5; 136A.69, subdivision 2; 141.255, subdivision 3; 477A.03, subdivision 5.

Senator Cohen moved to amend S.F. No. 3223 as follows:

Page 2, delete lines 17 and 18 and insert:

<u>"Transfers In</u>		<u>15,023,000</u>		<u>5,652,000</u>		<u>20,675,000</u>
<u>Total</u>	\$	<u>(50,444,000)</u>	\$	<u>(121,505,000)</u>	\$	<u>(171,949,000)</u>

Page 23, line 14, after the second comma, insert "estimated to be \$195,000 in 2011,"

Page 34, after line 11, insert:

"This reduction is from the open appropriation in Minnesota Statutes, section 298.17, and is onetime."

Page 63, line 27, delete "(937,000)" and insert "(803,000)"

Page 63, line 29, delete "(776,000)" and insert "(642,000)"

Page 64, line 1, delete "four" and insert "three"

Page 64, line 24, delete "(371,000)" and insert "(505,000)"

Page 70, line 7, after "1a" insert "or 2a"

Page 70, line 8, delete "that subdivision" and insert "either of those subdivisions"

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend S.F. No. 3223 as follows:

Page 42, line 22, delete "1/15" and insert "0.105"

Page 51, line 16, delete "(11,028,000)" and insert "(6,178,000)" and delete "(20,804,000)" and insert "(11,004,000)" and delete "(31,832,000)" and insert "(17,182,000)"

Page 51, line 18, delete "(11,028,000)" and insert "(6,178,000)" and delete "(16,056,000)" and insert "(6,256,000)" and delete "(27,084,000)" and insert "(12,434,000)"

Page 52, line 2, delete "(1,658,000)" and insert "(992,000)" and delete "2,638,000" and insert "3,972,000"

Page 52, line 5, delete "(1,658,000)" and insert "(992,000)" and delete "(1,762,000)" and insert "(428,000)"

Page 52, line 18, delete "(853,000)" and insert "(520,000)" and delete "(1,731,000)" and insert "(1,064,000)"

Page 53, line 4, delete "(731,000)" and insert "(398,000)" and delete "(1,483,000)" and insert "(816,000)"

Page 53, line 16, delete "(9,284,000)" and insert "(5,100,000)" and delete "(18,868,000)" and insert "(10,402,000)"

Page 53, line 28, delete "(6,518,000)" and insert "(3,334,000)" and delete "(13,252,000)" and insert "(6,786,000)"

Page 54, line 15, delete "(2,331,000)" and insert "(1,331,000)" and delete "(4,732,000)" and insert "(2,732,000)"

Page 56, line 16, delete "(6,303,000)" and insert "(4,950,000)" and delete "(12,797,000)" and insert "(10,050,000)" and delete "(19,100,000)" and insert "(15,000,000)"

Page 56, line 31, delete "(744,000)" and insert "(582,000)" and delete "(1,510,000)" and insert "(1,178,000)"

Page 57, line 3, delete "(533,000)" and insert "(420,000)" and delete "(1,082,000)" and insert "(850,000)"

Page 57, line 4, delete "(211,000)" and insert "(162,000)" and delete "(428,000)" and insert "(328,000)"

Page 57, line 5, delete "(175,000)" and insert "(137,000)" and delete "(355,000)" and insert "(278,000)"

Page 57, line 6, delete "(4,247,000)" and insert "(3,335,000)" and delete "(8,622,000)" and insert "(6,772,000)"

Page 57, line 10, delete "(1,121,000)" and insert "(880,000)" and delete "(2,276,000)" and insert "(1,788,000)"

Correct the section totals and appropriation summary

CALL OF THE SENATE

Senator Cohen imposed a call of the Senate for the balance of the proceedings on S.F. No. 3223. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Cohen amendment.

The roll was called, and there were yeas 43 and nays 23, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bonoff	Gimse	Koch	Ortman	Saltzman
Dille	Hann	Koering	Pariseau	Senjem
Fischbach	Ingebrigtsen	Limmer	Parry	Vandevveer
Frederickson	Johnson	Michel	Robling	
Gerlach	Jungbauer	Olson, G.	Rosen	

The motion prevailed. So the amendment was adopted.

Senator Pogemiller moved to amend S.F. No. 3223 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HIGHER EDUCATION

Section 1. **SUMMARY OF APPROPRIATIONS.**

Subdivision 1. **Summary Total.** The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (619,000)	\$ (52,664,000)	\$ (53,283,000)
<u>Health Care Access</u>	-0-	-0-	-0-
<u>Federal</u>	-0-	-0-	-0-
<u>State Government Special Revenue</u>	-0-	-0-	-0-
Total	\$ (619,000)	\$ (52,664,000)	\$ (53,283,000)

Subd. 2. **Summary by Agency - All Funds.** The amounts shown in this subdivision summarize direct appropriations, by agency, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>Minnesota Office of Higher Education</u>	\$ (619,000)	\$ (6,077,000)	\$ (6,696,000)
<u>Board of Trustees of the Minnesota State Colleges and Universities</u>	-0-	(10,467,000)	(10,467,000)
<u>Board of Regents of the University of Minnesota</u>	-0-	(36,120,000)	(36,120,000)
Total	\$ (619,000)	\$ (52,664,000)	\$ (53,283,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 95, article 1, to the agencies

and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
Sec. 3. <u>OFFICE OF HIGHER EDUCATION</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ (619,000)	\$ (6,077,000)
The amounts that may be spent for each purpose are specified in the following subdivisions.		
Subd. 2. <u>State Grants</u>	(233,000)	(2,063,000)
Subd. 3. <u>Child Care Grants</u>	-0-	(500,000)
Subd. 4. <u>State Work-Study</u>	-0-	(2,500,000)
Subd. 5. <u>Indian Scholarships</u>	-0-	(120,000)
Subd. 6. <u>Intervention for College Attendance Program Grants</u>	(22,000)	(43,000)
Subd. 7. <u>Midwest Higher Education Compact</u>	(3,000)	(3,000)
Subd. 8. <u>Technical and Community College Emergency Grants</u>	-0-	(150,000)
Subd. 9. <u>United Family Medicine Residency</u>	(13,000)	(28,000)
Subd. 10. <u>Interstate Tuition Reciprocity</u>	(165,000)	(165,000)
Subd. 11. <u>Minnesota College Savings Plan</u>	(22,000)	(50,000)
Subd. 12. <u>MnLink Gateway and Minitex</u>	(95,000)	(362,000)
Subd. 13. <u>Other Programs</u>	(6,000)	(12,000)

The reduction in the student and parent information program is \$6,000 in fiscal year 2010 and \$3,000 in fiscal year 2011. The reduction in get ready program funds is \$6,000 in fiscal year 2011. The reduction in funds for the Minnesota Minority Education Partnership is \$3,000 in fiscal year 2011.

<u>Subd. 14. Agency Administration</u>	<u>(60,000)</u>	<u>(81,000)</u>
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Sec. 4. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(10,467,000)</u>
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The amounts that must be reduced or added for each purpose are specified in the following subdivisions.

<u>Subd. 2. Central Office and Shared Services Unit</u>	<u>-0-</u>	<u>(742,000)</u>
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<u>Subd. 3. Operations and Maintenance</u>	<u>-0-</u>	<u>(9,642,000)</u>
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<u>Subd. 4. Learning Network of Minnesota</u>	<u>-0-</u>	<u>(82,000)</u>
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Sec. 5. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(36,120,000)</u>
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The amounts that must be reduced or added for each purpose are specified in the following subdivisions.

<u>Subd. 2. Operations and Maintenance</u>	<u>-0-</u>	<u>(32,223,000)</u>
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Subd. 3. Special Appropriations

<u>(a) Agriculture and Extension Service</u>	<u>-0-</u>	<u>(2,787,000)</u>
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<u>(b) Health Sciences</u>	<u>-0-</u>	<u>(281,000)</u>
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\$18,000 in fiscal year 2011 is a reduction to the appropriation to support up to 12 resident physicians in the St. Cloud Hospital family practice residency program.

<u>(c) Institute of Technology</u>	<u>-0-</u>	<u>(74,000)</u>
<u>(d) System Special</u>	<u>-0-</u>	<u>(328,000)</u>
<u>(e) University of Minnesota and Mayo Foundation Partnership</u>	<u>-0-</u>	<u>(427,000)</u>

Sec. 6. Minnesota Statutes 2009 Supplement, section 136A.121, subdivision 9, is amended to read:

Subd. 9. **Awards.** An undergraduate student who meets the office's requirements is eligible to apply for and receive a grant in any year of undergraduate study unless the student has obtained a baccalaureate degree or previously has been enrolled full time or the equivalent for ~~nine~~ eight semesters or the equivalent, excluding courses taken from a Minnesota school or postsecondary institution which is not participating in the state grant program and from which a student transferred no credit. A student who withdraws from enrollment for active military service, or for a major illness, while under the care of a medical professional, that substantially limits the student's ability to complete the term is entitled to an additional semester or the equivalent of grant eligibility. A student enrolled in a two-year program at a four-year institution is only eligible for the tuition and fee maximums established by law for two-year institutions.

Sec. 7. Minnesota Statutes 2009 Supplement, section 136A.127, subdivision 9, is amended to read:

Subd. 9. **Scholarship awards.** The amount of the scholarship is equal to the maximum assigned student responsibility for a four-year program, as defined in section 136A.121, subdivision 5, minus the assigned family responsibility as defined in section 136A.101, subdivision 5a, multiplied by 0.50. The minimum scholarship is \$1,200 per academic year based on the institution's academic calendar and the student's continued eligibility and available appropriations. Awards are subject to student priority under subdivision 9d. The scholarship may be used to pay for qualifying expenses at eligible institutions.

Sec. 8. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9c. **Insufficient appropriation.** If the amount appropriated is determined by the office to be insufficient to make full awards to applicants under subdivision 9, awards may be reduced by one or more of the following:

- (1) a percentage reduction in the maximum award;
- (2) a dollar amount reduction in the minimum award; or
- (3) adding a surcharge to the applicant's assigned family responsibility, as defined in section 136A.101, subdivision 5a.

Sec. 9. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9d. **Student priority.** Achieve scholarship awards must be made to students with complete applications received as of August 31 of each respective fiscal year.

Sec. 10. Minnesota Statutes 2008, section 136A.1701, subdivision 4, is amended to read:

Subd. 4. **Terms and conditions of loans.** (a) The office may loan money upon such terms and conditions as the office may prescribe. ~~The Under the SELF IV program, the principal amount of a loan to an undergraduate student for a single academic year shall not exceed \$6,000 for grade levels 1 and 2 effective July 1, 2006, through June 30, 2007. Effective July 1, 2007, the principal amount of a loan for grade levels 1 and 2 shall not exceed \$7,500. The principal amount of a loan for grade levels 3, 4, and 5 shall not exceed \$7,500 effective July 1, 2006 \$7,500 per grade level. The aggregate principal amount of all loans made under this section to an undergraduate student shall not exceed \$34,500 through June 30, 2007, and \$37,500 after June 30, 2007. The principal amount of a loan to a graduate student for a single academic year shall not exceed \$9,000. The aggregate principal amount of all loans made under this section to a student as an undergraduate and graduate student shall not exceed \$52,500 through June 30, 2007, and \$55,500 after June 30, 2007. The amount of the loan may not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (b).~~

(b) The cumulative undergraduate borrowing maximums for SELF IV loans are:

~~(1) effective July 1, 2006, through June 30, 2007:~~

~~(i) grade level 1, \$6,000;~~

~~(ii) grade level 2, \$12,000;~~

~~(iii) grade level 3, \$19,500;~~

~~(iv) grade level 4, \$27,000; and~~

~~(v) grade level 5, \$34,500; and~~

~~(2) effective July 1, 2007:~~

~~(i) grade level 1, \$7,500;~~

~~(ii) (2) grade level 2, \$15,000;~~

~~(iii) (3) grade level 3, \$22,500;~~

~~(iv) (4) grade level 4, \$30,000; and~~

~~(v) (5) grade level 5, \$37,500.~~

(c) The principal amount of a SELF V or subsequent phase loan to students enrolled in a bachelor's degree program, postbaccalaureate, or graduate program must not exceed \$10,000 per grade level. For all other eligible students, the principal amount of the loan must not exceed \$7,500 per grade level. The aggregate principal amount of all loans made under this section to a student as an undergraduate and graduate student must not exceed \$70,000. The amount of the loan must not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (d).

(d)(1) The cumulative borrowing maximums for SELF V loans and subsequent phases for students enrolled in a bachelor's degree program or postbaccalaureate program are:

- (i) grade level 1, \$10,000;
- (ii) grade level 2, \$20,000;
- (iii) grade level 3, \$30,000;
- (iv) grade level 4, \$40,000; and
- (v) grade level 5, \$50,000.

(2) For graduate level students, the borrowing limit is \$10,000 per nine-month academic year, with a cumulative maximum for all SELF debt of \$70,000.

(3) For all other eligible students, the cumulative borrowing maximums for SELF V loans and subsequent phases are:

- (i) grade level 1, \$7,500;
- (ii) grade level 2, \$15,000;
- (iii) grade level 3, \$22,500;
- (iv) grade level 4, \$30,000; and
- (v) grade level 5, \$37,500.

Sec. 11. Minnesota Statutes 2008, section 136A.1701, subdivision 7, is amended to read:

Subd. 7. **Repayment of loans.** (a) The office shall establish repayment procedures for loans made under this section, but in no event shall the period of permitted repayment for SELF II or SELF III loans exceed ten years from the eligible student's termination of the student's postsecondary academic or vocational program, or 15 years from the date of the student's first loan under this section, whichever is less.

(b) For SELF IV loans ~~from phases after SELF III~~, eligible students with aggregate principal loan balances from all SELF phases that are less than \$18,750 shall have a repayment period not exceeding ten years from the eligible student's graduation or termination date. For SELF IV loans ~~from phases after SELF III~~, eligible students with aggregate principal loan balances from all SELF phases of \$18,750 or greater shall have a repayment period not exceeding 15 years from the eligible student's graduation or termination date. For SELF IV loans ~~from phases after SELF III~~, the loans shall enter repayment no later than seven years after the first disbursement date on the loan.

(c) For SELF loans from phases after SELF IV, eligible students with aggregate principal loan balances from all SELF phases that are:

- (1) less than \$20,000, must have a repayment period not exceeding ten years from the eligible student's graduation or termination date;
- (2) \$20,000 up to \$40,000, must have a repayment period not exceeding 15 years from the eligible student's graduation or termination date; and
- (3) \$40,000 or greater, must have a repayment period not exceeding 20 years from the eligible student's graduation or termination date. For SELF loans from phases after SELF IV, the loans must enter repayment no later than nine years after the first disbursement date of the loan.

Sec. 12. Minnesota Statutes 2008, section 136A.69, subdivision 1, is amended to read:

Subdivision 1. **Registration fees.** (a) The office shall collect reasonable registration fees that are sufficient to recover, but do not exceed, its costs of administering the registration program. The office shall charge ~~\$1,100 for initial registration fees and \$950 for annual renewal fees.~~ the fees listed in paragraphs (b) and (c) for new registrations.

(b) A new school offering no more than one degree at each level during its first year must pay registration fees for each applicable level in the following amounts:

<u>associate degree</u>	<u>\$2,000</u>
<u>baccalaureate degree</u>	<u>\$2,500</u>
<u>master's degree</u>	<u>\$3,000</u>
<u>doctorate degree</u>	<u>\$3,500</u>

(c) A new school that will offer more than one degree per level during its first year must pay registration fees in an amount equal to the fee for the first degree at each degree level under paragraph (b), plus fees for each additional nondegree program or degree as follows:

<u>nondegree program</u>	<u>\$250</u>
<u>additional associate degree</u>	<u>\$250</u>
<u>additional baccalaureate degree</u>	<u>\$500</u>
<u>additional master's degree</u>	<u>\$750</u>
<u>additional doctorate degree</u>	<u>\$1,000</u>

(d) The annual renewal registration fee is \$1,200.

Sec. 13. Minnesota Statutes 2008, section 136A.69, subdivision 3, is amended to read:

Subd. 3. **Degree or nondegree program addition fee.** The office processing ~~fee fees~~ for adding a degree or nondegree program ~~that represents a significant departure in the objectives, content, or method of delivery of degree or nondegree programs that are currently offered by the school~~ is \$500 ~~per degree or nondegree program~~ are as follows:

<u>nondegree program that is part of existing degree</u>	<u>-0-</u>
<u>nondegree program that is not a part of an existing degree</u>	<u>\$250 each</u>
<u>majors, specializations, emphasis areas, concentrations, and other similar areas of emphasis</u>	<u>\$250 each</u>
<u>associate degrees</u>	<u>\$500 each</u>
<u>baccalaureate degrees</u>	<u>\$500 each</u>
<u>master's degrees</u>	<u>\$750 each</u>
<u>doctorate degrees</u>	<u>\$2,000 each.</u>

Sec. 14. Minnesota Statutes 2008, section 136A.69, subdivision 4, is amended to read:

Subd. 4. **Visit or consulting fee.** If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised degree or nondegree program, the office shall be reimbursed for the expenses incurred related to the review as follows:

- (1) ~~\$300~~ \$400 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;
- (2) \$300 for each day or part thereof on site per team member; and
- (3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Sec. 15. Minnesota Statutes 2008, section 141.255, is amended to read:

141.255 FEES.

Subdivision 1. **Initial licensure fee.** The office processing fee for an initial licensure application is:

- (1) ~~\$1,500~~ \$2,500 for a school that will offer no more than one program during its first year of operation;
- (2) \$750 for a school licensed exclusively due to the use of the term "college," "university," "academy," or "institute" in their name, or licensed exclusively in order to participate in state grant or SELF loan financial aid programs; and
- ~~(2) \$2,000 for a school that will offer two or more nondegree level programs~~
- (3) \$2,500, plus \$500 for each additional program offered by the school, for a school during its first year of operation; and.
- ~~(3) \$2,500 for a school that will offer two or more degree level programs during its first year of operation.~~

Subd. 2. **Renewal licensure fee; late fee.** (a) The office processing fee for a renewal licensure application is:

- ~~(1) for a category A school, as determined by the office, the fee is \$865 if the school offers one program or \$1,150 if the school offers two or more programs; and~~
- ~~(2) for a category B or C school, as determined by the office, the fee is \$430 if the school offers one program or \$575 if the school offers two or more programs.~~
- (1) for a school that offers one program, the license renewal fee is \$1,150;
- (2) for a school that offers more than one program, the license renewal fee is \$1,150, plus \$200 for each additional program with a maximum renewal licensing fee of \$2,000; and
- (3) schools licensed exclusively due to the use of the term "college," "university," "academy," or "institute" in their name or licensed exclusively in order to participate in state grant or SELF loan financial aid programs shall pay a renewal fee of \$750.

(b) If a license renewal application is not received by the office by the close of business at least 60 days before the expiration of the current license, a late fee of \$100 per business day, not to exceed

\$3,000, shall be assessed.

Subd. 3. ~~**Degree level addition fee.**~~ The office processing fee for adding a degree level to an existing program is ~~\$2,000 per program.~~

Subd. 4. **Program addition fee.** The office processing fee for adding a program ~~that represents a significant departure in the objectives, content, or method of delivery of programs~~ to those that are currently offered by the school is \$500 per program.

Subd. 5. **Visit or consulting fee.** If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised program, the office shall be reimbursed for the expenses incurred related to the review as follows:

- (1) ~~\$300~~ \$400 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;
- (2) \$300 for each day or part thereof on site per team member; and
- (3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 6. **Modification fee.** The fee for modification of any existing program is \$100 and is due if there is:

- (1) an increase or decrease of 25 percent or more, from the original date of program approval, in clock hours, credit hours, or calendar length of an existing program;
- (2) a change in academic measurement from clock hours to credit hours or vice versa; or
- (3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

Subd. 7. **Solicitor permit fee.** The solicitor permit fee is \$350 and must be paid annually.

Subd. 8. **Multiple location fee.** Schools wishing to operate at multiple locations must pay:

- (1) \$250 per location, for locations two to five ~~locations~~; and
- (2) an additional ~~\$50~~ \$100 for each location over five.

Subd. 9. **Student transcript fee.** The fee for a student transcript requested from a closed school whose records are held by the office is ~~\$10~~ \$15, with a maximum of five transcripts per request.

Subd. 10. **Public office documents; copies.** ~~The office shall establish rates for copies of any public office document shall be 50 cents per page.~~

Sec. 16. Laws 2009, chapter 95, article 1, section 3, subdivision 6, is amended to read:

Subd. 6. Achieve Scholarship Program	4,350,000	4,350,000
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For scholarships under Minnesota Statutes, section 136A.127, the office shall transfer the appropriation for fiscal year 2011 to the appropriation for state grants.

Sec. 17. Laws 2009, chapter 95, article 1, section 3, subdivision 12, is amended to read:

Subd. 12. Technical and Community College Emergency Grants	150,000	150,000
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For transfer to the financial aid offices at each of the colleges of the Minnesota State Colleges and Universities to provide emergency aid grants to technical and community college students who are experiencing extraordinary economic circumstances that may result in the students dropping out of school without completing the term or their program. This is a onetime appropriation.

Sec. 18. Laws 2009, chapter 95, article 1, section 4, subdivision 4, as amended by Laws 2009, chapter 177, section 10, subdivision 4, is amended to read:

Subd. 4. Operations and Maintenance	562,041,000	613,833,000
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(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) \$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.

(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.

~~(f) For fiscal years 2012 and 2013 the base for operations and maintenance is \$602,759,000 each year.~~

Sec. 19. Laws 2009, chapter 95, article 1, section 5, subdivision 2, is amended to read:

Subd. 2. Operations and Maintenance	550,345,000	604,239,000
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(a) This appropriation includes funding for operation and maintenance of the system.

(b) The Board of Regents 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. The plan must focus on protecting direct instruction.

(c) Appropriations under this subdivision may be used for a new scholarship under Minnesota Statutes, section 137.0225, to complement the University's Founders scholarship.

(d) This appropriation includes amounts for an Ojibwe Indian language program on the Duluth campus.

(e) This appropriation includes money for the Dakota language teacher training immersion program on the Twin Cities campus to

prepare teachers to teach in Dakota language immersion programs.

(f) This appropriation includes money for the Veterinary Diagnostic Laboratory to preserve accreditation.

(g) This appropriation includes money in fiscal year 2010 for a onetime grant to the Minnesota Wildlife Rehabilitation Center for their uncompensated expenses.

~~(h) For fiscal years 2012 and 2013, the base for operations and maintenance is \$596,930,000 each year.~~

Sec. 20. REPEALER.

Minnesota Statutes 2008, sections 136A.1701, subdivision 5; 136A.69, subdivision 2; and 141.255, subdivision 3, are repealed.

Minnesota Statutes 2009 Supplement, sections 135A.61; and 136A.121, subdivision 9b, are repealed.

ARTICLE 2

ENVIRONMENT AND NATURAL RESOURCES

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (1,166,787) \$	(2,997,605) \$	(4,164,392)
<u>Environmental</u>	(1,315,000)	(1,763,000)	(3,078,000)
<u>Remediation</u>	(118,000)	(179,000)	(297,000)
<u>Natural Resources</u>	(7,000)	(877,001)	(884,001)
<u>Game and Fish</u>	-0-	250,000	250,000
<u>Environmental Trust</u>	-0-	1,000,000	1,000,000
<u>Clean Water</u>	-0-	2,500,000	2,500,000
<u>Total</u>	\$ (2,606,787) \$	(3,677,606) \$	(6,284,393)

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 37, article 1, to the

agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from 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. Supplemental appropriations, reductions to appropriations, and transfers for the fiscal year ending June 30, 2010, are effective the day following final enactment.

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

Sec. 3. **POLLUTION CONTROL AGENCY**

Subdivision 1. **Total Appropriation** \$ **(1,710,000)** \$ **(2,397,000)**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(276,000)</u>	<u>(455,000)</u>
<u>Environmental</u>	<u>(1,316,000)</u>	<u>(1,763,000)</u>
<u>Remediation</u>	<u>(118,000)</u>	<u>(179,000)</u>

The appropriation additions or reductions for each purpose are specified in the following subdivisions.

Subd. 2. **Water** **(439,000)** **(626,000)**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(186,000)</u>	<u>(304,000)</u>
<u>Environmental</u>	<u>(253,000)</u>	<u>(322,000)</u>

The legislature approves the groundwater protection plan submitted to the legislature in January 2010 as required by Laws 2009, chapter 172, article 2, section 4, paragraph (m), and authorizes the Pollution Control Agency to spend that appropriation in accordance with the approved plan.

<u>Subd. 3. Air</u>	(174,000)	(323,000)
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>Environmental</u>	(174,000)	(323,000)

<u>Subd. 4. Land</u>	(149,000)	(274,000)
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>Environmental</u>	(31,000)	(95,000)
<u>Remediation</u>	(118,000)	(179,000)

<u>Subd. 5. Environmental Assistance and Cross Media</u>	(919,000)	(1,118,000)
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(61,000)	(95,000)
<u>Environmental</u>	(858,000)	(1,023,000)

<u>Subd. 6. Administrative Support</u>	(29,000)	(56,000)
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(29,000)	(56,000)

Subd. 7. Transfers to the General Fund

By July 1, 2010, the commissioner of the Pollution Control Agency shall transfer \$3,429,000 from the environmental fund to the general fund. Of this amount, \$200,000 is from the metropolitan landfill account and \$150,000 is from the electronic waste account in the environmental fund.

By July 1, 2010, the commissioner shall transfer \$297,000 from the remediation fund to the general fund.

By July 1, 2010, the commissioner shall transfer \$790,000 from the agency's indirect

cost account in the miscellaneous special revenue account to the general fund.

Sec. 4. NATURAL RESOURCES

Subdivision 1. Total Appropriation \$ **(859,787)** \$ **(1,371,606)**

Appropriations by Fund

<u>General</u>	<u>(859,787)</u>	<u>(1,759,605)</u>
<u>Natural Resources</u>	<u>-0-</u>	<u>(862,001)</u>
<u>Game and Fish</u>	<u>-0-</u>	<u>250,000</u>
<u>Environmental Trust</u>	<u>-0-</u>	<u>1,000,000</u>

Subd. 2. Lands and Minerals (114,450) (283,050)

Appropriations by Fund

<u>General</u>	<u>(114,450)</u>	<u>(283,050)</u>
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Subd. 3. Water Resources Management (50,000) (120,000)

Appropriations by Fund

<u>General</u>	<u>(50,000)</u>	<u>(120,000)</u>
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Subd. 4. Forest Management (176,000) 891,000

Appropriations by Fund

<u>General</u>	<u>(176,000)</u>	<u>(359,000)</u>
<u>Game and Fish</u>	<u>-0-</u>	<u>250,000</u>
<u>Environmental Trust</u>	<u>-0-</u>	<u>1,000,000</u>

\$250,000 in 2011 is from the heritage enhancement account to maintain and expand the ecological classification system program on state forest lands. This is a onetime appropriation.

\$1,000,000 in 2011 is from the environmental trust fund to the commissioner of natural resources under Minnesota Statutes, section 88.82, for grants to communities to provide funding for no-interest loans to private land owners for the removal of emerald ash borer infested ash trees on private lands. Grants made to communities will be available for

ten years. At the end of the ten-year grant period, the full grant amount will be canceled for redeposit in the environmental trust fund. This appropriation cancels on June 30, 2012.

\$106,089 in 2011 is transferred from the forest resource assessment appropriation in the dedicated receipts account in the natural resources fund to the general fund. This is a onetime transfer.

Subd. 5. Parks and Trails Management (203,337) (1,345,556)

Appropriations by Fund

<u>General</u>	(203,337)	(483,555)
<u>Natural Resources</u>	0	(862,001)

Subd. 6. Fish and Wildlife Management -0- (50,000)

Appropriations by Fund

<u>General</u>	-0-	(50,000)
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\$340,000 in 2011 is transferred from the account balance in the water recreation electronic licensing appropriation in the natural resources fund to the general fund. This is a onetime transfer.

Subd. 7. Ecological Services (170,000) (140,000)

Appropriations by Fund

<u>General</u>	(170,000)	(140,000)
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Subd. 8. Enforcement (136,000) (224,000)

Appropriations by Fund

<u>General</u>	(136,000)	(224,000)
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On June 30, 2010, the balance of surcharges on criminal and traffic offenders credited to the game and fish fund under Minnesota Statutes, section 357.021, subdivision 7, and collected prior to that date are transferred to the general fund.

Subd. 9. Operations Support (10,000) (100,000)

Appropriations by Fund

<u>General</u>	<u>(10,000)</u>	<u>(100,000)</u>
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Sec. 5. BOARD OF WATER AND SOIL RESOURCES

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(460,000)</u>
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Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>(460,000)</u>
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\$20,000 in 2011 is a reduction from the appropriation for establishing and maintaining riparian vegetation buffers of restored native prairie and restored prairie.

\$100,000 in 2011 is a reduction in the appropriation for cost-share grants to local governments for public drainage records modernization.

\$100,000 in 2011 is a reduction from the appropriation for grants to local units of government within the 11-county metropolitan area to improve response to major wetland violations.

\$100,000 in 2011 is a reduction from the appropriation to transfer to the commissioner of natural resources for enforcement of wetland violations.

\$25,000 in 2011 is a reduction in the appropriation to provide assistance to local drainage management officials and for the costs of the Drainage Work Group.

\$40,000 in 2011 is a reduction in the appropriation for implementation and enforcement of the Wetland Conservation Act.

\$384,000 of the current balance in the agricultural watershed restoration account is canceled back to the general fund on December 15, 2010.

Subd. 2. Reduction; DR-1717 Disaster Relief

Laws 2007, First Special Session chapter 2, article 1, is reduced as follows:

\$40,000 in 2010 from funds received interagency for disaster relief in the area included in DR-1717.

Subd. 3. Reduction; Rehabilitation Erosion and Sediment Control

Laws 2008, chapter 363, article 5, section 5, is reduced as follows:

\$125,000 in 2010 from the appropriation for implementing rehabilitation erosion and sediment control projects in the area included in DR-1717.

Subd. 4. Returned Grants

Beginning July 1, 2010, all returned grant money originating from general fund grant programs will be deposited into individual accounts in the special revenue fund and held for eventual transfer back to the general fund. On December 15, 2010, and on December 15 of each year thereafter, \$310,000 of the receipts in this special revenue fund will be transferred to the general fund. If less than \$310,000 is available on the transfer date, an additional transfer on June 15 sufficient to make the \$310,000 annual obligation will be made.

Sec. 6. METROPOLITAN COUNCIL

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>2,388,000</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>-0-</u>	<u>(112,000)</u>
<u>Clean Water</u>	<u>-0-</u>	<u>2,500,000</u>

The fiscal year 2011 general fund base appropriation for regional parks is reduced by \$112,000. This reduction is permanent.

\$2,000,000 is from the clean water fund

pursuant to Minnesota Statutes, section 114D.50, to the Metropolitan Council to provide grants or loans to local governments for nonmunicipal wastewater inflow and infiltration reduction programs in the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2. This appropriation applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and is available until expended.

\$500,000 is from the clean water fund for implementation of the master water supply plan developed under Minnesota Statutes, section 473.1565. This appropriation applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and is available until expended.

Sec. 7. MINNESOTA CONSERVATION CORPS

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(14,000)</u>	<u>\$</u>	<u>(29,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(7,000)</u>	<u>(14,000)</u>
<u>Natural Resources</u>	<u>(7,000)</u>	<u>(15,000)</u>

The appropriation reduction in the natural resources fund is in the current biennium only. On June 1, 2010, \$7,000 will be transferred from the natural resources fund to the general fund. On June 1, 2011, \$15,000 will be transferred from the natural resources fund to the general fund.

Sec. 8. ZOOLOGICAL BOARD

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(24,000)</u>	<u>\$</u>	<u>(197,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(24,000)</u>	<u>(197,000)</u>

Sec. 9. [97A.26] PEACE OFFICER TRAINING ACCOUNT.

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

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

Sec. 10. Minnesota Statutes 2008, section 103G.705, subdivision 2, is amended to read:

Subd. 2. **Stream protection and improvement fund.** There is established in the state treasury a stream protection and redevelopment fund. All repayments of loans made and administrative fees assessed under subdivision 1 must be deposited in this fund. Interest earned on money in the fund accrues to the fund and money in the fund is appropriated to the commissioner of natural resources for purposes of the stream protection and redevelopment program, including costs incurred by the commissioner to establish and administer the program. Beginning in fiscal year 2010, all repayments of loans made and administrative fees assessed under subdivision 1 must be transferred to the general fund. This includes any balance within the fund from repayments and administrative fees assessed prior to July 1, 2009.

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

Sec. 11. Minnesota Statutes 2009 Supplement, section 357.021, subdivision 7, is amended to read:

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

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

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

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

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

(c) In addition to any amounts credited under paragraph (a), the commissioner of management and budget shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$12 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall transmit the surcharge to the commissioner of management and budget. The

\$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

Sec. 12. Laws 2009, chapter 172, article 2, section 5, is amended to read:

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. This appropriation is available until June 30, 2012.

(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.

ARTICLE 3

ENERGY

Section 1. DEPARTMENT OF COMMERCE-OFFICE OF ENERGY SECURITY

Subdivision 1. Telecommunications Access Minnesota

Prior to June 30, 2010, the commissioner of commerce shall transfer \$128,000 from the unexpended balance of the telecommunications access Minnesota fund established in Minnesota Statutes, section 237.52, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$135,000 from the unexpended balance of the telecommunications access Minnesota fund established in Minnesota Statutes, section 237.52, to the general fund.

Subd. 2. Transfers

Prior to June 30, 2010, the commissioner of commerce shall transfer \$4,000 from the unexpended balance of the renewable energy equipment grants account established under Minnesota Statutes, section 239.101, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$15,000 from the unexpended balance of the energy planning and systems account established in Minnesota Statutes, section 216C.052, to the general fund. Funds transferred to the general fund will be considered general administrative costs of the administrator.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$43,000 from the unexpended balance of the conservation improvement technical assistance account established in Minnesota Statutes, section 216B.241, subdivision 1d, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$17,000 from the unexpended balance of the conservation improvement technical assistance account established in Minnesota Statutes, section 216B.241, subdivision 1d, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$316,000 from the unexpended balance of the conservation improvement applied research and development grants account established in Minnesota Statutes, section 216B.241, subdivision 1e, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$213,000 from the unexpended balance of the conservation improvement applied research and development grants account established in Minnesota Statutes, section 216B.241, subdivision 1e, to the general fund.

Prior to June 30, 2010, the commissioner

of commerce shall transfer \$22,000 from the unexpended balance of the residential propane account established in Minnesota Statutes, section 239.785, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$18,000 from the unexpended balance of the residential propane account established in Minnesota Statutes, section 239.785, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$22,000 from the unexpended balance of the facilities energy efficiency account established in Minnesota Statutes, section 216B.241, subdivision 1f, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$30,000 from the unexpended balance of the facilities energy efficiency account established in Minnesota Statutes, section 216B.241, subdivision 1f, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$11,000 from the unexpended balance of the power plant assessment account established in Minnesota Statutes, section 216E.18, subdivision 3, to the general fund. Funds transferred to the general fund will be considered expenditures for assessment purposes.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$15,000 from the unexpended balance of the power plant assessment account established in Minnesota Statutes, section 216E.18, subdivision 3, to the general fund. Funds transferred to the general fund will be considered expenditures for assessment purposes.

Prior to June 30, 2010, the commissioner of commerce shall transfer the remaining balance of the pipeline account under Minnesota Statutes, section 216G.02, to the general fund.

Prior to June 30, 2010, the commissioner of

commerce shall transfer \$40,000 from the unexpended balance of the biogas recovery grants appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$4,000 from the unexpended balance of the solar electricity projects appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$6,000 from the unexpended balance of the CERTS continuation appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$39,000 from the unexpended balance of the automotive projects appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$19,000 from the unexpended balance of the hydrogen road map appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$40,000 from the unexpended balance of the renewable energy grants appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$8,000 from the unexpended balance of the green economy and manufacturing appropriation in Laws 2008, chapter 363, article 6, section 3, subdivision 4, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$13,000 from the

unexpended balance of the greenhouse gas advisory group appropriation in Laws 2008, chapter 340, section 5, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$18,000 from the unexpended balance of the heat flow maps appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$31,000 from the unexpended balance of the CERTS appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$38,000 from the unexpended balance of the CERTS appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$24,000 from the unexpended balance of the solar rebates appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$90,000 from the unexpended balance of the IRETI grant appropriation in Laws 2009, chapter 37, article 2, section 13, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$36,000 from the unexpended balance of the solar lab grant appropriation in Laws 2009, chapter 37, article 2, section 13, to the general fund.

ARTICLE 4

AGRICULTURE

Section 1. APPROPRIATIONS.

Unless otherwise stated, the sums shown in the columns marked "Appropriations" are added to, or if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 94, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	APPROPRIATIONS	
	Available for the Year	
	Ending June 30	
	<u>2010</u>	<u>2011</u>
Sec. 2. <u>AGRICULTURE</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ (1,217,000)	\$ (1,484,000)
<u>The amounts that may be spent for each purpose are specified in the following subdivisions.</u>		
Subd. 2. <u>Protection Services</u>	<u>(142,000)</u>	<u>(467,000)</u>
Subd. 3. <u>Agricultural Marketing and Development</u>	<u>(127,000)</u>	<u>(8,000)</u>
<u>\$6,000 in 2010 is a reduction for grants to farmers for demonstration projects involving sustainable agriculture, as authorized in Minnesota Statutes, section 17.116.</u>		
<u>\$113,000 in 2010 is a reduction from Laws 2006, chapter 282, article 10, section 4, for the agricultural best management program.</u>		
Subd. 4. <u>Bioenergy and Value-Added Agriculture</u>	<u>(821,000)</u>	<u>(855,000)</u>
<u>\$821,000 in 2010 and \$855,000 in 2011 are reductions from the appropriation for ethanol producer payments.</u>		
Subd. 5. <u>Administration and Financial Assistance</u>	<u>(127,000)</u>	<u>(154,000)</u>
<u>\$23,000 in 2010 and \$36,000 in 2011 are reductions from the appropriation for the dairy development and profitability enhancement and dairy business planning</u>		

grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2.

\$1,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Livestock Breeders Association.

\$15,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Agricultural Education and Leadership Council.

\$28,000 in 2011 is a reduction from the appropriation for payments to county and district agricultural societies and associations.

\$3,000 in 2011 is a reduction from the appropriation for the Northern Crops Institute.

\$4,000 in 2010 and \$4,000 in 2011 are reductions from the appropriation for grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties.

\$3,000 in 2010 and \$3,000 in 2011 are reductions from the appropriation for grants to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants including plant breeding, nutrient management, pest management, disease management yield, and viability.

\$28,000 in 2010 and \$30,000 in 2011 are reductions from the appropriation for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks.

\$60,000 in 2010 is a reduction from the appropriation for the agricultural growth, research, and innovation program.

\$6,000 in 2011 is a reduction from the appropriation for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$1,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Horticultural Society.

\$4,000 in 2010 is a reduction from the appropriation for transfer to the University of Minnesota Extension service for farm-to-school grants to school districts in Minneapolis, Moorhead, White Earth, and Willmar.

\$5,000 in 2010 and \$27,000 in 2011 are reductions from the appropriation and are intended to be a reduction in costs attributed to the commissioner's office.

Subd. 6. Transfers In

Notwithstanding any other law to the contrary, the commissioner of management and budget shall transfer \$405,000 from the agricultural fund to the general fund by July 15, 2010. By July 15, 2011, the commissioner of management and budget will transfer \$629,000 from the agricultural fund to the general fund.

Notwithstanding any other law to the contrary, the commissioner of management and budget shall transfer \$6,000 from the miscellaneous special revenue fund to the general fund by July 15, 2010. By July 15, 2011, the commissioner of management and budget shall transfer \$6,000 from the miscellaneous special revenue fund to the general fund.

Sec. 3. <u>BOARD OF ANIMAL HEALTH</u>	\$	(87,000)	\$	(141,000)
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\$87,000 in 2010 and \$141,000 in 2011 is from

the appropriation for general operations.

Sec. 4. **AGRICULTURE UTILIZATION**

RESEARCH INSTITUTE

\$ (382,000) \$ (1,442,000)

Sec. 5. Minnesota Statutes 2008, section 18G.07, is amended to read:

18G.07 TREE CARE AND TREE TRIMMING COMPANY ~~REGISTRY~~ REGISTRATION.

Subdivision 1. **Creation of registry.** The commissioner shall maintain a list of all persons and companies that provide tree care or tree trimming services in Minnesota. All tree care providers, tree trimmers, and persons who remove trees, limbs, branches, brush, or shrubs for hire must ~~provide the following information to~~ be registered by the commissioner.

Subd. 1a. **Basic registration.** (a) Tree care or tree trimming companies must register annually by providing the following to the commissioner:

- (1) accurate and up-to-date business name, address, and telephone number;
- (2) a complete list of all Minnesota counties in which they work; and
- (3) ~~a complete list of persons in the business who are certified by the International Society of Arborists~~ a nonrefundable fee of \$25 for initial application or renewing basic registration.

(b) Registration expires December 31, must be renewed annually, and the fee remitted by January 7 of the year for which it is issued. In addition, a penalty of ten percent of the fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Subd. 1b. **Professional registration.** (a) Professional registration is provided to identify those companies with qualifications to treat trees for pests or diseases or prune, trim, or remove trees from above the ground. Tree care or tree trimming companies may obtain annual professional registration by providing the following to the commissioner:

- (1) accurate and up-to-date business name, address, and telephone number;
- (2) a complete list of all Minnesota counties in which they work;
- (3) a complete list of persons in the business who have an associate's degree or higher in arboriculture, forestry, or horticulture; a complete list of persons in the business who are certified by the International Society of Arboriculture (ISA), and their ISA certification identification number; and a complete list of persons in the business who are certified by the Minnesota Nursery and Landscape Association (MNLA);
- (4) as appropriate, evidence of accreditation of the company by the Tree Care Industry Association;
- (5) a complete list of persons in the business who are licensed pesticide applicators in Minnesota if the company is applying restricted use pesticides;
- (6) verification by the company that it maintains a Minnesota workers' compensation insurance

certificate and that the company maintains a certificate of liability insurance and has a Minnesota sales tax identification number. Companies that prune or trim trees from above the ground must be covered by classification 0106 of the workers' compensation insurance codes; and

(7) a nonrefundable fee of \$250 for initial application or renewing a basic registration.

(b) Registration expires December 31, must be renewed annually, and the fee remitted by January 7 of the year for which it is issued. In addition, a penalty of ten percent of the fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal not received by the due date.

Subd. 2. **Information dissemination.** The commissioner shall provide registered tree care companies with information and data regarding any existing or potential regulated forest pest infestations within the state.

Subd. 3. **Violation.** It is unlawful for a person to provide tree care or tree trimming services in Minnesota without being registered with the commissioner.

Sec. 6. Laws 2007, chapter 45, article 1, section 3, subdivision 4, as amended by Laws 2008, chapter 297, article 1, section 64; and Laws 2008, chapter 363, article 7, section 6, is amended to read:

Subd. 4. Bioenergy and Value-Added Agricultural Products

19,918,000

15,168,000

\$15,168,000 the first year and \$15,168,000 the second year are for ethanol producer payments under Minnesota Statutes, section 41A.09. If the total amount for which all producers are eligible in a quarter exceeds the amount available for payments, the commissioner shall make payments on a pro rata basis. If the appropriation exceeds the total amount for which all producers are eligible in a fiscal year for scheduled payments and for deficiencies in payments during previous fiscal years, the balance in the appropriation is available to the commissioner for value-added agricultural programs including the value-added agricultural product processing and marketing grant program under Minnesota Statutes, section 17.101, subdivision 5. The appropriation remains available until spent.

\$3,000,000 the first year is for grants to bioenergy projects. The NextGen Energy Board shall make recommendations to the commissioner on grants for owners of

Minnesota facilities producing bioenergy, organizations that provide for on-station, on-farm field scale research and outreach to develop and test the agronomic and economic requirements of diverse stands of prairie plants and other perennials for bioenergy systems, or certain nongovernmental entities. For the purposes of this paragraph, "bioenergy" includes transportation fuels derived from cellulosic material as well as the generation of energy for commercial heat, industrial process heat, or electrical power from cellulosic material via gasification or other processes. The board must give priority to a bioenergy facility that is at least 60 percent owned and controlled by farmers, as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (n), or natural persons residing in the county or counties contiguous to where the facility is located. Grants are limited to 50 percent of the cost of research, technical assistance, or equipment related to bioenergy production or \$1,000,000, whichever is less. Grants to nongovernmental entities for the development of business plans and structures related to community ownership of eligible bioenergy facilities together may not exceed \$150,000. The board shall make a good faith effort to select projects that have merit and when taken together represent a variety of bioenergy technologies, biomass feedstocks, and geographic regions of the state. Projects must have a qualified engineer certification on the technology and fuel source. Grantees shall provide reports at the request of the commissioner and must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable. No later than February 1, 2009, the commissioner shall report on the projects funded under this appropriation to the house and senate committees with jurisdiction over agriculture finance. The commissioner's costs in administering the program may be paid from the appropriation. ~~Any unencumbered balance does not cancel~~

~~at the end of the first year and is available in the second year~~ This appropriation is available until June 30, 2011.

\$200,000 the first year is for a grant to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to a joint venture combined heat and power energy facility located in Scott or LeSueur County for the creation of a centrally located biomass fuel supply depot with the capability of unloading, processing, testing, scaling, and storing renewable biomass fuels. The grant must be matched by at least \$3 of nonstate funds for every \$1 of state funds. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$300,000 the first year is for a grant to the Bois Forte Band of Chippewa for a feasibility study of a renewable energy biofuels demonstration facility on the Bois Forte Reservation in St. Louis and Koochiching Counties. The grant shall be used by the Bois Forte Band to conduct a detailed feasibility study of the economic and technical viability of developing a multistream renewable energy biofuels demonstration facility on

Bois Forte Reservation land to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$300,000 the first year is for a grant to the White Earth Band of Chippewa for a feasibility study of a renewable energy biofuels production, research, and production facility on the White Earth Reservation in Mahnomen County. The grant must be used by the White Earth Band and the University of Minnesota to conduct a detailed feasibility study of the economic and technical viability of (1) developing a multistream renewable energy biofuels demonstration facility on White Earth Reservation land to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy, and (2) developing, harvesting, and marketing native prairie plants and seeds for bioenergy production. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to the Elk River Economic Development Authority for upfront engineering and a feasibility study of the Elk River renewable fuels facility. The facility must use a plasma gasification process to convert primarily cellulosic material, but may also use plastics and other components from municipal solid waste, as feedstock for the production of methanol for use in biodiesel production facilities. Any unencumbered balance in fiscal year

2008 does not cancel but is available for fiscal year 2009. Notwithstanding Minnesota Statutes, section 16A.285, the agency must not transfer this appropriation. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to Chisago County to conduct a detailed feasibility study of the economic and technical viability of developing a multistream renewable energy biofuels demonstration facility in Chisago, Isanti, or Pine County to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy. Chisago County may expend funds to Isanti and Pine Counties and the University of Minnesota for any costs incurred as part of the study. The feasibility study must consider the capacity of: (1) the seed bank at Wild River State Park to expand the existing prairie grass, woody biomass, and cellulosic material resources in Chisago, Isanti, and Pine Counties; (2) willing and interested landowners in Chisago, Isanti, and Pine Counties to grow cellulosic materials; and (3) the Minnesota Conservation Corps, the sentence to serve program, and other existing workforce programs in east central Minnesota to contribute labor to these efforts. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

Sec. 7. Laws 2007, chapter 45, article 1, section 3, subdivision 5, as amended by Laws 2008, chapter 297, article 1, section 65, is amended to read:

Subd. 5. **Administration and Financial Assistance** 7,338,000 6,751,000

\$1,005,000 the first year and \$1,005,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2 . The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a work plan detailing plans for expenditures under this program to the chairs of the house and senate committees dealing with agricultural policy and budget on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs.

\$50,000 the first year and \$50,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

\$19,000 the first year and \$19,000 the second year are for a grant to the Minnesota Livestock Breeders Association.

\$250,000 the first year and \$250,000 the second year are for grants to the Minnesota Agricultural Education Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

\$600,000 the first year is for grants for fertilizer research as awarded by the Minnesota Agricultural Fertilizer Research and Education Council under Minnesota Statutes, section 18C.71. The amount available to the commissioner pursuant to Minnesota Statutes, section 18C.70, subdivision 2, for administration of this

activity is available until February 1, 2009, by which time the commissioner shall report to the house and senate committees with jurisdiction over agriculture finance. The report must include the progress and outcome of funded projects as well as the sentiment of the council concerning the need for additional research funded through an industry checkoff fee. The amount available for grants is available until June 30, 2011.

\$465,000 the first year and \$465,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed not later than July 15 of each year. These payments are the amount of aid owed by the state for an annual fair held in the previous calendar year.

\$65,000 the first year and \$65,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties. The grant recipient may subcontract with a qualified third party for some or all of the basic and applied research.

\$500,000 the first year and \$500,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Second Harvest food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the

commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses.

\$100,000 the first year and \$100,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Horticultural Society.

\$50,000 is for a grant to the University of Minnesota, Department of Horticultural Science, Enology Laboratory, to upgrade and purchase instrumentation to allow rapid and accurate measurement of enology components. This is a onetime appropriation and is available until expended.

Sec. 8. Laws 2009, chapter 94, article 1, section 3, subdivision 5, is amended to read:

Subd. 5. Administration and Financial Assistance	8,177,000	7,037,000
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Appropriations by Fund

	2010	2011
General	7,377,000	6,237,000
Agricultural	800,000	800,000

\$780,000 the first year and \$755,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs

established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a work plan detailing plans for expenditures under this program to the chairs of the house of representatives and senate committees dealing with agricultural policy and budget on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs.

\$50,000 the first year and \$50,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

\$19,000 the first year and \$19,000 the second year are for a grant to the Minnesota Livestock Breeders Association.

\$250,000 the first year and \$250,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

\$474,000 the first year and \$474,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed no later than July 15 of each year. These payments are the amount of aid from the state for an annual fair held in the previous calendar year.

\$1,000 the first year and \$1,000 the second year are for grants to the Minnesota State Poultry Association.

\$65,000 the first year and \$65,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties. The grant recipient may subcontract with a qualified third party for some or all of the basic and applied research.

\$50,000 the first year and \$50,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2011, must report to the house of representatives and senate committees with jurisdiction over agriculture finance.

\$500,000 the first year and \$500,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Second Harvest food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to

which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses.

\$1,000,000 the first year is for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Priority must be given to livestock programs under Minnesota Statutes, section 17.118. Priority for livestock grants shall be given to persons who are beginning livestock producers and livestock producers who are rebuilding after a disaster that was due to natural or other unintended conditions. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available in the second year.

\$100,000 the first year and \$100,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Horticultural Society.

Notwithstanding Minnesota Statutes, section 18C.131, \$800,000 the first year and \$800,000 the second year are from the fertilizer account in the agricultural fund for grants for fertilizer research as awarded by the Minnesota Agricultural Fertilizer Research and Education Council under Minnesota Statutes, section 18C.71. The amount appropriated in either fiscal year must not exceed 57 percent of the inspection fee

revenue collected under Minnesota Statutes, section 18C.425, subdivision 6, during the previous fiscal year. No later than February 1, 2011, the commissioner shall report to the legislative committees with jurisdiction over agriculture finance. The report must include the progress and outcome of funded projects as well as the sentiment of the council concerning the need for additional research funds. The appropriation for the first year is available until June 30, 2013, and the appropriation for the second year is available until June 30, 2014.

\$60,000 the first year is for a transfer to the University of Minnesota Extension Service for farm-to-school grants to school districts in Minneapolis, Moorhead, White Earth, and Willmar.

*\$30,000 is for star farms program development. The commissioner, in consultation with other state and local agencies, farm groups, conservation groups, legislators, and other interested persons, shall develop a proposal for a star farms program. By January 15, 2010, the commissioner shall submit the proposal to the legislative committees and divisions with jurisdiction over agriculture and environmental policy and finance. This is a onetime appropriation. * (The preceding paragraph beginning "\$30,000 is for star farms program" was indicated as vetoed by the governor.)*

\$25,000 the first year is for the administration of the Feeding Minnesota Task Force, under new Minnesota Statutes, section 31.97. This is a onetime appropriation.

ARTICLE 5

VETERANS AFFAIRS

Section 1. VETERANS AFFAIRS.

The sums shown in the columns marked "Appropriations" are added to, or if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 94, article 3, to the agencies

and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 2. **VETERANS AFFAIRS**

Subdivision 1. <u>Total Appropriation</u>	\$	<u>-0-</u>	\$	<u>100,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Veterans Services</u>		<u>-0-</u>		<u>100,000</u>
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\$100,000 in fiscal year 2011 is for compensation for honor guards at the funerals of veterans in accordance with the program established in Minnesota Statutes, section 197.231.

Sec. 3. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 6

ECONOMIC DEVELOPMENT

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
General	\$	(4,155,000)	\$	(11,665,000)	\$	(15,820,000)
Petroleum Tank Cleanup		(25,000)		(32,000)		(57,000)
Total	\$	(4,180,000)	\$	(11,697,000)	\$	(15,877,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 78, article 1, unless otherwise specified, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
<u>Sec. 3. EMPLOYMENT AND ECONOMIC DEVELOPMENT</u>		
<u>Subdivision 1. Total Appropriation</u>	<u>\$ (1,044,000)</u>	<u>\$ (2,270,000)</u>
<u>The appropriation reductions for each purpose are specified in the following subdivisions.</u>		
<u>Subd. 2. Business and Community Development</u>	<u>(366,000)</u>	<u>(588,000)</u>
<u>(a) \$35,000 in 2011 is from the appropriation for a grant to Women Venture.</u>		
<u>(b) \$20,000 in 2011 is from the appropriation for a grant to the Metropolitan Economic Development Association.</u>		
<u>(c) \$75,000 in 2011 is from the appropriation for a grant to BioBusiness Alliance of Minnesota.</u>		
<u>(d) \$15,000 in 2011 is from the appropriation for a grant to the Minnesota Inventors Congress.</u>		
<u>(e) \$25,000 in 2010 and \$25,000 in 2011 are from the appropriation for the Office of Science and Technology.</u>		
<u>(f) \$75,000 in 2011 is from the appropriation for a grant to Enterprise Minnesota, Inc.</u>		
<u>(g) The general fund base for business and community development is \$6,653,000 in</u>		

fiscal year 2012 and \$6,653,000 in fiscal year 2013.

Subd. 3. Workforce Development

(648,000)

(1,652,000)

(a) \$145,000 in 2010 and \$145,000 in 2011 are from the appropriation for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17.

(b) \$193,000 in 2010 and \$195,000 in 2011 are from the appropriation for state services for the blind activities.

(c) \$159,000 in 2010 and \$161,000 in 2011 are from the appropriation for grants to centers for independent living.

(d) \$60,000 in 2011 is from the appropriation to Twin Cities RISE! for a grant under Minnesota Statutes, section 166J.8747.

(e) \$25,000 in 2011 is from the appropriation for a grant to Northern Connections in Perham.

(f) \$25,000 in 2011 is from the appropriation for a grant to Advocating Change Together.

(g) \$22,000 in 2010 and \$708,000 in 2011 are from the appropriation for extended employment services under Minnesota Statutes, section 268A.15. Notwithstanding Minnesota Rules, parts 3300.2030 to 3300.2055, the commissioner may adjust contracts with eligible extended employment providers in order to achieve required reductions through June 30, 2011. The general fund base for extended employment services is \$5,137,000 in fiscal year 2012 and \$5,137,000 in fiscal year 2013.

(h) \$3,000 in 2010 and \$125,000 in 2011 are from the appropriation to supplement funds paid for wage incentives for the community support fund established in Minnesota Rules, part 3300.2045.

(i) \$50,000 in 2011 is from the appropriation

for grants to Minnesota Diversified Industries, Inc. The general fund base for Minnesota Diversified Industries, Inc. is \$50,000 in fiscal year 2012 and \$50,000 in fiscal year 2013.

(j) \$111,000 in 2010 and \$113,000 in 2011 are from the appropriation for grants to programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14. \$2,000 in each year is from the appropriation for administrative expenses.

(k) \$25,000 in 2011 is from the appropriation for a grant under Minnesota Statutes, section 268A.03, to Rise, Inc.

(l) \$20,000 in 2011 is from the appropriation for a grant to Lifetrack Resources.

(m) \$15,000 in 2010 is from the appropriation for a grant to Lutheran Social Service of Minnesota.

(n) The general fund base for workforce development is \$28,729,000 in fiscal year 2012 and \$28,729,000 in fiscal year 2013.

Subd. 4. State-funded Administration

(30,000)

(30,000)

The general fund base for state-funded administration is \$2,396,000 in fiscal year 2012 and \$2,396,000 in fiscal year 2013.

Subd. 5. Transfers and Cancellations

(a) \$367,000 in 2010 and \$367,000 in 2011 are transferred from the contaminated cleanup grants appropriation in the petroleum tank release cleanup fund under Minnesota Statutes, section 115C.08, subdivision 4, to the general fund.

(b) \$80,000 in 2010 is transferred from the unemployment insurance state administration account in the special revenue fund under Minnesota Statutes, section 268.196, subdivision 1, to the general fund.

(c) \$160,000 in 2010 is transferred from the capital access program account in the special revenue fund under Minnesota Statutes, section 116J.876, subdivision 4, to the general fund.

(d) \$5,000,000 in 2010 is transferred from the Minnesota mineral 21st century fund under Minnesota Statutes, section 116J.423, subdivision 1, to the general fund.

(e) The remaining balance from the Laws 2007, chapter 135, article 1, section 3, appropriation for a grant to Le Sueur County is canceled.

(f) The remaining balance from the Laws 2008, chapter 358, article 5, section 4, subdivision 3, appropriation for Section 125 Employer Incentives is canceled.

Sec. 4. <u>PUBLIC FACILITIES AUTHORITY</u>	\$	<u>(11,000)</u>	\$	<u>(7,000)</u>
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The reduction is from the appropriation for small community wastewater treatment program under Minnesota Statutes, chapter 446A.

Sec. 5. <u>EXPLORE MINNESOTA TOURISM</u>	\$	<u>(938,000)</u>	\$	<u>(672,000)</u>
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(a) \$700,000 in 2010 is from the appropriation for a grant to the Minnesota Film and TV Board for the film jobs production program under Minnesota Statutes, section 116U.26.

(b) \$325,000 in 2011 is from the operating appropriation for the Minnesota Film and TV Board.

Sec. 6. <u>HOUSING FINANCE AGENCY</u>	\$	<u>(2,061,000)</u>	\$	<u>(2,603,000)</u>
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(a) \$2,061,000 in 2010 and \$1,603,000 in 2011 are from the appropriation for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b.

(b) \$1,000,000 in 2011 is from the appropriation for the housing rehabilitation program under Minnesota Statutes, section

462A.05, subdivision 14, for rental housing developments.

(c) In 2010, the Housing Finance Agency shall transfer \$2,061,000 from the affordable rental investment fund program in the housing development fund, to the general fund.

Sec. 7. DEPARTMENT OF LABOR AND INDUSTRY

\$ (16,000) \$ (26,000)

This reduction is from the general fund appropriation for labor standards and apprenticeship.

Sec. 8. BUREAU OF MEDIATION SERVICES

\$ (31,000) \$ (53,000)

(a) \$27,000 in 2010 and \$47,000 in 2011 are from the appropriation for mediation services.

(b) \$4,000 in 2010 and \$6,000 in 2011 are from the appropriation for labor management cooperation grants.

Sec. 9. MINNESOTA HISTORICAL SOCIETY

Subdivision 1. Total Appropriation

\$ (217,000) \$ (501,000)

The appropriation reductions for each purpose are specified in the following subdivisions.

Subd. 2. Education and Outreach

(124,000) (286,000)

Subd. 3. Preservation and Access

(93,000) (215,000)

Sec. 10. BOARD OF THE ARTS

Subdivision 1. Total Appropriation

\$ -0- \$ (2,875,000)

The appropriation reductions for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Services

-0- (217,000)

The base for operations and services in fiscal year 2012 is \$217,000. The base in fiscal year 2013 is \$0.

Subd. 3. Grant Programs -0- (1,839,000)

The base for grant programs in fiscal year 2012 is \$1,838,000. The base in fiscal year 2013 is \$0.

Subd. 4. Regional Arts Councils -0- (819,000)

The base for regional arts councils in fiscal year 2012 is \$819,000. The base in fiscal year 2013 is \$0.

Sec. 11. MINNESOTA HUMANITIES CENTER \$ -0- \$ (250,000)

Sec. 12. PUBLIC BROADCASTING \$ -0- \$ (2,015,000)

(a) The appropriation reductions under this section are from the commissioner of administration for the purposes specified.

(b) \$1,161,000 in 2011 is from the appropriation for matching grants for public television.

(c) \$200,000 in 2011 is from the appropriation for public television equipment grants.

(d) \$17,000 in 2011 is from the appropriation for grants to Twin Cities regional cable channels.

(e) \$287,000 in 2011 is from the appropriation for community service grants to public educational radio stations.

(f) \$100,000 in 2011 is from the appropriation for equipment grants to public educational radio stations.

(g) \$250,000 in 2011 is for equipment grants to Minnesota Public Radio, Inc.

Sec. 13. DEPARTMENT OF COMMERCE

Subdivision 1. Total Appropriation \$ 185,000 \$ (354,000)

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>210,000</u>	<u>(322,000)</u>

unexpended balance of the insurance fraud prevention account established in Minnesota Statutes, section 45.0135, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$48,000 from the unexpended balance of the insurance fraud prevention account established in Minnesota Statutes, section 45.0135, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$133,000 from the unexpended balance of the automobile theft prevention account established in Minnesota Statutes, section 168A.40, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$111,000 from the unexpended balance of the automobile theft prevention account established in Minnesota Statutes, section 168A.40, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$49,000 from the unexpended balance of the real estate education, research and recovery fund established in Minnesota Statutes, section 82.43, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$5,000 from the unexpended balance of the real estate education, research and recovery fund established in Minnesota Statutes, section 82.43, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$7,000 from the unexpended balance of the consumer education account established in Minnesota Statutes, section 58.10, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$4,000 from the unexpended balance of the HMO regulation account established under Minnesota Statutes, section 471.59, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$9,000 from the

unexpended balance of the HMO regulation account established under Minnesota Statutes, section 471.59, to the general fund.

Sec. 14. <u>BOARD OF ACCOUNTANCY</u>	\$	<u>(10,000)</u>	\$	<u>(15,000)</u>
Sec. 15. <u>BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN</u>	\$	<u>(17,000)</u>	\$	<u>(24,000)</u>
Sec. 16. <u>BOARD OF COSMETOLOGIST EXAMINERS</u>	\$	<u>(13,000)</u>	\$	<u>(20,000)</u>
Sec. 17. <u>BOARD OF BARBER EXAMINERS</u>	\$	<u>(3,000)</u>	\$	<u>(6,000)</u>
Sec. 18. <u>COMBATIVE SPORTS COMMISSION</u>	\$	<u>(4,000)</u>	\$	<u>(6,000)</u>

Sec. 19. TRANSFER OF FUNDS

Prior to June 30, 2010, the commissioner of Iron Range Resources shall transfer \$30,000,000 from the Douglas J. Johnson Economic Protection Trust to the general fund. This is a onetime transfer.

Sec. 20. Minnesota Statutes 2009 Supplement, section 45.30, subdivision 6, is amended to read:

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance. A course that is required by federal criteria or a reciprocity agreement to receive a substantive review will be approved or disapproved on the basis of its compliance with the provisions of laws and rules relating to the appropriate industry. At the commissioner's discretion, a course that is not required by federal criteria or a reciprocity agreement to receive a substantive review may be approved based on a qualified provider's certification on a form specified by the commissioner that the course complies with the provisions of this chapter and the laws and rules relating to the appropriate industry. For the purposes of this section, a "qualified provider" is one of the following: (1) a degree-granting institution of higher learning located within this state; (2) a private school licensed by the Minnesota Office of Higher Education; or (3) when conducting courses for its members, a bona fide trade association that staffs and maintains in this state a physical location that contains course and student records and that has done so for not less than three years. The commissioner may review any approved course and may cancel its approval with regard to all future offerings. The commissioner must make the final determination as to accreditation and assignment of credit hours for courses. Courses must be at least one hour in length, except courses for real estate appraisers must be at least two hours in length.

~~Individuals wishing to receive credit for continuing education courses that have not been previously approved may submit the course information for approval. Courses must be in compliance with the laws and rules governing the types of courses that will and will not be~~

approved.

Approval will not include time spent on meals or other unrelated activities.

(b) Courses must be submitted at least 30 days before the initial proposed course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application. The commissioner must deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

(d) When either the content of an approved course or its method of instruction changes, the course is no longer approved for license education credit. A new application must be submitted for the changed course if the education provider intends to offer it for license education credit.

Sec. 21. Minnesota Statutes 2009 Supplement, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) A residential mortgage originator applicant must submit ~~one of the following:~~

~~(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;~~

~~(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or~~

~~(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.~~ a surety bond that meets the requirements of section 58.08, subdivision 1a.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

~~(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the dates that mandatory testing, initial education, and continuing education were completed. In addition, the roster must be made~~

~~available to the commissioner on demand, within three business days of the commissioner's request;~~

~~(iii)~~ (ii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

~~(iv)~~ (iii) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

~~(v)~~ (iv) will maintain at all times ~~either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit~~ in the amount of at least \$50,000 \$100,000;

~~(vi)~~ (v) complies with federal and state tax laws; and

~~(vii)~~ (vi) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 22. [58A.01] TITLE.

This chapter may be cited as the "Minnesota Secure and Fair Enforcement for Mortgage Licensing Act of 2009" or "Minnesota S.A.F.E. Mortgage Licensing Act of 2009."

Sec. 23. [58A.02] DEFINITIONS.

Subdivision 1. **Application.** For purposes of this chapter, the definitions in subdivisions 2 to 16 have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 3. **Depository institution.** "Depository institution" has the meaning given in United States Code, title 12, section 1813, and includes a credit union.

Subd. 4. **Federal banking agencies.** "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the comptroller of the currency, the director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

Subd. 5. **Immediate family member.** "Immediate family member" means a spouse, child,

sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Subd. 6. **Individual.** "Individual" means a natural person.

Subd. 7. **Loan processor or underwriter.** "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under chapter 58. For purposes of this subdivision, the term "clerical or support duties" may include after the receipt of an application:

(1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

Subd. 8. **Mortgage loan originator.** "Mortgage loan originator":

(1) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan;

(2) does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 58A.03, subdivision 3;

(3) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered according to Minnesota law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by an agent of the lender, mortgage broker, or other mortgage loan originator; and

(4) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in United States Code, title 11, section 101(53D).

Subd. 9. **Nationwide Mortgage Licensing System and Registry.** "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

Subd. 10. **Nontraditional mortgage product.** "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage loan.

Subd. 11. **Person.** "Person" means a natural person, corporation, company, limited liability company, partnership, or association.

Subd. 12. **Real estate brokerage activity.** "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real

property;

(2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(3) negotiating, on behalf of a party, a portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to the transaction;

(4) engaging in an activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(5) offering to engage in any activity, or act in any capacity, described in clause (1), (2), (3), or (4).

Subd. 13. **Registered mortgage loan originator.** "Registered mortgage loan originator" means an individual who:

(1) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(2) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

Subd. 14. **Residential mortgage loan.** "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in United States Code, title 15, section 1602(v), or residential real estate upon which a dwelling is constructed or intended to be constructed.

Subd. 15. **Residential real estate.** "Residential real estate" means real property located in Minnesota, upon which a dwelling is constructed or is intended to be constructed.

Subd. 16. **Unique identifier.** "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Sec. 24. **[58A.03] LICENSE AND REGISTRATION REQUIRED.**

Subdivision 1. **Generally.** An individual, unless specifically exempted from this chapter under subdivision 2, shall not engage in the business of a mortgage loan originator with respect to a dwelling located in this state without first obtaining and maintaining a license under this chapter. An individual may not engage in the mortgage loan business unless the individual is employed and supervised by an entity which is either licensed or exempt from licensing under chapter 58. A licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

Subd. 2. **Exemptions.** The following are exempt from this chapter:

(1) a registered mortgage loan originator, when acting for an entity described in section 58A.02, subdivision 13, clause (1);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence; and

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator.

Subd. 3. **Independent contractor loan processors or underwriters.** A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under subdivision 1. An independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

EFFECTIVE DATE. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for subdivision 1 is July 31, 2010, or a later date approved by the Secretary of the U.S. Department of Housing and Urban Development, under the authority granted in Public Law 110-289, section 1508(a).

Sec. 25. **[58A.04] STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

Subdivision 1. **Application form.** An applicant for a license shall apply in a form as prescribed by the commissioner. The form must contain content as set forth by rule, instruction, or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

Subd. 2. **Commissioner may establish relationships or contracts.** In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

Subd. 3. **Waive or modify requirements.** For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner is authorized to waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and to establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

Subd. 4. **Background checks.** In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation, and a governmental

agency or entity authorized to receive the information for a state, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) an independent credit report obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(ii) information related to administrative, civil, or criminal findings by a governmental jurisdiction.

Subd. 5. **Agent for purposes of requesting and distributing criminal information.** For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subdivision 4, clauses (1) and (2), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

Subd. 6. **Agent for purposes of requesting and distributing noncriminal information.** For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subdivision 4, clause (2)(i) and (ii), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

Sec. 26. **[58A.05] ISSUANCE OF LICENSE.**

The commissioner shall not issue a mortgage loan originator license unless the commissioner finds at a minimum, that:

(1) the applicant has never had a mortgage loan originator license revoked in a governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation;

(2) the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(i) during the seven-year period preceding the date of the application for licensing and registration;

(ii) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(iii) provided that a pardon of a conviction is not a conviction for purposes of this clause;

(3) the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this chapter, a person has shown that the person is not financially responsible when the person has shown a disregard in the management of the person's own financial condition. A determination that an individual has not shown financial responsibility may include, but is not

limited to:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; and

(iv) a pattern of seriously delinquent accounts within the past three years;

(4) the applicant has completed the prelicensing education requirement described in section 58A.06;

(5) the applicant has passed a written test that meets the test requirement described in section 58A.07; and

(6) the applicant has met the surety bond requirement as required under section 58A.13.

Sec. 27. [58A.06] PRELICENSING AND RELICENSING EDUCATION OF LOAN ORIGINATORS.

Subdivision 1. **Minimum educational requirements.** In order to meet the prelicensing education requirement referred to in section 58A.05, clause (4), a person shall complete at least 20 hours of education approved according to subdivision 2, that includes at least:

(1) three hours of federal law and regulations;

(2) three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and

(3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, prelicensing education courses must be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a prelicensing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes a prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Prelicensing education may be offered in a classroom, on line, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Reciprocity of education.** The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of prelicensing education requirements in Minnesota.

Subd. 6. **Relicensing education requirements.** A person previously licensed under this chapter after the effective date of this chapter applying to be licensed again must prove that the person has completed all of the continuing education requirements for the year in which the license was last

held.

Sec. 28. [58A.07] TESTING OF LOAN ORIGINATORS.

Subdivision 1. **Generally.** In order to meet the written test requirement referred to in section 58A.05, clause (5), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

Subd. 2. **Qualified test.** A written test must not be treated as a qualified written test for purposes of subdivision 1 unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(1) ethics;

(2) federal law and regulation pertaining to mortgage origination;

(3) state law and rule pertaining to mortgage origination; and

(4) federal and state law and rule, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

Subd. 3. **Testing location.** Nothing in this section prohibits a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of a subsidiary or affiliate of the employer of the applicant, or the location of an entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

Subd. 4. **Minimum competence.** (a) An individual is not considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(b) An individual may retake a test three consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(c) After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator.

Sec. 29. [58A.08] STANDARDS FOR LICENSE RENEWAL.

Subdivision 1. **Generally.** The minimum standards for license renewal for a mortgage loan originator include that the mortgage loan originator:

(1) continues to meet the minimum standards for license issuance under section 58A.05;

(2) has satisfied the annual continuing education requirements described in section 58A.09; and

(3) has paid all required fees for renewal of the license.

Subd. 2. **Failure to satisfy minimum standards of license renewal.** The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal expires. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

Sec. 30. **[58A.09] CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.**

Subdivision 1. **Generally.** In order to meet the annual continuing education requirements referred to in section 58A.08, subdivision 1, clause (2), a licensed mortgage loan originator shall complete at least eight hours of education approved according to subdivision 2 that includes at least:

- (1) three hours of federal law and regulations;
- (2) two hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, continuing education courses must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes an education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or a subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Continuing education may be offered either in a classroom, on line, or by other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Calculation of continuing education credits.** A licensed mortgage loan originator:

- (1) except for subdivision 9 and section 58A.08, subdivision 2, may only receive credit for a continuing education course in the year in which the course is taken; and
- (2) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

Subd. 6. **Instructor credit.** A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

Subd. 7. **Reciprocity of education.** A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of continuing education requirements in Minnesota.

Subd. 8. **Lapse in license.** A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held before a new or renewed license is issued.

Subd. 9. **Deficiency.** A person meeting the requirements of section 58A.08, subdivision 1, clauses (1) and (3), may make up a deficiency in continuing education as established by rule of the commissioner.

Sec. 31. [58A.10] AUTHORITY TO REQUIRE LICENSE.

In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner may participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish by rule or order requirements as necessary, including but not limited to:

(1) background checks for:

(i) criminal history through fingerprint or other databases;

(ii) civil or administrative records;

(iii) credit history; or

(iv) other information as determined necessary by the Nationwide Mortgage Licensing System and Registry;

(2) the payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(3) the setting or resetting as necessary of renewal or reporting dates; and

(4) requirements for amending or surrendering a license or other activities the commissioner considers necessary for participation in the Nationwide Mortgage Licensing System and Registry.

Sec. 32. [58A.11] NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.

The commissioner shall establish a process that allows mortgage loan originators to challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

Sec. 33. [58A.12] ENFORCEMENT AUTHORITIES, VIOLATIONS, AND PENALTIES.

(a) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may, pursuant to chapter 14:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, rules issued under this chapter, or order or directive entered under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at anytime to meet the requirements of section 58A.05 or 58A.08, or withholds information or

makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against persons subject to this chapter for violations of this chapter;

(4) impose fines on persons subject to this chapter pursuant to paragraphs (b) to (d); and

(5) issue orders or directives under this chapter as follows:

(i) order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(ii) order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;

(iii) enter immediate temporary orders to cease business under a license or interim license issued pursuant to the authority granted under section 58A.03, subdivision 4, if the commissioner determines that the license was erroneously granted or the licensee is currently in violation of this chapter; and

(iv) order or direct other affirmative action the commissioner considers necessary.

(b) The commissioner may impose a civil penalty on a mortgage loan originator or person subject to this chapter, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under authority of this chapter.

(c) The maximum amount of penalty for each act or omission described in paragraph (b) is \$25,000.

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

Sec. 34. [58A.13] SURETY BOND REQUIRED.

Subdivision 1. **Coverage, form, and rules.** (a) Each mortgage loan originator must be covered by a surety bond meeting the requirements of this section. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person subject to this chapter can be used in lieu of the mortgage loan originator's surety bond requirement.

(b) The surety bond shall provide coverage for each mortgage loan originator in an amount as prescribed in subdivision 2.

(c) The surety bond must be in a form as prescribed by the commissioner.

Subd. 2. **Penal sum of surety bond.** The penal sum of the surety bond must be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner.

Subd. 3. **Action on bond.** When an action is commenced on a licensee's bond the commissioner may require the filing of a new bond.

Subd. 4. **New bond.** Immediately upon recovery upon any action on the bond the licensee shall

file a new bond.

Sec. 35. [58A.14] CONFIDENTIALITY.

Subdivision 1. **Protections.** Except as otherwise provided in Public Law 110-289, section 1512, the requirements under chapter 13 or any federal law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by chapter 13 or federal law.

Subd. 2. **Agreements and sharing arrangements.** For purposes of this section, the commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

Subd. 3. **Nonapplicability of certain requirements.** Information or material that is subject to a privilege or confidentiality under subdivision 1 is not subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

Subd. 4. **Coordination with Minnesota Government Data Practices Act.** Chapter 13 relating to the disclosure of confidential supervisory information or any information or material described in subdivision 1 that is inconsistent with subdivision 1 is superseded by the requirements of this section.

Subd. 5. **Public access to information.** This section does not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that are included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Sec. 36. [58A.15] INVESTIGATION AND EXAMINATION AUTHORITY.

Subdivision 1. **Generally.** In addition to any authority allowed under this chapter, the commissioner may conduct investigations and examinations according to subdivisions 2 to 9.

Subd. 2. **Authority to access information.** For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this chapter, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including

but not limited to:

- (1) criminal, civil, and administrative history information, including nonconviction data;
- (2) personal history and experience information including independent credit reports obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and
- (3) any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation regardless of the location, possession, control, or custody of the documents, information, or evidence.

Subd. 3. **Investigation, examination, and subpoena authority.** For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine a licensee, individual, or person subject to this chapter, as often as necessary in order to carry out the purposes of this chapter. The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents the commissioner considers relevant to the inquiry.

Subd. 4. **Availability of books and records.** A licensee, individual, or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual, or person subject to this chapter. The commissioner shall have access to the books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this chapter concerning the licensee's, individual's, or person's business.

Subd. 5. **Reports and other information as directed.** A licensee, individual, or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including but not limited to:

- (1) accounting compilations;
- (2) information lists and data concerning loan transactions in a format prescribed by the commissioner; or
- (3) other information the commissioner considers necessary to carry out the purposes of this section.

Subd. 6. **Control access to records.** In making an examination or investigation authorized by this chapter, the commissioner may control access to documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records has access to the documents or records as necessary to conduct its ordinary business affairs.

Subd. 7. **Additional authority.** In order to carry out the purposes of this section, the commissioner may:

(1) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(2) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(3) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;

(4) accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(5) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

Subd. 8. **Effect of authority.** The authority of this section remains in effect, whether a licensee, individual, or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

Subd. 9. **Withhold records.** A licensee, individual, or person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Sec. 37. **[58A.16] PROHIBITED ACTS AND PRACTICES.**

Subdivision 1. **Generally.** It is a violation of this chapter for a person or individual subject to this chapter to:

(1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) engage in any unfair or deceptive practice toward any person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;

(7) fail to make disclosures as required by this chapter and any other applicable state or federal law or regulations;

(8) fail to comply with this chapter or rules adopted under this chapter or fail to comply with any other state or federal law or regulations applicable to any business authorized or conducted under this chapter;

(9) make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan; or engage in bait-and-switch advertising;

(10) negligently make a false statement or knowingly and willfully make an omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with an investigation conducted by the commissioner or another governmental agency;

(11) make a payment, threat, or promise, directly or indirectly, to a person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make a payment threat or promise, directly or indirectly, to an appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(13) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Subd. 2. **Loan processor or underwriter activities.** An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

Sec. 38. [58A.17] MORTGAGE CALL REPORTS.

A mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which must be in the form and contain the information the Nationwide Mortgage Licensing System and Registry requires.

Sec. 39. [58A.18] REPORT TO NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

The commissioner shall regularly report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in section 58A.14.

Sec. 40. [58A.20] UNIQUE IDENTIFIER SHOWN.

The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or Web sites, and any other documents as established by rule or order of the commissioner.

Sec. 41. Minnesota Statutes 2008, section 80A.46, is amended to read:

80A.46 SECTION 202; EXEMPT TRANSACTIONS.

The following transactions are exempt from the requirements of sections 80A.49 through 80A.54, except 80A.50, paragraph (a), clause (3), and 80A.71:

(1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers in Minnesota during any period of 12 consecutive months, whether effected by or through a broker-dealer or not;

(2) a nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, if, at the date of the transaction:

(A) the issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) the security is sold at a price reasonably related to its current market price;

(C) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(D) a nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this chapter or a record filed with the Securities and Exchange Commission that is publicly available contains:

(i) a description of the business and operations of the issuer;

(ii) the names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) an audited balance sheet of the issuer as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) an audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(E) any one of the following requirements is met:

(i) the issuer of the security has a class of equity securities listed on a national securities exchange

registered under Section 6 of the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System;

(ii) the issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(iii) the issuer of the security, including its predecessors, has been engaged in continuous business for at least three years; or

(iv) the issuer of the security has total assets of at least \$2,000,000 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Sections 78m or 78o(d));

(5) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(A) is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories; or

(B) has a fixed maturity or a fixed interest or dividend, if:

(i) a default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) the issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous 12 months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) a nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) a nonissuer transaction by a federal covered investment adviser with investments under management in excess of \$100,000,000 acting in the exercise of discretionary authority in a signed record for the account of others;

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in

exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator after a hearing;

(10) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) a transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) the note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) a general solicitation or general advertisement of the transaction is not made; and

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent;

(12) a transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(13) a sale or offer to sell to:

(A) an institutional investor;

(B) an accredited investor;

(C) a federal covered investment adviser; or

(D) any other person exempted by rule adopted or order issued under this chapter;

(14) a sale or an offer to sell securities by an issuer, if the transaction is part of a single issue in which:

(A) not more than 35 purchasers are present in this state during any 12 consecutive months, other than those designated in paragraph (13);

(B) a general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(D) the issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (13), are purchasing for investment.

Any issuer selling to purchasers in this state in reliance on this clause (14) exemption must provide to the administrator notice of the transaction by filing a statement of issuer form as adopted by rule. Notice must be filed at least ten days in advance of any sale or such shorter period as permitted by the administrator. However, an issuer who makes sales to ten or fewer purchasers in Minnesota during any period of 12 consecutive months is not required to provide this notice;

(15) a transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state. The person making the offer and effecting the transaction must provide to the administrator notice of the transaction by filing a written description of the transaction. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(16) an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) a registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) a stop order of which the offeror is aware has not been issued against the offeror by the administrator or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) a registration statement has been filed under this chapter, but is not effective;

(B) a solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) a transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties. The person distributing the issuer's securities must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(19) a rescission offer, sale, or purchase under section 80A.77;

(20) an offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(A) directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were offered; and

(D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than 50 percent of their annual income from those organizations.

A person establishing an employee benefit plan under the exemption in this clause (21) must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(22) a transaction involving:

(A) a stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) the solicitation of tenders of securities by an offeror in a tender offer in compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

(23) a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 14, the administrator, by rule adopted or order issued under this chapter, may revoke the designation of a securities exchange under this paragraph, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors;

(24) any transaction effected by or through a Canadian broker-dealer exempted from broker-dealer registration pursuant to section 80A.56(b)(3); or

(25)(A) the offer and sale by a cooperative organized under chapter 308A, or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when the securities are issued as patronage dividends. This paragraph applies to a cooperative organized under chapter 308A, or under the laws of another state, only if the cooperative has filed with the administrator a consent to service of process under section 80A.88 and has, not less than ten days before the issuance or delivery, furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise;

(B) the offer and sale by a cooperative organized under chapter 308B of its securities when the securities are offered and sold to its existing members or when the purchase of the securities is necessary or incidental to establishing patron membership in the cooperative, or when such securities are issued as patronage dividends. The administrator has the power to define "patron membership" for purposes of this paragraph. This paragraph applies to securities, other than securities issued as patronage dividends, only when:

(i) the issuer, before the completion of the sale of the securities, provides each offeree or purchaser disclosure materials that, to the extent material to an understanding of the issuer, its business, and the securities being offered, substantially meet the disclosure conditions and limitations found in rule 502(b) of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502; and

(ii) within 15 days after the completion of the first sale in each offering completed in reliance upon this exemption, the cooperative has filed with the administrator a consent to service of process under section 80A.88 (or has previously filed such a consent), and has furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise; and

(C) a cooperative may, at or about the same time as offers or sales are being completed in reliance upon the exemptions from registration found in this subpart and as part of a common plan of financing, offer or sell its securities in reliance upon any other exemption from registration available under this chapter. The offer or sale of securities in reliance upon the exemptions found in this subpart will not be considered or deemed a part of or be integrated with any offer or sale of securities conducted by the cooperative in reliance upon any other exemption from registration available under this chapter, nor will offers or sales of securities by the cooperative in reliance upon any other exemption from registration available under this chapter be considered or deemed a part of or be integrated with any offer or sale conducted by the cooperative in reliance upon this paragraph.

Sec. 42. **ASSESSMENT.**

(a) The commissioner of commerce may levy a pro rata assessment on institutions licensed under Minnesota Statutes, chapter 58, to recover the costs to the Department of Commerce for administering the licensing and registration requirements of Minnesota Statutes, section 58A.10.

(b) The commissioner shall levy the assessments and notify each institution of the amount of the assessment being levied by September 30, 2010. The institution shall pay the assessment to the department no later than November 30, 2010. If an institution fails to pay its assessment by this date, its license may be suspended by the commissioner until it is paid in full.

(c) This section expires December 1, 2010.

Sec. 43. **REPEALER.**

Minnesota Statutes 2009 Supplement, section 58.126, is repealed.

Sec. 44. **EFFECTIVE DATE.**

Sections 21 to 40, 42 and 43 are effective July 31, 2010.

ARTICLE 7

TRANSPORTATION

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	(1,733,000)	\$	(2,670,000)	\$	(4,403,000)
<u>State Airports</u>		(140,000)		(212,000)		(352,000)
<u>Trunk Highway</u>		-0-		109,000,000		109,000,000
<u>Total</u>	\$	(1,873,000)	\$	106,118,000	\$	104,245,000

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 36, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30

2010 **2011**

Sec. 3. **DEPARTMENT OF TRANSPORTATION**

<u>Subdivision 1. Total Appropriation</u>		\$	(811,000)	\$	108,318,000
	<u>Appropriations by Fund</u>				
<u>General</u>	(671,000)		(470,000)		

<u>State Airports</u>	<u>(140,000)</u>	<u>(212,000)</u>
<u>Trunk Highway</u>	<u>-0-</u>	<u>109,000,000</u>

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

<u>Subd. 2. State Road Construction</u>	<u>-0-</u>	<u>104,000,000</u>
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\$104,000,000 in fiscal year 2011 is appropriated to the commissioner of transportation from the trunk highway fund for state road construction. This appropriation is added to appropriations under Laws 2009, chapter 36, article 1, section 3, subdivision 3, paragraph (b), clause (2). This additional appropriation is funded by additional federal highway aid of \$104,000,000 above that specified in Laws 2009, chapter 36, article 1, section 3, subdivision 3, paragraph (b), clause (2). This is a onetime appropriation.

<u>Subd. 3. Federal Emergency Relief Account</u>	<u>-0-</u>	<u>5,000,000</u>
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\$5,000,000 in fiscal year 2011 is transferred from the trunk highway fund to the trunk highway emergency relief account and is appropriated to the commissioner of transportation for the purposes of that account.

Subd. 4. Multimodal Systems

<u>(a) Aeronautics</u>	<u>(140,000)</u>	<u>(212,000)</u>
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Appropriations by Fund

<u>Airports</u>	<u>(140,000)</u>	<u>(212,000)</u>
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Aviation Support and Services. A reduction of \$140,000 in fiscal year 2010 is made to Aviation Support and Services, and must be transferred from the airports fund to the general fund before June 30, 2010.

A reduction of \$212,000 in fiscal year 2011 is made to Aviation Support and Services, and must be transferred from the airports fund to

the general fund before June 30, 2011.

<u>(b) Transit</u>	<u>(462,000)</u>	<u>(345,000)</u>
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Appropriations by Fund

<u>General</u>	<u>(462,000)</u>	<u>(345,000)</u>
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The base for nonmetro transit grants in 2012 is \$16,598,000.

<u>(c) Freight</u>	<u>(125,000)</u>	<u>(125,000)</u>
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Appropriations by Fund

<u>General</u>	<u>(125,000)</u>	<u>(125,000)</u>
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This reduction is from the hazardous materials registration program.

<u>Subd. 5. Urban Partnership Reduction</u>	<u>(84,000)</u>	<u>-0-</u>
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Appropriations by Fund

<u>General</u>	<u>(84,000)</u>	<u>-0-</u>
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This is a onetime reduction from the appropriation in Laws 2008, chapter 179, section 16, subdivision 3.

Subd. 6. Transfers

Notwithstanding any law to the contrary, by June 30, 2010, the commissioner shall transfer \$265,000 from accounts in the special revenue fund to the general fund.

After July 1, 2010, and before June 30, 2011, the commissioner shall transfer \$376,000 from accounts in the special revenue fund to the general fund.

<u>Sec. 4. DEPARTMENT OF PUBLIC SAFETY</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(82,000)</u>
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Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>(82,000)</u>
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This appropriation reduction is to the information technology budget in the technical support services budget activity

of the administration and related services program. This reduction is permanent.

Sec. 5. METROPOLITAN COUNCIL \$ (1,062,000) \$ (2,118,000)

Appropriations by Fund

General (1,062,000) (2,118,000)

These reductions are to the bus transit appropriations in Laws 2009, chapter 36, article 1, section 4, subdivision 2. To the extent possible, the council shall reduce administrative costs to achieve the reductions. This reduction is permanent.

Sec. 6. Minnesota Statutes 2008, section 161.04, is amended by adding a subdivision to read:

Subd. 5. **Trunk highway emergency relief account.** (a) The trunk highway emergency relief account is created in the trunk highway fund. Money in the account is appropriated to the commissioner to be used to fund relief activities related to an emergency, as defined in section 161.32, subdivision 3.

(b) Reimbursements by the Federal Highway Administration for emergency relief payments made from the trunk highway emergency relief account must be deposited into the account. Interest accrued on the account must be deposited into the account. Notwithstanding section 16A.28, money appropriated to the account for this program from any source is available until spent. If the balance of the account at the end of the fiscal year is greater than \$10,000,000, the amount above \$10,000,000 must be transferred to the trunk highway fund.

(c) By September 1, 2012, and in every subsequent even-numbered year by September 1, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance. The report must include the balance, as well as details of payments made from and deposits made to the trunk highway emergency relief account since the last report.

Sec. 7. REPEALER.

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.

ARTICLE 8

PUBLIC SAFETY

Section 1. SUMMARY OF APPROPRIATIONS.

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(2,531,000)</u>	\$	<u>(3,241,000)</u>	\$	<u>(5,772,000)</u>

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 83, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

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

Sec. 3. **DEPARTMENT OF PUBLIC SAFETY**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>1,800,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Emergency Management</u>		<u>-0-</u>		<u>1,600,000</u>
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This appropriation is to provide a match for Federal Emergency Management Agency (FEMA) disaster assistance payments under Minnesota Statutes, section 12.221. This is a onetime appropriation.

<u>Subd. 3. Criminal Apprehension</u>		<u>-0-</u>		<u>200,000</u>
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\$200,000 is a onetime appropriation to the Bureau of Criminal Apprehension for enhancements to the predatory offender registry architecture, and for technical upgrades including the conversion of documents to a digital format.

Subd. 4. Fire Marshal

Transfers

By June 30, 2010, the commissioner shall

transfer \$6,900,000 from the fire safety account in the special revenue fund to the general fund.

By June 30, 2011, the commissioner shall transfer \$3,000,000 from the fire safety account in the special revenue fund to the general fund.

Sec. 4. <u>PRIVATE DETECTIVE BOARD</u>	\$	<u>(2,000)</u>	\$	<u>(3,000)</u>
Sec. 5. <u>HUMAN RIGHTS</u>	\$	<u>(59,000)</u>	\$	<u>(103,000)</u>
Sec. 6. <u>CORRECTIONS</u>				
Subdivision 1. <u>Total Appropriation</u>	\$	<u>(2,459,000)</u>	\$	<u>(4,917,000)</u>

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

Subd. 2. <u>Correctional Institutions</u>		<u>(847,000)</u>		<u>(1,693,000)</u>
Subd. 3. <u>Community Services</u>		<u>(1,612,000)</u>		<u>(3,224,000)</u>

Transfers

Notwithstanding Minnesota Statutes, section 241.27, the commissioner shall transfer \$574,000 by June 30, 2010, and \$989,000 by June 30, 2011, from the Minnesota correctional industries revolving fund to the general fund. These transfers are onetime. These transfers are in addition to those in Laws 2009, chapter 83, article 1, section 14, subdivision 2, paragraph (g).

The commissioner shall transfer \$201,000 by June 30, 2010, and \$402,000 by June 30, 2011, from the special revenue fund to the general fund. These transfers are onetime.

Sec. 7. <u>SENTENCING GUIDELINES</u>	\$	<u>(11,000)</u>	\$	<u>(18,000)</u>
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Sec. 8. Minnesota Statutes 2008, section 169A.52, subdivision 6, is amended to read:

Subd. 6. **Notice of revocation or disqualification; review.** A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the

commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain ~~administrative and judicial~~ review by the commissioner and an administrative hearing review as provided in section 169A.53 (administrative ~~and judicial~~ review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 169A.53, is amended to read:

169A.53 COMMISSIONER REVIEW AND ADMINISTRATIVE ~~AND JUDICIAL~~ HEARING REVIEW OF LICENSE REVOCATION; APPEAL.

Subdivision 1. **Administrative Commissioner review.** (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of ~~judicial~~ an administrative review hearing under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

Subd. 2. **Petition for ~~judicial~~ administrative review hearing.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must be filed with the ~~district court administrator in the county where the alleged offense occurred,~~ Office of Administrative Hearings, together with proof of service of a copy on the commissioner, and accompanied by the ~~standard~~ standard filing fee for civil actions provided under section 357.081. Responsive pleading is not required of the commissioner, and ~~court~~ fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The ~~reviewing court~~ hearing officer may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper.

(d) ~~Judicial~~ Reviews must be conducted according to ~~the Rules of Civil Procedure, except that~~ sections 14.57 to 14.69 and Minnesota Rules, parts 1400.5010 to 1400.8401, unless otherwise provided in this section.

(e) Prehearing discovery is mandatory and is limited to:

- (1) the notice of revocation;
- (2) the test record or, in the case of blood or urine tests, the certificate of analysis;
- (3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and
- (4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the ~~court~~ administrative law judge.

Subd. 3. **Judicial Administrative review hearing; issues, order, appeal.** (a) ~~A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator Office of Administrative Hearings shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator Office of Administrative Hearings may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held and receive testimony and argument by means of interactive television.~~

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

- (1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?
- (2) Was the person lawfully placed under arrest for violation of section 169A.20?
- (3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?
- (4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?
- (5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The ~~court~~ hearing officer shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The ~~court~~ hearing officer shall file ~~its~~ the order within 14 days following the hearing. If the revocation or disqualification is sustained, the ~~court~~ hearing officer shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the ~~reviewing court~~ hearing officer may appeal the decision as provided in ~~the Rules of Appellate Procedure~~ chapter 14.

(g) The ~~civil~~ administrative review hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **Petition for ~~judicial~~ administrative review hearing; appeal.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with

any petition filed under section 169A.53 (administrative ~~and judicial~~ review of license revocation).

(b) Except as otherwise provided in this section, the ~~judicial~~ administrative review ~~and hearing~~ are is governed by section 169A.53 and must take place at the same time as any ~~judicial~~ administrative review hearing of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The ~~reviewing court~~ hearing officer may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper. The ~~court~~ hearing officer shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The ~~court~~ hearing officer shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (~~judicial~~ administrative review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

(e) Any party aggrieved by the decision of the hearing officer may appeal the decision as provided in chapter 14.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 11. [357.081] OFFICE OF ADMINISTRATIVE HEARINGS; FEE.

The Office of Administrative Hearings shall charge and collect a filing fee of \$310 from a person filing a petition for an administrative review of a driver's license revocation under section 169A.53, vehicle impoundment under section 169A.60, or combined review. Notwithstanding section 14.54, the Office of Administrative Hearings shall transmit the fees monthly to the commissioner of management and budget for deposit in the state treasury and credit to the general fund.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 12. RULEMAKING AUTHORITY.

The Office of Administrative Hearings shall adopt rules under Minnesota Statutes, chapter 14, to implement sections 8 to 11. The rules must include, at a minimum, the procedure for hearings in regional offices, and the use of teleconferencing and highly qualified hearing officers. The Office of Administrative Hearings may adopt the initial set of these rules as exempt rules under Minnesota Statutes, section 14.386. These rules are permanent and effective upon publication in the state register until further amended or repealed by the Office of Administrative Hearings.

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

Sec. 13. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall prepare a bill for introduction in the 2011 regular legislative session making any technical and conforming changes to Minnesota Statutes made necessary by sections 8 to 12.

ARTICLE 9

JUDICIARY

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (6,184,000)	\$ (11,901,000)	\$ (18,085,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 83, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

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

Sec. 3. **SUPREME COURT**

<u>Subdivision 1. Total Appropriation</u>	\$	<u>(856,000)</u>	\$	<u>(1,664,000)</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Supreme Court Operations</u>		<u>(529,000)</u>		<u>(938,000)</u>
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<u>Subd. 3. Civil Legal Services</u>		<u>(327,000)</u>		<u>(726,000)</u>
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This includes a reduction of \$22,000 in fiscal year 2010 and \$53,000 in fiscal year 2011 for legal services to low-income clients in family law matters.

Sec. 4. <u>COURT OF APPEALS</u>	\$	<u>(159,000)</u>	\$	<u>(309,000)</u>
Sec. 5. <u>TRIAL COURTS</u>	\$	<u>(4,242,000)</u>	\$	<u>(7,503,000)</u>
Sec. 6. <u>TAX COURT</u>	\$	<u>(12,000)</u>	\$	<u>(25,000)</u>
Sec. 7. <u>UNIFORM LAWS COMMISSION</u>	\$	<u>-0-</u>	\$	<u>(2,000)</u>
Sec. 8. <u>BOARD ON JUDICIAL STANDARDS</u>	\$	<u>(10,000)</u>	\$	<u>(14,000)</u>

This includes a reduction of \$5,000 in fiscal year 2010 and \$4,000 in fiscal year 2011 from funding for special investigative and hearing costs.

Sec. 9. <u>BOARD OF PUBLIC DEFENSE</u>	\$	<u>(905,000)</u>	\$	<u>(2,384,000)</u>
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ARTICLE 10

STATE GOVERNMENT

Section 1. SUMMARY OF APPROPRIATIONS.

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(3,845,000)</u>	\$	<u>244,000</u>	\$	<u>(3,601,000)</u>
<u>Health Care Access</u>	\$	<u>(16,000)</u>	\$	<u>(22,000)</u>	\$	<u>(38,000)</u>
<u>Special Revenue</u>	\$	<u>(70,000)</u>	\$	<u>(117,000)</u>	\$	<u>(187,000)</u>
<u>Lottery Prize Fund</u>	\$	<u>-0-</u>	\$	<u>(50,000)</u>	\$	<u>(50,000)</u>
<u>Total</u>	\$	<u>(3,931,000)</u>	\$	<u>55,000</u>	\$	<u>(3,876,000)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 101, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

		<u>APPROPRIATIONS</u>	
		<u>Available for the Year</u>	
		<u>Ending June 30</u>	
		<u>2010</u>	<u>2011</u>
Sec. 3. <u>LEGISLATURE</u>	\$	<u>(1,126,000)</u>	<u>\$ (2,940,000)</u>
<u>Appropriations by Fund</u>			
	<u>2010</u>	<u>2011</u>	
<u>General</u>	<u>(1,121,000)</u>	<u>(2,935,000)</u>	
<u>Health Care Access</u>	<u>(5,000)</u>	<u>(5,000)</u>	
<p>In fiscal year 2011, \$536,000 is canceled to the general fund from the accounts established under Minnesota Statutes, section 16A.281.</p>			
Sec. 4. <u>GOVERNOR AND LIEUTENANT GOVERNOR</u>	\$	<u>(64,000)</u>	<u>\$ (146,000)</u>
<p>\$10,000 in fiscal year 2010 and \$32,000 in fiscal year 2011 are transferred from the interagency agreements account in the special revenue fund to the general fund. These are onetime transfers.</p>			
Sec. 5. <u>STATE AUDITOR</u>	\$	<u>(32,000)</u>	<u>\$ (78,000)</u>
Sec. 6. <u>ATTORNEY GENERAL</u>	\$	<u>(436,000)</u>	<u>\$ (954,000)</u>
Sec. 7. <u>SECRETARY OF STATE</u>	\$	<u>(104,000)</u>	<u>\$ (250,000)</u>
Sec. 8. <u>CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD</u>	\$	<u>(28,000)</u>	<u>\$ (8,000)</u>
<p>The base budget for the Campaign Finance and Public Disclosure Board is \$726,000 in fiscal year 2012 and \$726,000 in fiscal year 2013.</p>			
Sec. 9. <u>INVESTMENT BOARD</u>	\$	<u>(2,000)</u>	<u>\$ (5,000)</u>
Sec. 10. <u>OFFICE OF ENTERPRISE TECHNOLOGY</u>	\$	<u>(111,000)</u>	<u>\$ (169,000)</u>

These reductions are from the enterprise planning and management program.

Sec. 11. <u>ADMINISTRATIVE HEARINGS</u>	<u>\$</u>	<u>(8,000)</u> \$	<u>487,000</u>
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\$495,000 in fiscal year 2011 is for the cost of administrative reviews filed under Minnesota Statutes, sections 169A.53, subdivision 3, and 169A.60, subdivision 10. The general fund base for the Office of Administrative Hearings is \$1,037,000 in fiscal year 2012 and \$907,000 in fiscal year 2013.

Sec. 12. <u>ADMINISTRATION</u>	<u>\$</u>	<u>-0-</u> \$	<u>(419,000)</u>
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(a) These reductions are from the government and citizens services program. \$8,000 of the reductions in fiscal year 2011 is from the transfer to the commissioner of human services for a grant to the Council of Developmental Disabilities. The appropriation for this grant shall be included in the base budget for the commissioner of human services for the biennium beginning July 1, 2011, and is reduced by \$8,000 each year of the biennium. The general fund base budget for the government and citizens services program is \$8,936,000 in fiscal year 2012 and \$8,936,000 in fiscal year 2013.

(b) \$209,000 in fiscal year 2010 and \$31,000 in fiscal year 2011 are transferred from the central stores fund to the general fund. These are onetime transfers.

(c) The balance in the commuter van program account in the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(d) The balance in the archaeology burial account of the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(e) \$1,492 in fiscal year 2010 is transferred from the utility rebates account in the special revenue fund to the general fund. This is a onetime transfer.

Sec. 13. CAPITOL AREA ARCHITECTURAL
AND PLANNING BOARD

\$ (6,000) \$ (11,000)

Sec. 14. MANAGEMENT AND BUDGET

\$ (386,000) \$ (599,000)

(a) \$300 in fiscal year 2010 and \$300 in fiscal year 2011 are transferred from the combined charities administration account in the special revenue fund to the general fund. These are onetime transfers.

(b) \$8,700 in fiscal year 2010 and \$10,700 in fiscal year 2011 are transferred from the information systems division account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 15. REVENUE

Subdivision 1. Total Appropriation

\$ (779,000) \$ 5,362,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(768,000)	5,379,000
<u>Health Care Access</u>	(11,000)	(17,000)

Subd. 2. Tax System Management

(779,000) 3,492,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(768,000)	3,509,000
<u>Health Care Access</u>	(11,000)	(17,000)

(a) \$4,857,000 is for additional activities to identify and collect tax liabilities from individuals and business that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of \$13,065,000 for fiscal year 2011.

(b) The department must report to the chairs of the house of representative Ways and Means and senate Finance Committees by March 15, 2011, and January 15, 2012, 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 amount of valid tax liabilities collected.

(c) The reports must also identify base-level expenditures and staff positions related to compliance and audit activities, including baseline information as of January 1, 2009. The information must be provided at the budget activity level.

Subd. 3. Debt Collection Management

-0-

1,870,000

\$1,870,000 is 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 \$13,800,000 for fiscal year 2011.

Sec. 16. GAMBLING CONTROL

\$

(51,000) \$

(88,000)

\$51,000 in fiscal year 2010 and \$88,000 in fiscal year 2011 are transferred from the lawful gambling account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 17. RACING COMMISSION

\$

(19,000) \$

(29,000)

\$19,000 in fiscal year 2010 and \$29,000 in fiscal year 2011 are transferred from the racing and card playing regulation accounts in the special revenue fund to the general fund. These are onetime transfers.

Sec. 18. AMATEUR SPORTS

\$

(4,000) \$

(8,000)

Sec. 19. COUNCIL ON BLACK MINNESOTANS

\$

(5,000) \$

(9,000)

Sec. 20. <u>COUNCIL ON CHICANO-LATINO AFFAIRS</u>	\$	<u>(6,000)</u>	\$	<u>(9,000)</u>
Sec. 21. <u>COUNCIL ON ASIAN-PACIFIC MINNESOTANS</u>	\$	<u>(5,000)</u>	\$	<u>(8,000)</u>
Sec. 22. <u>INDIAN AFFAIRS COUNCIL</u>	\$	<u>(9,000)</u>	\$	<u>(14,000)</u>
Sec. 23. <u>GENERAL CONTINGENT ACCOUNTS</u>	\$	<u>(750,000)</u>	\$	<u>-0-</u>

This reduction is from the appropriation for potential state matching requirements under the American Reinvestment and Recovery Act of 2009.

Sec. 24. ADDITIONAL OPERATING BUDGET REDUCTIONS.

By July 30, 2010, the commissioner of management and budget shall allocate a reduction of \$9,000,000 per year to the operating budgets of executive branch state agencies, as defined in Minnesota Statutes, section 16A.011, subdivision 12a. To the extent possible, this reduction must be achieved through estimated savings in expenditures for technology, space, or services. If expenditure reductions are achieved in dedicated funds other than those established in the state constitution or protected by federal law, the commissioner of management and budget may transfer the amount of the savings to the general fund. Executive branch state agencies shall cooperate with the commissioner of management and budget in developing and implementing these reductions. Any amount of the reduction that cannot be achieved through savings in the expenditure types described in this section must be allocated to executive state agency operating budgets by the commissioner. Reductions in fiscal year 2011 shall cancel to the general fund and future reductions shall be reflected as reductions in agency base budgets for fiscal years 2012 and 2013. The commissioner of management and budget shall report to the chairs and ranking minority members of the senate Finance Committee and the house of representatives Ways and Means and Finance Committees regarding the amount of reductions in spending by each agency under this section.

Sec. 25. Minnesota Statutes 2009 Supplement, section 16A.82, is amended to read:

16A.82 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~\$3,548,000 in fiscal year 2010; \$3,546,000 in fiscal year 2011; and \$10,054,000 in each fiscal year 2012 through 2019~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81 for replacement of the state's accounting and procurement systems, provided that the state is not obligated to continue such appropriation of funds or to make lease payments in any future fiscal year.

<u>Fiscal year 2010</u>	<u>\$ 2,828,038</u>
<u>Fiscal year 2011</u>	<u>\$ 3,063,950</u>
<u>Fiscal year 2012</u>	<u>\$ 8,967,850</u>

<u>Fiscal year 2013</u>	<u>\$ 8,968,950</u>
<u>Fiscal year 2014</u>	<u>\$ 8,970,850</u>
<u>Fiscal year 2015</u>	<u>\$ 8,971,150</u>
<u>Fiscal year 2016</u>	<u>\$ 8,966,450</u>
<u>Fiscal year 2017</u>	<u>\$ 8,967,500</u>
<u>Fiscal year 2018</u>	<u>\$ 8,970,750</u>
<u>Fiscal year 2019</u>	<u>\$ 8,968,500</u>

Of these appropriations, up to \$2,000 per year may be used to pay the annual trustee fees for the lease-purchase agreements authorized in this section and section 270C.145. Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, ~~2020~~ 2019.

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

Sec. 26. Minnesota Statutes 2008, section 16B.04, subdivision 2, is amended to read:

Subd. 2. **Powers and duties, generally.** Subject to other provisions of this chapter, the commissioner is authorized to:

- (1) supervise, control, review, and approve all state contracts and purchasing;
- (2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;
- (3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;
- (4) manage and control state property, real and personal;
- (5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;
- (6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;
- (7) provide central duplicating, printing, and mail facilities;
- (8) oversee publication of official documents and provide for their sale;
- (9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;
- (10) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter; ~~and~~
- (11) settle state employee workers' compensation claims; and
- (12) operate a state recycling center.

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

Sec. 27. Minnesota Statutes 2008, section 16B.48, subdivision 2, is amended to read:

Subd. 2. **Purpose of funds.** Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

- (1) to operate a central store and equipment service;
- (2) to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;
- (3) to operate a documents service as prescribed by section 16B.51;
- (4) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;
- (5) to operate a materials handling service, including interagency mail and product delivery, solid waste removal, courier service, equipment rental, and vehicle and equipment maintenance;
- (6) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;
- (7) to operate a records center and provide micrographics products and services; ~~and~~
- (8) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government; and

- (9) to operate a state recycling center.

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

Sec. 28. Minnesota Statutes 2008, section 115A.15, subdivision 6, is amended to read:

Subd. 6. **Use of funds.** ~~All funds appropriated by the state for the resource recovery program, all revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program, and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the general fund. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities. will be used by the service provider to offset the cost of the recycling.~~

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

Sec. 29. Minnesota Statutes 2009 Supplement, section 270C.145, is amended to read:

270C.145 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~\$855,000 in fiscal year 2010; \$853,000 in fiscal year 2011; and \$2,519,000 in each fiscal~~

~~year 2012 through 2019 is~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81 for completing the purchase and development of an integrated tax software package; provided that the state is not obligated to continue the appropriation of funds or to make lease payments in any future fiscal year.

<u>Fiscal year 2010</u>	<u>\$ 670,213</u>
<u>Fiscal year 2011</u>	<u>\$ 748,550</u>
<u>Fiscal year 2012</u>	<u>\$ 2,250,150</u>
<u>Fiscal year 2013</u>	<u>\$ 2,251,550</u>
<u>Fiscal year 2014</u>	<u>\$ 2,250,350</u>
<u>Fiscal year 2015</u>	<u>\$ 2,251,550</u>
<u>Fiscal year 2016</u>	<u>\$ 2,249,950</u>
<u>Fiscal year 2017</u>	<u>\$ 2,251,250</u>
<u>Fiscal year 2018</u>	<u>\$ 2,249,000</u>
<u>Fiscal year 2019</u>	<u>\$ 2,247,000</u>

Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, 2019.

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

Sec. 30. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 16, is amended to read:

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (f), who ~~prepared~~ is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ~~400~~ ten Minnesota individual income tax returns for the prior calendar year must file all Minnesota individual income tax returns prepared for ~~the current~~ that calendar year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of \$5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

EFFECTIVE DATE. This section is effective for tax returns filed after December 31, 2010.

Sec. 31. Laws 2009, chapter 101, article 1, section 31, is amended to read:

Sec. 31. **PROBLEM GAMBLING APPROPRIATION.**

\$225,000 in fiscal year 2010 and ~~\$225,000~~ \$175,000 in fiscal year 2011 are appropriated from

the lottery prize fund to the Gambling Control Board for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research relating to problem gambling. These services must be complimentary to and not duplicative of the services provided through the problem gambling program administered by the commissioner of human services. Of this appropriation, \$50,000 in fiscal year 2010 ~~and \$50,000 in fiscal year 2011~~ are is contingent on the contribution of nonstate matching funds. Matching funds may be either cash or qualifying in-kind contributions. The commissioner of finance may disburse the state portion of the matching funds in increments of \$25,000 upon receipt of a commitment for an equal amount of matching nonstate funds. These are onetime appropriations.

ARTICLE 11

PROPERTY TAXES, AIDS, AND PAYMENTS

Section 1. Minnesota Statutes 2008, section 97A.061, is amended by adding a subdivision to read:

Subd. 6. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivisions 1 to 5, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 2. Minnesota Statutes 2008, section 272.02, subdivision 42, is amended to read:

Subd. 42. **Property leased to ~~school districts~~ schools.** (a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

- (1) the lease must be for a period of at least 12 consecutive months;
- (2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;
- (3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and
- (4) the lease must provide that the school district has the exclusive use of the property during the lease period.

(b) Property that is leased or rented to a charter school formed and operated under section 124D.10 is exempt from taxation if it meets all of the following requirements:

- (1) the lease is for a period of at least 12 consecutive months;
- (2) the charter school must use the property to provide direct instruction in any grade from kindergarten through grade 12, to provide special education for disabled children, or to provide administrative services directly related to the educational program at that site; and

(3) except for lease provisions that allow for the shared use of the property by the charter school and another public or private school, by the charter school and a church, or by the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 3. Minnesota Statutes 2008, section 273.1384, is amended by adding a subdivision to read:

Subd. 6. **Credit reduction.** In 2011 and thereafter, the annual market value credit reimbursement amount for each taxing jurisdiction determined under subdivisions 1 to 5 is reduced by the dollar amount of the reduction in market value credit reimbursements for that taxing jurisdiction in 2010 due to allotment reductions under section 16A.152 and the reductions under section 477A.0133. No taxing jurisdiction's market value credit reimbursements are reduced to less than zero under this subdivision. The commissioner of revenue shall pay the annual market value credit reimbursement amounts, after reduction under this subdivision, to the affected taxing jurisdictions as provided in this section.

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 275.70, subdivision 5, is amended to read:

Subd. 5. **Special levies.** "Special levies" means those portions of ad valorem taxes levied by a local governmental unit for the following purposes or in the following manner:

(1) to pay the costs of the principal and interest on bonded indebtedness or to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the year preceding the year for which the levy limit is calculated;

(2) to pay the costs of principal and interest on certificates of indebtedness issued for any corporate purpose except for the following:

(i) tax anticipation or aid anticipation certificates of indebtedness;

(ii) certificates of indebtedness issued under sections 298.28 and 298.282;

(iii) certificates of indebtedness used to fund current expenses or to pay the costs of extraordinary expenditures that result from a public emergency; or

(iv) certificates of indebtedness used to fund an insufficiency in tax receipts or an insufficiency in other revenue sources;

(3) to provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(4) to fund payments made to the Minnesota State Armory Building Commission under section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(5) property taxes approved by voters which are levied against the referendum market value as provided under section 275.61;

(6) to fund matching requirements needed to qualify for federal or state grants or programs to the extent that either (i) the matching requirement exceeds the matching requirement in calendar

year 2001, or (ii) it is a new matching requirement that did not exist prior to 2002;

(7) to pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes, in accordance with standards formulated by the Emergency Services Division of the state Department of Public Safety, as allowed by the commissioner of revenue under section 275.74, subdivision 2;

(8) pay amounts required to correct an error in the levy certified to the county auditor by a city or county in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.70 to 275.74 in the preceding levy year;

(9) to pay an abatement under section 469.1815;

(10) to pay any costs attributable to increases in the employer contribution rates under chapter 353, or locally administered pension plans, that are effective after June 30, 2001;

(11) to pay the operating or maintenance costs of a county jail as authorized in section 641.01 or 641.262, or of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), to the extent that the county can demonstrate to the commissioner of revenue that the amount has been included in the county budget as a direct result of a rule, minimum requirement, minimum standard, or directive of the Department of Corrections, or to pay the operating or maintenance costs of a regional jail as authorized in section 641.262. For purposes of this clause, a district court order is not a rule, minimum requirement, minimum standard, or directive of the Department of Corrections. If the county utilizes this special levy, except to pay operating or maintenance costs of a new regional jail facility under sections 641.262 to 641.264 which will not replace an existing jail facility, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71, shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(12) to pay for operation of a lake improvement district, as authorized under section 103B.555. If the county utilizes this special levy, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71 shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(13) to repay a state or federal loan used to fund the direct or indirect required spending by the local government due to a state or federal transportation project or other state or federal capital project. This authority may only be used if the project is not a local government initiative;

(14) to pay for court administration costs as required under section 273.1398, subdivision 4b, less the (i) county's share of transferred fines and fees collected by the district courts in the county for calendar year 2001 and (ii) the aid amount certified to be paid to the county in 2004 under section 273.1398, subdivision 4c; however, for taxes levied to pay for these costs in the year in which the court financing is transferred to the state, the amount under this clause is limited to the amount of aid the county is certified to receive under section 273.1398, subdivision 4a;

(15) to fund a police or firefighters relief association as required under section 69.77 to the extent that the required amount exceeds the amount levied for this purpose in 2001;

(16) for purposes of a storm sewer improvement district under section 444.20;

(17) to pay for the maintenance and support of a city or county society for the prevention of cruelty to animals under section 343.11, but not to exceed in any year \$4,800 or the sum of \$1 per capita based on the county's or city's population as of the most recent federal census, whichever is greater. If the city or county uses this special levy, any amount levied by the city or county in the previous levy year for the purposes specified in this clause and included in the city's or county's previous year's levy limit computed under section 275.71, must be deducted from the levy limit base under section 275.71, subdivision 2, in determining the city's or county's current year levy limit;

(18) for counties, to pay for the increase in their share of health and human service costs caused by reductions in federal health and human services grants effective after September 30, 2007;

(19) for a city, for the costs reasonably and necessarily incurred for securing, maintaining, or demolishing foreclosed or abandoned residential properties, as allowed by the commissioner of revenue under section 275.74, subdivision 2. A city must have either (i) a foreclosure rate of at least 1.4 percent in 2007, or (ii) a foreclosure rate in 2007 in the city or in a zip code area of the city that is at least 50 percent higher than the average foreclosure rate in the metropolitan area, as defined in section 473.121, subdivision 2, to use this special levy. For purposes of this paragraph, "foreclosure rate" means the number of foreclosures, as indicated by sheriff sales records, divided by the number of households in the city in 2007;

(20) for a city, for the unreimbursed costs of redeployed traffic-control agents and lost traffic citation revenue due to the collapse of the Interstate 35W bridge, as certified to the Federal Highway Administration;

(21) to pay costs attributable to wages and benefits for sheriff, police, and fire personnel. If a local governmental unit did not use this special levy in the previous year its levy limit base under section 275.71 shall be reduced by the amount equal to the amount it levied for the purposes specified in this clause in the previous year;

(22) an amount equal to 50 percent of any reductions in the certified aids or credits payable under sections 477A.011 to 477A.014, and section 273.1384, due to unallotment under section 16A.152 or 477A.0133. In the case of an unallotment, the amount of the levy allowed under this clause is equal to the amount unallotted or reduced in the calendar year in which the tax is levied unless the unallotment amount is not known by September 1 of the levy year, and the local government has not adjusted its levy under section 275.065, subdivision 6, or 275.07, subdivision 6, in which case the unallotment amount may be levied in the following year;

(23) to pay for the difference between one-half of the costs of confining sex offenders undergoing the civil commitment process and any state payments for this purpose pursuant to section 253B.185, subdivision 5;

(24) for a county to pay the costs of the first year of maintaining and operating a new facility or new expansion, either of which contains courts, corrections, dispatch, criminal investigation labs, or other public safety facilities and for which all or a portion of the funding for the site acquisition, building design, site preparation, construction, and related equipment was issued or authorized prior

to the imposition of levy limits in 2008. The levy limit base shall then be increased by an amount equal to the new facility's first full year's operating costs as described in this clause; and

(25) for 50 percent of the estimated amount of reduction to credits under section 273.1384 for credits payable in the year in which the levy is payable.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 5. Minnesota Statutes 2008, section 275.71, subdivision 5, is amended to read:

Subd. 5. **Property tax levy limit.** ~~For taxes levied in 2008 through 2010,~~ (a) The property tax levy limit for a local governmental unit is equal to its adjusted levy limit base determined under subdivision 4 plus any additional levy authorized under section 275.73, which is levied against net tax capacity, reduced by the sum of (i) the total amount of aids and reimbursements that the local governmental unit is certified to receive under sections 477A.011 to 477A.014, (ii) taconite aids under sections 298.28 and 298.282 including any aid which was required to be placed in a special fund for expenditure in the next succeeding year, (iii) estimated payments to the local governmental unit under section 272.029, adjusted for any error in estimation in the preceding year, and (iv) aids under section 477A.16.

(b) If an aid, payment, or other amount used in paragraph (a) to reduce a local government unit's levy limit is reduced by allotment reduction under section 16A.152, the amount of the aid, payment, or other amount prior to unallotment is used in the computations in paragraph (a). In order for a local government unit to levy outside of its limit to offset a reduction attributable to unallotment, it must do so under, and to the extent authorized by, a special levy authority. If any amount in paragraph (a), items (i) to (iv), has decreased from the corresponding amount for the prior year other than because of an allotment reduction under section 16A.152, an amount equal to one-half of that decrease must be subtracted from the result obtained under paragraph (a).

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290C.07, is amended to read:

290C.07 CALCULATION OF INCENTIVE PAYMENT.

An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. The payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the land using the previous year's statewide average total township tax rate and a class rate of one percent, if the land were valued at (i) the average statewide managed forest land market value per acre calculated under section 290C.06, and (ii) the average statewide managed forest land current use value per acre calculated under section 290C.02, subdivision 5; or

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and a class rate of one percent, provided that the payment shall be no less than \$7 per acre for each acre enrolled in the sustainable forest incentive program and the maximum payment per each Social Security Number or state or federal business tax identification number shall not exceed \$100,000.

EFFECTIVE DATE. This section is effective for payments made after June 30, 2011, based

on certifications due in 2011 and thereafter.

Sec. 7. Minnesota Statutes 2008, section 477A.013, subdivision 9, is amended to read:

Subd. 9. **City aid distribution.** (a) ~~In calendar year 2009 and thereafter,~~ Each city shall receive an aid distribution equal to the sum of (1) the city formula aid under subdivision 8, and (2) its city aid base.

(b) For aids payable in ~~2009~~ 2011 only, the total aid for any city shall not exceed the sum of (1) 35 percent of the city's net levy for the year prior to the aid distribution, plus (2) its total aid in the previous year. For aid payable in 2011 only, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of \$125 multiplied by its population, or 50 percent of its net levy in the year prior to the aid distribution. The total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of \$125 multiplied by its population, or 40 percent of its 2003 certified aid amount.

(c) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for any city shall not exceed the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution plus (2) its total aid in the previous year. For aids payable in ~~2009~~ 2012 and thereafter, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of \$10 multiplied by its population, or ten percent of its net levy in the year prior to the aid distribution.

(d) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of \$10 multiplied by its population, or five percent of its 2003 certified aid amount. ~~For aids payable in 2009 only, the total aid for a city with a population less than 2,500 must not be less than what it received under this section in the previous year unless its total aid in calendar year 2008 was aid under section 477A.011, subdivision 36, paragraph (s), in which case its minimum aid is zero.~~

(e) For aid payable in 2012 and thereafter, a city's aid loss under this section may not exceed \$300,000 in any year in which the total city aid appropriation under section 477A.03, subdivision 2a, is equal or greater than the appropriation under that subdivision in the previous year, unless the city has an adjustment in its city net tax capacity under the process described in section 469.174, subdivision 28.

(f) If a city's net tax capacity used in calculating aid under this section has decreased in any year by more than 25 percent from its net tax capacity in the previous year due to property becoming tax-exempt Indian land, the city's maximum allowed aid increase under paragraph (c) shall be increased by an amount equal to (1) the city's tax rate in the year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease resulting from the property becoming tax exempt.

EFFECTIVE DATE. This section is effective for aid payable in 2011 and thereafter.

Sec. 8. **[477A.0133] ADDITIONAL 2010 AID AND REDUCTIONS.**

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

(b) The "2010 revenue base" for a county is the sum of the county's certified property tax levy

for taxes payable in 2010, plus the amount of county program aid under section 477A.0124 that the county was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the county was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2010 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2010, plus the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the city was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

Subd. 2. **2010 reductions; counties, cities, and towns.** After implementing any reduction of county program aid under section 477A.0124, local government aid under section 477A.013, or market value credit reimbursements under section 273.1384, for amounts payable in 2010 to reflect the reduction of allotments under section 16A.152, the commissioner of revenue must compute the additional aid reduction amounts for each county and city provided under this section.

The additional reduction amounts under this section are limited to the sum of the amount of county program aid under section 477A.0124, local government aid under section 477A.013, and market value credit reimbursements under section 273.1384 payable to the county or city in 2010 before the reductions in this section, but after the reductions for unallotments.

The reduction amount under this section is applied first to reduce the amount payable as either county program aid under section 477A.0124, in the case of a county, or local government aid under section 477A.013, in the case of a city, and then, if necessary, to reduce the amount payable to the county or city in 2010 as market value credit reimbursements under section 273.1384.

No aid or reimbursement amount is reduced to less than zero under this section.

The additional 2010 aid reduction amount for a county is equal to 4.354 percent of the county's 2010 revenue base. The additional 2010 aid reduction amount for a city is equal to 8.158 percent of the city's 2010 revenue base.

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

Sec. 9. Minnesota Statutes 2008, section 477A.03, subdivision 2a, is amended to read:

Subd. 2a. **Cities.** For aids payable in ~~2009~~ 2011 and thereafter, the total aid paid under section 477A.013, subdivision 9, is ~~\$526,148,487, subject to adjustment in subdivision 5~~ \$337,640,792.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 10. Minnesota Statutes 2008, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. **Counties.** (a) For aids payable in ~~2009~~ 2011 and thereafter, the total aid payable under section 477A.0124, subdivision 3, is ~~\$111,500,000 minus one half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ \$33,059,086. Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of management and budget for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years,

the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in ~~2009~~ 2011 and thereafter, the total aid under section 477A.0124, subdivision 4, is ~~\$116,132,923 minus one-half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ \$34,082,538. The commissioner of management and budget shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of management and budget and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 11. Minnesota Statutes 2008, section 477A.12, is amended by adding a subdivision to read:

Subd. 4. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivision 1 to 3, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 12. Minnesota Statutes 2008, section 477A.14, is amended by adding a subdivision to read:

Subd. 3. **Reduction.** Beginning in 2010, the monetary amounts per acre specified in subdivisions 1 and 2, are reduced by six percent.

EFFECTIVE DATE. This section is effective for payment and distributions made in 2010 and thereafter.

Sec. 13. Laws 2008, chapter 366, article 3, section 3, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in calendar years 2008 through 2010, payable in 2009 through 2011, and thereafter.

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

Sec. 14. Laws 2008, chapter 366, article 3, section 4, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in 2008 through 2010, payable in 2009 through 2011, and thereafter.

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

Sec. 15. **REPEALER.**

Minnesota Statutes 2008, section 477A.03, subdivision 5, is repealed.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

ARTICLE 12

POLITICAL CONTRIBUTION REFUNDS

Section 1. Minnesota Statutes 2008, section 270A.03, subdivision 7, is amended to read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 2. Minnesota Statutes 2008, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 3. Minnesota Statutes 2008, section 290.01, subdivision 6, is amended to read:

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. ~~For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.~~

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 4. Minnesota Statutes 2008, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~19~~ 15 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective for property tax refunds based on rent paid after December 31, 2009.

Sec. 5. Minnesota Statutes 2008, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house

is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include 49 15 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

EFFECTIVE DATE. This section is effective for property tax refunds based upon rent paid after December 31, 2009, and upon property taxes payable in 2011 and thereafter.

Sec. 6. **REPEALER.**

(a) Minnesota Statutes 2008, sections 10A.322, subdivision 4; and 13.4967, subdivision 2, are repealed.

(b) Minnesota Statutes 2008, section 290.06, subdivision 23, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective for refund claims based on contributions made after June 30, 2011.

ARTICLE 13

SPECIAL TIMING ACCOUNT

Section 1. **REPEALER.**

Laws 2009, chapter 88, article 12, section 21, is repealed.

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

ARTICLE 14

HIGHER EDUCATION UNALLOTMENT RATIFICATION

Section 1. **SUMMARY OF APPROPRIATIONS.**

Subdivision 1. **Summary Total.** The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (77,000)	\$ (100,077,000)	\$ (100,154,000)
<u>Total</u>	\$ (77,000)	\$ (100,077,000)	\$ (100,154,000)

Subd. 2. **Summary by Agency - All Funds.** The amounts shown in this subdivision summarize direct appropriations, by agency, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>Minnesota Office of Higher Education</u>	\$ (77,000)	\$ (77,000)	\$ (154,000)
<u>Mayo Medical Foundation</u>	-0-	-0-	-0-
<u>Board of Trustees of the Minnesota State Colleges and Universities</u>	-0-	(50,000,000)	(50,000,000)
<u>Board of Regents of the University of Minnesota</u>	-0-	(50,000,000)	(50,000,000)
<u>Board of Dentistry</u>	-0-	-0-	-0-
<u>Total</u>	\$ (77,000)	\$ (100,077,000)	\$ (100,154,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 95, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

<u>Sec. 3. MINNESOTA OFFICE OF HIGHER EDUCATION</u>	\$	(77,000)	(77,000)
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This reduction is from the appropriation for agency administration.

**Sec. 4. BOARD OF TRUSTEES OF THE
MINNESOTA STATE COLLEGES AND
UNIVERSITIES**

\$ -0- \$ (50,000,000)

\$3,579,000 of the reduction in 2011 is from the central offices and shared services unit appropriation.

\$46,421,000 of the reduction in 2011 is from the operations and maintenance appropriation.

For fiscal years 2012 and 2013, the base for operations and maintenance is reduced by \$46,421,000 each year.

**Sec. 5. BOARD OF REGENTS OF THE
UNIVERSITY OF MINNESOTA**

Subdivision 1. Total Appropriation

\$ -0- \$ (50,000,000)

The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. Operations and Maintenance

-0- (44,606,000)

For fiscal years 2012 and 2013, the base for operations and maintenance is reduced by \$44,606,000 each year.

Subd. 3. Special Appropriations

(a) Agriculture and Extension Service

-0- (3,858,000)

(b) Health Sciences

-0- (389,000)

\$26,000 of the 2011 reduction is from the St. Cloud family practice residency program.

(c) Institute of Technology

-0- (102,000)

(d) System Special

-0- (454,000)

**(e) University of Minnesota and Mayo Foundation
Partnership**

-0- (591,000)

ENVIRONMENT AND NATURAL RESOURCES UNALLOTMENT RATIFICATION**Section 1. SUMMARY OF APPROPRIATIONS.**

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(1,571,846)</u>	\$	<u>(1,562,500)</u>	\$	<u>(3,134,346)</u>
<u>Total</u>	\$	<u>(1,571,846)</u>	\$	<u>(1,562,500)</u>	\$	<u>(3,134,346)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 37, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 3. POLLUTION CONTROL AGENCY

<u>Subdivision 1. Total Appropriation</u>	\$	<u>(110,000)</u>	\$	<u>(99,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

<u>Subd. 2. Water</u>		<u>(98,000)</u>		<u>(38,020)</u>
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The \$98,000 reduction in fiscal year 2010 is from the agency's activities to develop minimal impact design standards for urban stormwater runoff.

<u>Subd. 3. Land</u>		<u>-0-</u>		<u>(30,000)</u>
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The \$30,000 reduction in the second year is from the environmental health tracking and biomonitoring activities of the agency.

<u>Subd. 4. Environmental Assistance and Cross Media</u>	<u>-0-</u>	<u>(16,240)</u>
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<u>Subd. 5. Administrative Support</u>	<u>(12,000)</u>	<u>(1,470)</u>
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Sec. 4. NATURAL RESOURCES

<u>Subdivision 1. Total Appropriation</u>	<u>\$ (1,375,846)</u>	<u>\$ (1,377,500)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

<u>Subd. 2. Lands and Minerals</u>	<u>(30,000)</u>	<u>(30,000)</u>
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<u>Subd. 3. Water Resources Management</u>	<u>(84,000)</u>	<u>(84,000)</u>
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<u>Subd. 4. Forest Management</u>	<u>(188,000)</u>	<u>(188,000)</u>
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\$53,000 of the reduction each year is from activities supporting the Forest Resources Council with implementation of the Sustainable Forest Resources Act.

<u>Subd. 5. Parks and Trails Management</u>	<u>(429,846)</u>	<u>(421,500)</u>
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<u>Subd. 6. Fish and Wildlife Management</u>	<u>(265,000)</u>	<u>(265,000)</u>
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\$265,000 of the reduction each year is from activities for preserving, restoring, and enhancing grassland/wetland complexes on public or private land.

<u>Subd. 7. Ecological Services</u>	<u>(46,500)</u>	<u>(46,500)</u>
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<u>Subd. 8. Enforcement</u>	<u>(230,000)</u>	<u>(230,000)</u>
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<u>Subd. 9. Operations Support</u>	<u>(112,500)</u>	<u>(112,500)</u>
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Sec. 5. <u>METROPOLITAN COUNCIL</u>	<u>\$ (86,000)</u>	<u>\$ (86,000)</u>
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Sec. 6. Minnesota Statutes 2008, section 103G.705, subdivision 2, is amended to read:

Subd. 2. **Stream protection and improvement fund.** There is established in the state treasury a stream protection and redevelopment fund. All repayments of loans made and administrative fees assessed under subdivision 1 must be deposited in this fund. Interest earned on money in the fund accrues to the fund and money in the fund is appropriated to the commissioner of natural resources for purposes of the stream protection and redevelopment program, including costs incurred by the commissioner to establish and administer the program. In fiscal years 2010 and 2011, all repayments of loans made and administrative fees assessed under subdivision 1 must be transferred to the general fund. This includes any balance within the fund from repayments and administrative fees assessed prior to July 1, 2009.

ARTICLE 16

ENERGY UNALLOTMENT RATIFICATION

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(247,000)</u>	\$	<u>(247,000)</u>	\$ <u>(494,000)</u>
Total	\$	<u>(247,000)</u>	\$	<u>(247,000)</u>	\$ <u>(494,000)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 37, article 2, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

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

Sec. 3. DEPARTMENT OF COMMERCE

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(247,000)</u>	<u>\$</u>	<u>(247,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. <u>Administrative Services</u>	<u>(97,000)</u>	<u>(97,000)</u>
Subd. 3. <u>Market Assurance</u>	<u>(150,000)</u>	<u>(150,000)</u>

ARTICLE 17

AGRICULTURE UNALLOTMENT RATIFICATION

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
General	\$ <u>(493,000)</u>	\$ <u>(492,000)</u>	\$ <u>(985,000)</u>
Total	\$ <u>(493,000)</u>	\$ <u>(492,000)</u>	\$ <u>(985,000)</u>

Sec. 2. AGRICULTURAL APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 94, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

APPROPRIATIONS Available for the Year Ending June 30 2010 2011

Sec. 3. DEPARTMENT OF AGRICULTURE

Subdivision 1. <u>Total Appropriation</u>	\$ <u>(493,000)</u>	\$ <u>(492,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. **Protection Services** (228,000) (228,000)

\$13,000 in fiscal year 2010 and \$13,000 in fiscal year 2011 are reductions from plant pest surveys.

Subd. 3. **Agricultural Marketing and Development** (127,000) (127,000)

\$77,000 in fiscal year 2010 and \$77,000 in fiscal year 2011 are reductions for integrated pest management activities.

Subd. 4. **Administration and Financial Assistance** (138,000) (137,000)

\$69,000 in fiscal year 2010 and \$69,000 in fiscal year 2011 are reductions from the dairy and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Law 2001, First Special Session chapter 2, section 9, subdivision 2.

\$1,000 in fiscal year 2010 is a reduction from the appropriation for the administration of the Feeding Minnesota Task Force.

ARTICLE 18

ECONOMIC DEVELOPMENT UNALLOTMENT RATIFICATION

Section 1. SUMMARY OF APPROPRIATIONS.

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(745,000)</u>	\$	<u>(745,000)</u>	\$	<u>(1,490,000)</u>
<u>Total</u>	\$	<u>(745,000)</u>	\$	<u>(745,000)</u>	\$	<u>(1,490,000)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are added to, or if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 78, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article

include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

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

Sec. 3. EMPLOYMENT AND ECONOMIC DEVELOPMENT

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(285,000)</u>	<u>\$</u>	<u>(285,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

<u>Subd. 2. Business and Community Development</u>	<u>(87,000)</u>	<u>(87,000)</u>
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\$25,000 in 2010 and \$25,000 in 2011 are from the appropriation for the Office of Science and Technology.

<u>Subd. 3. Workforce Development</u>	<u>(115,000)</u>	<u>(115,000)</u>
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\$15,000 in 2010 and \$15,000 in 2011 are from the appropriation for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17.

\$11,000 in 2010 and \$11,000 in 2011 are from the appropriation for administrative expenses to programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14.

\$89,000 in 2010 and \$89,000 in 2011 are from the appropriation for state services for the blind activities.

<u>Subd. 4. State-Funded Administration</u>	<u>(83,000)</u>	<u>(83,000)</u>
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<u>Sec. 4. HOUSING FINANCE AGENCY</u>	<u>\$</u>	<u>(256,000)</u>	<u>\$</u>	<u>(256,000)</u>
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This reduction is from the appropriation to the Housing Finance Agency for the housing

rehabilitation program under Minnesota Statutes, section 462A.05, subdivision 14, for rental housing developments.

On or before June 30, 2010, the Housing Finance Agency shall transfer \$256,000 from the housing rehabilitation program in the housing development fund to the general fund.

The base for the housing rehabilitation program is \$4,031,000 in fiscal year 2012 and \$4,031,000 in fiscal year 2013.

Sec. 5. DEPARTMENT OF LABOR AND INDUSTRY

\$	<u>(20,000)</u>	\$	<u>(20,000)</u>
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This reduction is from the general fund appropriation for labor standards/apprenticeship.

Sec. 6. BUREAU OF MEDIATION SERVICES

\$	<u>(16,000)</u>	\$	<u>(16,000)</u>
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This reduction is from the general fund appropriation for mediation services.

Sec. 7. MINNESOTA HISTORICAL SOCIETY

Subdivision 1. Total Appropriation

\$	<u>(168,000)</u>	\$	<u>(168,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. Education and Outreach

(96,000)	<u>(96,000)</u>
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Subd. 3. Preservation and Access

(72,000)	<u>(72,000)</u>
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ARTICLE 19

TRANSPORTATION UNALLOTMENT RATIFICATION

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (1,649,000)	\$ (1,649,000)	\$ (3,298,000)
<u>Total</u>	\$ (1,649,000)	\$ (1,649,000)	\$ (3,298,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 36, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

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

Sec. 3. **TRANSPORTATION**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(24,000)</u>	<u>\$</u>	<u>(24,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. Multimodal Systems

<u>(a) Transit</u>		<u>(9,000)</u>		<u>(9,000)</u>
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This reduction is to the Transit Improvement Administration appropriation.

<u>(b) Freight</u>		<u>(9,000)</u>		<u>(9,000)</u>
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This reduction is to the rail service plan appropriation.

<u>(c) Electronic Communication</u>		<u>(6,000)</u>		<u>(6,000)</u>
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This reduction is to the Roosevelt Tower appropriation.

Sec. 4. **METROPOLITAN COUNCIL**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(1,625,000)</u>	<u>\$</u>	<u>(1,625,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

<u>Subd. 2. Bus Transit</u>	<u>(1,506,000)</u>	<u>(1,506,000)</u>
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This reduction is to the appropriation for bus system operations.

<u>Subd. 3. Rail Operations</u>	<u>(119,000)</u>	<u>(119,000)</u>
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This reduction is to the appropriation for rail systems.

ARTICLE 20

PUBLIC SAFETY UNALLOTMENT RATIFICATION

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>(79,000)</u>	\$ <u>(79,000)</u>	<u>(158,000)</u>
<u>Total</u>	<u>\$ (79,000)</u>	<u>\$ (79,000)</u>	<u>(158,000)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 83, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

APPROPRIATIONS Available for the Year Ending June 30

	<u>2010</u>	<u>2011</u>
Sec. 3. <u>HUMAN RIGHTS</u>	\$ <u>(79,000)</u>	<u>(79,000)</u>

ARTICLE 21**STATE GOVERNMENT UNALLOTMENT RATIFICATION****Section 1. SUMMARY OF APPROPRIATIONS.**

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	<u>(1,694,000)</u>	\$	<u>(1,820,000)</u>	\$	<u>(3,514,000)</u>
<u>Total</u>	\$	<u>(1,694,000)</u>	\$	<u>(1,820,000)</u>	\$	<u>(3,514,000)</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from, the appropriations in Laws 2009, chapter 101, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment. The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR

	\$	<u>(81,000)</u>	\$	<u>(81,000)</u>
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\$13,000 of the reduction in each of fiscal years 2010 and 2011 are from the appropriation for necessary expenses in the normal performance of the governor's and lieutenant governor's duties for which no other reimbursement is provided.

Sec. 4. OFFICE OF ENTERPRISE TECHNOLOGY

	\$	<u>(130,000)</u>	\$	<u>(\$130,000)</u>
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\$96,000 of the reduction in each of fiscal years 2010 and 2011 are from the appropriation for information technology

security.

Sec. 5. <u>ADMINISTRATION</u>	\$	<u>(100,000)</u>	\$	<u>(200,000)</u>
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These reductions are from the Government and Citizen Services Program.

\$162,000 of the balance in the central stores fund is transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

Sec. 6. <u>MANAGEMENT AND BUDGET</u>	\$	<u>(459,000)</u>	\$	<u>(459,000)</u>
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Sec. 7. <u>REVENUE</u>	\$	<u>(924,000)</u>	\$	<u>(950,000)</u>
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These reductions are from the tax system management program.

ARTICLE 22

STATE AIDS, CREDITS, PAYMENTS, AND REFUNDS UNALLOTMENT RATIFICATION

Section 1. Minnesota Statutes 2008, section 270A.03, subdivision 7, is amended to read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2009.

Sec. 2. Minnesota Statutes 2008, section 273.1384, is amended by adding a subdivision to read:

Subd. 6. **Credit reduction.** In 2011 and thereafter, the annual market value credit reimbursement amount for each taxing jurisdiction determined under this section is reduced by the dollar amount of the reduction in market value credit reimbursements for that taxing jurisdiction in 2010 due to the reductions under section 477A.0133. No taxing jurisdiction's market value credit reimbursements are reduced to less than zero under this subdivision. The commissioner of revenue shall pay the annual market value credit reimbursement amounts, after reduction under this subdivision, to the affected taxing jurisdictions as provided in this section.

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

Sec. 3. Minnesota Statutes 2008, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on

contributions that are made after June 30, 2009.

Sec. 4. Minnesota Statutes 2008, section 290.01, subdivision 6, is amended to read:

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. ~~For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.~~

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2009.

Sec. 5. Minnesota Statutes 2008, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~49~~ 15 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective retroactively for property tax refunds based on rent paid after December 31, 2008.

Sec. 6. Minnesota Statutes 2008, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include ~~49~~ 15 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that

the assessor has approved the application.

EFFECTIVE DATE. This section is effective retroactively for property tax refunds based upon rent paid after December 31, 2008, and upon property taxes payable in 2010 and thereafter.

Sec. 7. Minnesota Statutes 2009 Supplement, section 290C.07, is amended to read:

290C.07 CALCULATION OF INCENTIVE PAYMENT.

An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. The payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the land using the previous year's statewide average total township tax rate and a class rate of one percent, if the land were valued at (i) the average statewide managed forest land market value per acre calculated under section 290C.06, and (ii) the average statewide managed forest land current use value per acre calculated under section 290C.02, subdivision 5; or

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and a class rate of one percent, provided that the payment shall be no less than \$7 per acre for each acre enrolled in the sustainable forest incentive program and the maximum payment per each Social Security number or state or federal business tax identification number must not exceed \$100,000.

EFFECTIVE DATE. This section is effective for payments made after June 30, 2010, based on certifications due in 2010 and thereafter.

Sec. 8. **477A.0133** 2009 AND 2010 AID REDUCTIONS.

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

(b) The "2009 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2009, plus the amount of local government aid under Minnesota Statutes, section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of taconite aids under Minnesota Statutes, sections 298.28 and 298.282, that the city was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2009 revenue base" for a county is the sum of the county's certified property tax levy for taxes payable in 2009, plus the amount of county program aid under Minnesota Statutes, section 477A.0124, that the county was certified to receive in 2009, plus the amount of taconite aids under Minnesota Statutes, sections 298.28 and 298.282, that the county was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

(d) The "2009 revenue base" for a town is the sum of the town's certified property tax levy for taxes payable in 2009, plus the amount of aid under Minnesota Statutes, section 477A.013, that the town was certified to receive in 2009, plus the amount of taconite aids under Minnesota Statutes, section 298.28 and 298.282, that the town was certified to receive in 2009, including any amounts required to be placed in a special fund for distribution in a later year.

(e) "Population" means the population of the county, city, or town for 2007 based on information

available to the commissioner of revenue in July 2009.

(f) "Adjusted net tax capacity" means the amount of net tax capacity for the county, city, or town, computed using equalized market values according to Minnesota Statutes, section 477A.011, subdivision 20, for aid payable in 2009.

(g) "Adjusted net tax capacity per capita" means the jurisdiction's adjusted net tax capacity divided by its population.

Subd. 2. **2009 aid reductions.** (a) The commissioner of revenue must compute a 2009 aid reduction amount for each county.

The aid reduction amount is zero for a county with a population of less than 5,000, and is zero for a county containing the Shooting Star Casino property that was removed from the tax rolls in 2009.

For all other counties, the aid reduction amount is equal to 1.189 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under Minnesota Statutes, section 477A.0124, that the county was certified to receive in 2009, plus the amount of market value credit reimbursements under Minnesota Statutes, section 273.1384, payable to the county in 2009 before the reductions in this section.

The reduction amount is applied first to reduce the amount payable to the county in 2009 as county program aid under Minnesota Statutes, section 477A.013, and then, if necessary, to reduce the amount payable to the county in 2009 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No county's aid or reimbursements are reduced to less than zero under this section.

(b) The commissioner of revenue must compute a 2009 aid reduction amount for each city.

The aid reduction amount is zero for any city with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all cities. The aid reduction amount is also zero for a city located outside the seven-county metropolitan area, with a 2006 population greater than 3,500, a pre-1940 housing percentage greater than 29 percent, a commercial-industrial percentage less than nine percent, and a population decline percentage of zero based on the data used to certify the 2009 local government aid distribution under Minnesota Statutes, section 477A.013.

For all other cities, the aid reduction amount is equal to 3.313 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of the amount of local government aid under Minnesota Statutes, section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of market value credit reimbursements under Minnesota Statutes, section 273,1384, payable to the city in 2009 before the reductions in this section.

The reduction amount for a city is further limited to \$22 per capita.

The reduction amount is applied first to reduce the amount payable to the city in 2009 as local

government aid under Minnesota Statutes, section 477A.013, and then, if necessary, to reduce the amount payable to the city in 2009 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No city's aid or reimbursements are reduced to less than zero under this section.

(c) The commissioner of revenue must compute a 2009 aid reduction amount for each town.

The aid reduction amount is zero for any town with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all towns.

For all other towns, the aid reduction amount is equal to 1.735 percent of the town's 2009 revenue base.

The reduction amount is limited to \$5 per capita.

The reduction amount is applied to reduce the amount payable to the town in 2009 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No town's reimbursements are reduced to less than zero under this section.

Subd. 3. **2010 aid reductions.** (a) The commissioner of revenue must compute a 2010 aid reduction amount for each county.

The aid reduction amount is zero for a county with a population of less than 5,000, and is zero for a county containing the Shooting Star Casino property that was removed from the tax rolls in 2009.

For all other counties, the aid reduction amount is equal to 2.414 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under Minnesota Statutes, section 477A.0124, that the county was certified to receive in 2009, plus the amount of market value credit reimbursements under Minnesota Statutes, section 273.1384, payable to the county in 2009 before the reductions in this section.

The reduction amount is applied first to reduce the amount payable to the county in 2010 as county program aid under Minnesota Statutes, section 477A.013, and then, if necessary, to reduce the amount payable to the county in 2010 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No county's aid or reimbursements are reduced to less than zero under this section.

(b) The commissioner of revenue must compute a 2010 aid reduction amount for each city.

The aid reduction amount is zero for any city with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all cities.

For all other cities, the aid reduction amount is equal to 7.644 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of the amount of local government aid under Minnesota Statutes, section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of market value credit reimbursements under Minnesota Statutes, section 273.1384, payable to the city in 2010 before the reductions in this section.

The reduction amount for a city is further limited to \$55 per capita.

The reduction amount is applied first to reduce the amount payable to the city in 2010 as local government aid under Minnesota Statutes, section 477A.013, and then, if necessary, to reduce the amount payable to the city in 2010 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No city's aid or reimbursements are reduced to less than zero under this section.

(c) The commissioner of revenue must compute a 2010 aid reduction amount for each town.

The aid reduction amount is zero for any town with a population of less than 1,000 that has an adjusted net tax capacity per capita amount less than the statewide average adjusted net tax capacity amount per capita for all towns.

For all other towns, the aid reduction amount is equal to 3.661 percent of the town's 2009 revenue base.

The reduction amount is limited to \$10 per capita.

The reduction amount is applied to reduce the amount payable to the town in 2010 as market value credit reimbursements under Minnesota Statutes, section 273.1384.

No town's reimbursements are reduced to less than zero under this section.

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

Sec. 9. Minnesota Statutes 2008, section 477A.03, subdivision 2a, is amended to read:

Subd. 2a. **Cities.** For aids payable in ~~2009~~ 2011 and thereafter, the total aid paid under section 477A.013, subdivision 9, is \$526,148,487, ~~subject to adjustment in subdivision 5~~ \$455,754,327.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 10. Minnesota Statutes 2008, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. **Counties.** (a) For aids payable in ~~2009~~ 2011 and thereafter, the total aid payable under section 477A.0124, subdivision 3, is ~~\$111,500,000~~ \$85,544,131 minus one-half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), ~~subject to adjustment in subdivision 5.~~ Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of management and budget for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next

taxes payable year.

(b) For aids payable in ~~2009~~ 2011 and thereafter, the total aid under section 477A.0124, subdivision 4, is ~~\$116,132,923~~ \$89,392,742 minus one-half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), ~~subject to adjustment in subdivision 5.~~ The commissioner of management and budget shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of management and budget and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 11. Laws 2009, chapter 88, article 12, section 21, is amended to read:

Sec. 21. **SPECIAL ACCOUNT; TIMING DIFFERENCES.**

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~~ \$6,279,000. 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).

Sec. 12. **REPEALER.**

(a) Minnesota Statutes 2008, sections 10A.322, subdivision 4; and 13.4967, subdivision 2, are repealed.

(b) Minnesota Statutes 2008, section 290.06, subdivision 23, is repealed.

(c) Minnesota Statutes 2008, section 477A.03, subdivision 5, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective retroactively for refund claims based on contributions made after June 30, 2009. Paragraph (c) is effective for aids payable in 2011 and thereafter."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 0 and nays 67, as follows:

Those who voted in the negative were:

Anderson
Bakk

Berglin
Betzold

Bonoff
Carlson

Chaudhary
Clark

Cohen
Dahle

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

The motion did not prevail. So the amendment was not adopted.

Senator Senjem moved to amend S.F. No. 3223 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2008, section 120A.41, is amended to read:

120A.41 LENGTH OF SCHOOL YEAR; ~~DAYS-HOURS OF INSTRUCTION.~~

A school board's annual school calendar must include at least ~~the number of days of student instruction the board formally adopted as its school calendar at the beginning of the 1996-1997 school year~~ 425 hours of instruction for a kindergarten student without a disability, 935 hours of instruction for a student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7 through 12, not including summer school.

Sec. 2. 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~~ 2010, 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.

(c) For fiscal year 2011 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 48.6 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) 48.6 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. 3. Minnesota Statutes 2009 Supplement, section 124D.10, subdivision 13, is amended to read:

Subd. 13. **Length of school year.** A charter school must provide instruction each year for at least the number of ~~days~~ hours required by section 120A.41. It may provide instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

Sec. 4. Minnesota Statutes 2008, section 126C.10, subdivision 2a, is amended to read:

Subd. 2a. **Extended time revenue.** (a) A school district's extended time revenue is equal to the product of \$4,601 and the sum of the adjusted marginal cost pupil units of the district for each pupil in average daily membership in excess of 1.0 and less than 1.2 according to section 126C.05, subdivision 8, if the district has extended time average daily membership in the current year.

(b) A school district's extended time revenue may be used for extended day programs, extended week programs, summer school, and other programming authorized under the learning year program.

Sec. 5. [127A.431] REDUCTION OF AID FOR NOT PROVIDING REQUIRED HOURS OF INSTRUCTION.

The commissioner shall reduce the state aid paid to a school district or charter school that does not provide instruction for at least the number of hours required under section 120A.41. If instruction is not provided for the required number of hours, state aid shall be reduced by the difference between the required number of hours and the number of hours instruction is provided, divided by the required number of hours, multiplied by 60 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district or charter school for that year. However, a district or charter school not providing the required number of hours may appeal to the commissioner for a waiver of the state aid

reduction if (1) the circumstances causing loss of instructional time below the required minimum number of hours are beyond the control of the board, and (2) a good faith attempt is made to make up time lost due to these circumstances.

Sec. 6. 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 (b) or (c), minus (2) the amount the district recognized as revenue for the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (b) or (c). 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. 7. 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. 8. 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) the district's other district receipts through the current payment, and (b) 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~~

(e) 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. 9. 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 a 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 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 requested exceeds \$7,500,000, the advance final payment for each eligible district must be reduced proportionately.

Sec. 10. 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.

Sec. 11. Laws 2009, chapter 96, article 1, section 24, is amended to read:

Sec. 24. **APPROPRIATIONS; STATE.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

	5,195,504,000		
\$	<u>4,307,758,000</u>	.....	2010
	5,626,994,000		
\$	<u>4,927,599,000</u>	.....	2011

The 2010 appropriation includes ~~\$555,864,000~~ \$554,696,000 for 2009 and ~~\$4,639,640,000~~ \$3,753,062,000 for 2010.

The 2011 appropriation includes ~~\$500,976,000~~ \$1,366,755,000 for 2010 and ~~\$5,126,018,000~~ \$3,560,844,000 for 2011.

Subd. 3. **Enrollment options transportation.** For transportation of pupils attending postsecondary institutions under Minnesota Statutes, section 124D.09, or for transportation of pupils attending nonresident districts under Minnesota Statutes, section 124D.03:

	48,000		
\$	<u>36,000</u>	.....	2010
	52,000		
\$	<u>38,000</u>	.....	2011

Subd. 4. **Abatement revenue.** For abatement aid under Minnesota Statutes, section 127A.49:

	1,175,000		
\$	<u>1,000,000</u>	.....	2010
	1,034,000		
\$	<u>1,141,000</u>	.....	2011

The 2010 appropriation includes \$140,000 for 2009 and ~~\$1,035,000~~ \$860,000 for 2010.

The 2011 appropriation includes ~~\$115,000~~ \$317,000 for 2010 and ~~\$919,000~~ \$824,000 for 2011.

Subd. 5. **Consolidation transition.** For districts consolidating under Minnesota Statutes, section 123A.485:

	854,000		
\$	<u>679,000</u>	.....	2010

	927,000		
\$	<u>916,000</u>	.....	2011

The 2010 appropriation includes \$0 for 2009 and ~~\$854,000~~ \$679,000 for 2010.

The 2011 appropriation includes ~~\$94,000~~ \$250,000 for 2010 and ~~\$833,000~~ \$666,000 for 2011.

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		
\$	<u>14,303,000</u>	.....	2010
	17,889,000		
\$	<u>17,785,000</u>	.....	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.

Subd. 7. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

	22,159,000		
\$	<u>18,454,000</u>	.....	2010
	22,712,000		
\$	<u>22,553,000</u>	.....	2011

The 2010 appropriation includes \$2,077,000 for 2009 and ~~\$20,082,000~~ \$16,377,000 for 2010.

The 2011 appropriation includes ~~\$2,231,000~~ \$6,056,000 for 2010 and ~~\$20,481,000~~ \$16,497,000 for 2011.

Subd. 8. **One-room schoolhouse.** For a grant to Independent School District No. 690, Warroad, to operate the Angle Inlet School:

\$	65,000	.....	2010
\$	65,000	.....	2011

Subd. 9. **Independent School District No. 239, Rushford-Peterson.** For school district flood enrollment impact aid as a result of the floods of August 2007:

\$	158,000	2010
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The base appropriation for later fiscal years is \$0.

Subd. 10. **Lancaster.** For a grant to Independent School District No. 356, Lancaster, to replace the loss of sparsity revenue:

\$	100,000	.....	2010
\$	100,000	.....	2011

The base appropriation for later fiscal years is \$0.

Subd. 11. **Compensatory revenue pilot project.** For grants for participation in the compensatory revenue pilot program under Laws 2005, First Special Session chapter 5, article 1, section 50:

\$	2,175,000	.....	2010
\$	2,175,000	.....	2011

Of this amount, \$1,500,000 in each year is for a grant to Independent School District No. 11, Anoka-Hennepin; \$210,000 in each year is for a grant to Independent School District No. 279, Osseo; \$160,000 in each year is for a grant to Independent School District No. 281, Robbinsdale; \$75,000 in each year is for a grant to Independent School District No. 286, Brooklyn Center; \$165,000 in each year is for a grant to Independent School District No. 535, Rochester; and \$65,000 in each year is for a grant to Independent School District No. 833, South Washington.

If a grant to a specific school district is not awarded, the commissioner may increase the aid amounts to any of the remaining participating school districts.

This appropriation is part of the base budget for subsequent fiscal years.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2008, section 120B.128, is amended to read:

120B.128 EDUCATIONAL PLANNING AND ASSESSMENT SYSTEM (EPAS) PROGRAM.

(a) School districts and charter schools may elect to participate in the Educational Planning and Assessment System (EPAS) program offered by ACT, Inc. to provide a longitudinal, systematic approach to student educational and career planning, assessment, instructional support, and evaluation. The EPAS achievement tests include English, reading, mathematics, science, and components on planning for high school and postsecondary education, interest inventory, needs assessments, and student education plans. These tests are linked to the ACT assessment for college admission and allow students, parents, teachers, and schools to determine the student's college readiness before grades 11 and 12.

(b) The commissioner of education shall provide ACT Explore tests for students in grade 8 and the ACT Plan test for students in grade 10 to assess individual student academic strengths and weaknesses, academic achievement and progress, higher order thinking skills, and college readiness. The state shall pay the test costs for school districts and charter schools that choose to participate in the EPAS program. Any unexpended funds may be used to cover the cost of appropriate data collection and analysis by the state. The commissioner shall establish an application procedure and a process for state payment of costs.

Sec. 2. Minnesota Statutes 2009 Supplement, section 122A.09, subdivision 4, is amended to read:

Subd. 4. **License and rules.** (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to ~~successfully complete~~ pass a skills examination in reading, writing, and mathematics as a requirement for ~~initial teacher licensure entrance into a board-approved teacher preparation program~~. Such rules must require college and universities offering a board-approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a postsecondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a postsecondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring candidates for initial licenses to ~~successfully complete~~ pass an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective by September 1, 2001. The rules under this paragraph also must require candidates for initial licenses to teach prekindergarten or elementary students to successfully complete, as part of the examination of licensure-specific teaching skills, test items assessing the candidates' knowledge, skill, and ability in comprehensive, scientifically based reading instruction under section 122A.06, subdivision 4, and their knowledge and understanding of the foundations of reading development, the development of reading comprehension, and reading assessment and instruction, and their ability to integrate that knowledge and understanding. The rules under this paragraph also must require general education candidates for initial licenses to teach prekindergarten or elementary students to pass, as part of the examination of licensure-specific teaching skills, test items assessing the candidates' knowledge, skill, and ability in mathematics.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board

for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law. Teachers who do not provide direct instruction including, at least, counselors, school psychologists, school nurses, school social workers, audiovisual directors and coordinators, and recreation personnel are exempt from this section.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

Sec. 3. Minnesota Statutes 2008, section 122A.14, is amended by adding a subdivision to read:

Subd. 10. **Rules incorporating national standards.** The Board of School Administrators must engage in rulemaking to incorporate national standards into the licensing standards for principals. The rules must address national standards for effective school leadership.

Sec. 4. Minnesota Statutes 2008, section 122A.18, subdivision 1, is amended to read:

Subdivision 1. **Authority to license.** (a) The Board of Teaching must license teachers, as defined in section 122A.15, subdivision 1, except for supervisory personnel, as defined in section 122A.15, subdivision 2.

(b) The Board of School Administrators must license supervisory personnel as defined in section 122A.15, subdivision 2, except for athletic coaches.

(c) Licenses under the jurisdiction of the Board of Teaching, the Board of School Administrators, and the commissioner of education must be issued through the licensing section of the department.

(d) The Board of Teaching and the Department of Education must enter into a data sharing agreement to share educational data at the K-12 level for the limited purpose of program approval and improvement for teacher education programs. The program approval process must include targeted redesign of teacher preparation programs to address identified K-12 student areas of concern. The Board of Teaching must ensure that this information remains confidential and shall

only be used for this purpose. Any unauthorized disclosure shall be subject to a penalty.

(e) The Board of School Administrators and the Department of Education must enter into a data sharing agreement to share educational data at the K-12 level for the limited purpose of program approval and improvement for education administration programs. The program approval process must include targeted redesign of education administration preparation programs to address identified K-12 student areas of concern. The Board of School Administrators must ensure that this information remains confidential and shall only be used for this purpose. Any unauthorized disclosure shall be subject to a penalty.

Sec. 5. Minnesota Statutes 2008, section 122A.18, subdivision 2, is amended to read:

Subd. 2. **Teacher and support personnel qualifications.** (a) The Board of Teaching must issue licenses under its jurisdiction to persons the board finds to be qualified and competent for their respective positions.

(b) The board must require a person to ~~successfully complete~~ pass an examination of skills in reading, writing, and mathematics before being granted an initial teaching license to provide direct instruction to pupils in prekindergarten, elementary, secondary, or special education programs. The board must require colleges and universities offering a board approved teacher preparation program to provide remedial assistance that includes a formal diagnostic component to persons enrolled in their institution who did not achieve a qualifying score on the skills examination, including those for whom English is a second language. The colleges and universities must provide assistance in the specific academic areas of deficiency in which the person did not achieve a qualifying score. School districts must provide similar, appropriate, and timely remedial assistance that includes a formal diagnostic component and mentoring to those persons employed by the district who completed their teacher education program outside the state of Minnesota, received a one-year license to teach in Minnesota and did not achieve a qualifying score on the skills examination, including those persons for whom English is a second language. The Board of Teaching shall report annually to the education committees of the legislature on the total number of teacher candidates during the most recent school year taking the skills examination, the number who achieve a qualifying score on the examination, the number who do not achieve a qualifying score on the examination, the distribution of all candidates' scores, the number of candidates who have taken the examination at least once before, and the number of candidates who have taken the examination at least once before and achieve a qualifying score.

~~(c) A person who has completed an approved teacher preparation program and obtained a one-year license to teach, but has not successfully completed the skills examination, may renew the one-year license for two additional one-year periods. Each renewal of the one-year license is contingent upon the licensee:~~

~~(1) providing evidence of participating in an approved remedial assistance program provided by a school district or postsecondary institution that includes a formal diagnostic component in the specific areas in which the licensee did not obtain qualifying scores; and~~

~~(2) attempting to successfully complete the skills examination during the period of each one-year license.~~

~~(d)~~ (c) The Board of Teaching must grant continuing licenses only to those persons who have met board criteria for granting a continuing license, which includes ~~successfully completing~~ passing

the skills examination in reading, writing, and mathematics.

~~(e)~~ (d) All colleges and universities approved by the board of teaching to prepare persons for teacher licensure must include in their teacher preparation programs a common core of teaching knowledge and skills to be acquired by all persons recommended for teacher licensure. This common core shall meet the standards developed by the interstate new teacher assessment and support consortium in its 1992 "model standards for beginning teacher licensing and development." Amendments to standards adopted under this paragraph are covered by chapter 14. The board of teaching shall report annually to the education committees of the legislature on the performance of teacher candidates on common core assessments of knowledge and skills under this paragraph during the most recent school year.

(e) All colleges and universities approved by the Board of Teaching to prepare persons for teacher licensure must require online pedagogy and at least one online course to be completed by all persons recommended for teacher licensure.

(f) The Board of Teaching must ensure the K-12 teacher licensing standards maintain a high level of alignment with the K-12 student standards. The Board of Teaching must adopt a review cycle that mirrors the K-12 student standards review cycle set by the Department of Education. The teacher standards must be reviewed and aligned with the K-12 student standards within one year of the final review and adoption of the K-12 student standards.

Sec. 6. Minnesota Statutes 2008, section 122A.23, subdivision 2, is amended to read:

Subd. 2. **Applicants licensed in other states.** (a) Subject to the requirements of sections 122A.18, subdivision 8, and 123B.03, the Board of Teaching must issue a teaching license or a temporary teaching license under paragraphs (b) to (e) to an applicant who holds at least a baccalaureate degree from a regionally accredited college or university and holds or held a similar out-of-state teaching license that requires the applicant to successfully complete a teacher preparation program approved by the issuing state, which includes field-specific teaching methods and student teaching or essentially equivalent experience.

(b) The Board of Teaching must issue a teaching license to an applicant who:

(1) ~~successfully completed~~ passed all exams and ~~successfully completed~~ human relations preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license to teach the same content field and grade levels if the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license.

(c) The Board of Teaching, consistent with board rules, must issue up to three one-year temporary teaching licenses to an applicant who holds or held an out-of-state teaching license to teach the same content field and grade levels, where the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license, but has not ~~successfully completed~~ passed all exams and ~~successfully completed~~ human relations preparation components required by the Board of Teaching.

(d) The Board of Teaching, consistent with board rules, must issue up to three one-year temporary teaching licenses to an applicant who:

(1) ~~successfully completed~~ passed all exams and ~~successfully completed~~ human relations

preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license to teach the same content field and grade levels, where the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license, but has not completed field-specific teaching methods or student teaching or equivalent experience.

The applicant may complete field-specific teaching methods and student teaching or equivalent experience by successfully participating in a one-year school district mentorship program consistent with board-adopted standards of effective practice and Minnesota graduation requirements.

(e) The Board of Teaching must issue a temporary teaching license for a term of up to three years only in the content field or grade levels specified in the out-of-state license to an applicant who:

(1) ~~successfully completed~~ passed all exams and successfully completed human relations preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license where the out-of-state license is more limited in the content field or grade levels than a similar Minnesota license.

(f) The Board of Teaching must not issue to an applicant more than three one-year temporary teaching licenses under this subdivision.

(g) The Board of Teaching must not issue a license under this subdivision if the applicant has not attained the additional degrees, credentials, or licenses required in a particular licensure field.

Sec. 7. Minnesota Statutes 2008, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and after completion thereof, the probationary period in each district in which the teacher is thereafter employed shall be one year. The school board must adopt a plan for written evaluation of teachers during the probationary period. The written evaluation must be conducted by a licensed administrator and must include: (1) individual teacher evaluations aligned with the educational improvement plan under section 122A.413 and the staff development plan under section 122A.60; and (2) objective evaluations using multiple criteria conducted by a locally selected and periodically trained evaluation team that understands teaching and learning. Evaluation must occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect before July 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such request. The school board may, after a hearing held upon

due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 122A.44.

(b) A board must discharge a probationary teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

(c) A probationary teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(d) A probationary teacher must complete at least 60 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

Sec. 8. Minnesota Statutes 2009 Supplement, section 122A.40, subdivision 6, is amended to read:

Subd. 6. Mentoring for probationary teachers. (a) A school board and an exclusive representative of the teachers in the district must develop a probationary teacher peer review process through joint agreement. The process ~~may~~ shall include having trained observers serve as mentors or coaches or having teachers participate in professional learning communities.

(b) Districts shall provide support to teachers throughout their probationary period to ensure new teachers are successfully meeting tenure requirements. The support to new teachers shall include:

(1) professional learning driven by standards of professional practice to improve teaching and reflection on practice, including an orientation process introducing the new teacher to the district, school, and teaching assignment;

(2) seminars to promote professional growth and differentiated based on teacher and student needs;

(3) trained mentors provided with opportunities to meet with the new teacher for coaching, collaboration, and reflection on practice; to assist in implementation of professional growth plans; and to conduct formative assessments and observations to measure new teachers' development and to be utilized in improvement of teaching; and

(4) development of new teachers' professional growth plan based on teaching practice, student learning, and teacher evaluations conducted at least three times per year pursuant to the objective evaluation program described in subdivision 5, paragraph (a).

Sec. 9. Minnesota Statutes 2008, section 122A.40, is amended by adding a subdivision to read:

Subd. 7b. Teacher tenure renewal system. (a) The teacher tenure renewal system is established:

(1) to require teacher employment and renewal of that employment at least every five years based on the academic achievement growth of students;

(2) to support teachers' professional growth and responsibility in improving the academic

achievement growth of students; and

(3) to encourage teachers to undertake challenging assignments.

(b) After completion of the initial three-year probationary period, without discharge, a teacher who is reemployed shall continue in service and hold that position during good behavior and efficient and competent service for periods of five years. The terms and conditions of a teacher's employment contract, including salary and salary increases, must be based either on the length of the school year or an extended school calendar under section 120A.415.

(c) At the end of every five years of a teacher's service, the school district must either renew or terminate a teacher's service to the district. The district's tenure determination must be based on the following factors:

(1) a portfolio of the teacher's five-year professional growth plan based on teaching practice, student learning, and successful teacher evaluations conducted at least three times per year pursuant to an objective evaluation program that must include:

(i) individual teacher evaluations aligned with the educational improvement plan under section 122A.413 and the staff development plan under section 122A.60; and

(ii) objective evaluations using multiple criteria conducted by a locally selected and periodically trained evaluation team that understands teaching and learning;

(2) schoolwide student achievement gains under section 120B.35; and

(3) locally selected standardized academic assessment student outcomes.

(d) The school board shall give each teacher notice of renewal or termination of employment in writing before July 1 of the end of the five-year period.

Sec. 10. Minnesota Statutes 2009 Supplement, section 122A.40, subdivision 8, is amended to read:

Subd. 8. Peer coaching for continuing contract teachers. (a) A school board and an exclusive representative of the teachers in the district shall develop a peer review process for continuing contract teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities.

(b) Districts shall provide support to teachers to ensure teachers' professional growth through:

(1) professional learning driven by standards of professional practice to improve teaching and reflection on practice;

(2) seminars to promote professional growth and differentiated based on teacher and student needs; and

(3) a five-year professional growth plan focused on teachers' growth linked to teaching practice, student learning, and successful teacher evaluations as defined under section 122A.40, subdivision 7b, paragraph (c), clause (1), conducted at least three times per year.

Sec. 11. Minnesota Statutes 2008, section 122A.41, subdivision 2, is amended to read:

Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. The written evaluation must be conducted by a licensed administrator and must include:

(1) individual teacher evaluations aligned with the educational improvement plan under section 122A.413 and the staff development plan under section 122A.60; and

(2) objective evaluations using multiple criteria conducted by a locally selected and periodically trained evaluation team that understands teaching and learning.

Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A probationary teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher must complete at least 60 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

Sec. 12. Minnesota Statutes 2009 Supplement, section 122A.41, subdivision 3, is amended to read:

Subd. 3. **Mentoring for probationary teachers.** (a) A board and an exclusive representative of the teachers in the district must develop a probationary teacher peer review process through joint agreement. The process may include having trained observers serve as mentors or coaches or having teachers participate in professional learning communities.

(b) Districts shall provide support to teachers throughout their probationary period to ensure new teachers are successfully meeting tenure requirements. The support to new teachers shall include:

(1) professional learning driven by standards of professional practice to improve teaching and reflection on practice, including an orientation process introducing the new teacher to the district,

school, and teaching assignment;

(2) seminars to promote professional growth and differentiated based on teacher and student needs;

(3) trained mentors provided with opportunities to meet with the new teacher for coaching, collaboration, and reflection on practice; to assist in implementation of professional growth plans; and to conduct formative assessments and observations to measure new teachers' development and to be utilized in improvement of teaching; and

(4) development of the new teacher's professional growth plan based on teaching practice, student learning, and teacher evaluations conducted at least three times per year pursuant to the objective evaluation program described in subdivision 2, paragraph (a).

Sec. 13. Minnesota Statutes 2008, section 122A.41, subdivision 4, is amended to read:

Subd. 4. ~~Period of service after probationary period; discharge or demotion~~ **Teacher tenure renewal system.** (a) The teacher tenure renewal system is established:

(1) to require teacher employment and renewal of that employment at least every five years based on the academic achievement growth of students;

(2) to support teachers' professional growth and responsibility in improving the academic achievement growth of students; and

(3) to encourage teachers to undertake challenging assignments.

~~(b) After the completion of such the initial three-year probationary period, without discharge, such teachers as are thereupon a teacher who is reemployed shall continue in service and hold their respective that position during good behavior and efficient and competent service and must not be discharged or demoted except for cause after a hearing for periods of five years.~~ The terms and conditions of a teacher's employment contract, including salary and salary increases, must be based either on the length of the school year or an extended school calendar under section 120A.415.

~~(b) A probationary teacher is deemed to have been reemployed for the ensuing school year, unless the school board in charge of such school gave such teacher notice in writing before July 1 of the termination of such employment.~~

~~(c) A teacher electing to have an employment contract based on the extended school calendar under section 120A.415 must participate in staff development training under subdivision 4a and shall receive an increased base salary.~~

(c) At the end of every five years of a teacher's service, the school district must either renew or terminate a teacher's service to the district. The district's tenure determination must be based on the following factors:

(1) a portfolio of the teacher's five-year professional growth plan based on teaching practice, student learning, and successful teacher evaluations conducted at least three times per year pursuant to an objective evaluation program that must include:

(i) individual teacher evaluations aligned with the educational improvement plan under section 122A.413 and the staff development plan under section 122A.60; and

(ii) objective evaluations using multiple criteria conducted by a locally selected and periodically trained evaluation team that understands teaching and learning;

(2) schoolwide student achievement gains under section 120B.35; and

(3) locally selected standardized academic assessment student outcomes.

Sec. 14. Minnesota Statutes 2009 Supplement, section 122A.41, subdivision 5, is amended to read:

Subd. 5. **Peer coaching for continuing contract teachers.** (a) A school board and an exclusive representative of the teachers in the district must develop a peer review process for nonprobationary teachers through joint agreement. The process may include having trained observers serve as peer coaches or having teachers participate in professional learning communities.

(b) Districts shall provide support to teachers to ensure teachers' professional growth through:

(1) professional learning driven by standards of professional practice to improve teaching and reflection on practice;

(2) seminars to promote professional growth and differentiated based on teacher and student needs; and

(3) a five-year professional growth plan focused on teacher's growth linked to teaching practice and student learning and successful teacher evaluations conducted at least three times per year as defined under section 122A.41, subdivision 4, paragraph (c), clause (1).

Sec. 15. Minnesota Statutes 2008, section 123B.77, subdivision 1a, is amended to read:

Subd. 1a. **School district consolidated financial statement.** (a) The commissioner, in consultation with the advisory committee on financial management, accounting, and reporting, shall develop and maintain a school district consolidated financial statement format that converts uniform financial accounting and reporting standards data under subdivision 1 into a more understandable format.

(b) In addition to the information required under paragraph (a), the consolidated financial statement must also report information regarding the teacher collective bargaining agreement, including settlement date, salary and fringe benefit costs for the current biennium and the next biennium, and duty days for teacher work year. Each school district must report data to the department as required by the department to complete this report.

Sec. 16. Laws 2009, chapter 96, article 2, section 67, is amended to read:

Sec. 67. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Charter school building lease aid.** For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

	40,453,000		
\$	<u>34,811,000</u>	.....	2010
	44,775,000		
\$	<u>46,375,000</u>	.....	2011

The 2010 appropriation includes \$3,704,000 for 2009 and ~~\$36,749,000~~ \$31,107,000 for 2010.

The 2011 appropriation includes ~~\$4,083,000~~ \$11,505,000 for 2010 and ~~\$40,692,000~~ \$34,870,000 for 2011.

Subd. 3. **Charter school startup aid.** For charter school startup cost aid under Minnesota Statutes, section 124D.11:

	1,488,000		
\$	<u>1,273,000</u>	.....	2010
	1,064,000		
\$	<u>793,000</u>	.....	2011

The 2010 appropriation includes \$202,000 for 2009 and ~~\$1,286,000~~ \$1,071,000 for 2010.

The 2011 appropriation includes ~~\$142,000~~ \$395,000 for 2010 and ~~\$922,000~~ \$398,000 for 2011.

Subd. 4. **Integration aid.** For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

	65,358,000		
\$	<u>52,106,000</u>	.....	2010
	65,484,000		
\$	<u>63,962,000</u>	.....	2011

The 2010 appropriation includes \$6,110,000 for 2009 and ~~\$59,248,000~~ \$45,996,000 for 2010.

The 2011 appropriation includes ~~\$6,583,000~~ \$17,011,000 for 2010 and ~~\$58,901,000~~ \$46,951,000 for 2011.

Subd. 5. **Magnet school grants.** For magnet school and program grants under Minnesota Statutes section 124D.88:

\$	750,000	.....	2010
\$	750,000	.....	2011

Subd. 6. **Interdistrict desegregation or integration transportation grants.** For interdistrict desegregation or integration transportation grants under Minnesota Statutes, section 124D.87:

\$	14,468,000	.....	2010
\$	17,582,000	.....	2011

Subd. 7. **Success for the future.** For American Indian success for the future grants under

Minnesota Statutes, section 124D.81:

	<u>2,137,000</u>		
\$	<u>1,774,000</u>	.....	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.

Subd. 8. **American Indian teacher preparation grants.** For joint grants to assist American Indian people to become teachers under Minnesota Statutes, section 122A.63:

\$	190,000	.....	2010
\$	190,000	.....	2011

Subd. 9. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

	<u>2,030,000</u>		
\$	<u>1,702,000</u>	.....	2010
	<u>2,211,000</u>		
\$	<u>2,186,000</u>	.....	2011

The 2010 appropriation includes \$191,000 for 2009 and ~~\$1,839,000~~ \$1,511,000 for 2010.

The 2011 appropriation includes ~~\$204,000~~ \$558,000 for 2010 and ~~\$2,007,000~~ \$1,628,000 for 2011.

Subd. 10. **Early childhood programs at tribal schools.** For early childhood family education programs at tribal contract schools under Minnesota Statutes, section 124D.83, subdivision 4:

\$	68,000	.....	2010
\$	68,000	.....	2011

Subd. 11. **Statewide testing and reporting system.** For the statewide testing and reporting system under Minnesota Statutes, section 120B.30:

\$	15,150,000	.....	2010
\$	15,150,000	.....	2011

None of the amounts appropriated under this subdivision shall be used for contract costs associated with hand-scoring of constructed-response items of the Minnesota Comprehensive Assessment-Series II in reading, science, and mathematics, with the exception of mathematics grades 3 to 8 of the 2009-2010 school year. Any balance in the first year does not cancel but is available in the second year. Any amount generated as a result of the savings from foregoing hand-scoring shall be, to the extent possible, redirected into the development of computerized

statewide testing.

Subd. 12. **Examination fees; teacher training and support programs.** (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes, section 120B.13, subdivision 1:

\$	4,500,000	.....	2010
\$	4,500,000	.....	2011

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the Advanced Placement Advisory Council and IBMN, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, at least \$500,000 each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. The commissioner shall determine the payment process and the amount of the subsidy.

(d) The commissioner shall pay all examination fees for all students of low-income families under Minnesota Statutes, section 120B.13, subdivision 3, and to the extent of available appropriations shall also pay examination fees for students sitting for an advanced placement examination, international baccalaureate examination, or both.

Any balance in the first year does not cancel but is available in the second year.

Subd. 13. **Concurrent enrollment programs.** For concurrent enrollment programs under Minnesota Statutes, section 124D.091:

\$	2,000,000	.....	2010
\$	2,000,000	.....	2011

If the appropriation is insufficient, the commissioner must proportionately reduce the aid payment to each district.

Any balance in the first year does not cancel but is available in the second year.

Subd. 14. **Collaborative urban educator.** For the collaborative urban educator grant program:

\$	528,000	.....	2010
\$	528,000	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 15. **Youth works program.** For funding youth works programs under Minnesota Statutes, sections 124D.37 to 124D.45:

\$	900,000	.....	2010
\$	900,000	.....	2011

A grantee organization may provide health and child care coverage to the dependents of each participant enrolled in a full-time youth works program to the extent such coverage is not otherwise available.

Subd. 16. **Student organizations.** For student organizations:

	725,000		
\$	<u>724,000</u>	.....	2010
	725,000		
\$	<u>724,000</u>	.....	2011

\$40,000 each year is for student organizations serving health occupations.

\$38,000 each year is for student organizations serving service occupations.

\$88,000 each year is for student organizations serving trade and industry occupations.

\$84,000 each year is for student organizations serving business occupations.

\$131,000 each year is for student organizations serving agriculture occupations.

\$125,000 each year is for student organizations serving family and consumer science occupations.

\$95,000 each year is for student organizations serving marketing occupations.

Any balance in the first year does not cancel but is available in the second year.

Subd. 17. **Education Planning and Assessment System (EPAS) program.** For the Educational Planning and Assessment System (EPAS) program under Minnesota Statutes, section 120B.128:

\$	829,000	.....	2010
\$	829,000	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 18. **Early childhood literacy programs.** For early childhood literacy programs under Minnesota Statutes, section 119A.50, subdivision 3:

\$	1,375,000	.....	2010
\$	1,375,000	.....	2011

Up to \$1,375,000 each year is for leveraging federal and private funding to support AmeriCorps members serving in the Minnesota Reading Corps program established by Serve Minnesota, including costs associated with the training and teaching of early literacy skills to children age three to grade 3 and the evaluation of the impact of the program under Minnesota Statutes, sections 124D.38, subdivision 2, and 124D.42, subdivision 6.

Any balance in the first year does not cancel but is available in the second year.

Subd. 19. **Math and science teacher centers.** For math and science teacher centers under Minnesota Statutes, section 122A.72:

\$ 750,000 2010

Any balance in the first year does not cancel but is available in the second year. This is a onetime appropriation.

Sec. 17. **RULEMAKING AUTHORITY.**

The commissioner of education shall adopt rules consistent with chapter 14 which provide English language proficiency standards for instruction of students identified as limited English proficient under Minnesota Statutes, sections 124D.58 to 124D.64. The English language proficiency standards must encompass the language domains of listening, speaking, reading, and writing. The English language proficiency standards must reflect social and academic dimensions of acquiring a second language that are accepted of English language learners in prekindergarten through grade 12. The English language proficiency standards must address the specific contexts for language acquisition in the areas of social and instructional settings as well as academic language encountered in language arts, mathematics, science, and social studies. The English language proficiency standards must express the progression of language development through language proficiency levels. The English language proficiency standards must be implemented for all limited English proficient students beginning in the 2011-2012 school year and assessed beginning in the 2012-2013 school year.

Sec. 18. **APPROPRIATIONS; DEPARTMENT OF EDUCATION.**

The sum indicated in this section is appropriated from the general fund to the Department of Education to integrate teacher collective bargaining data into the financial statement under Minnesota Statutes, section 123B.77:

\$15,000 2011

The base appropriation is \$3,000 for fiscal year 2012 and \$2,000 for fiscal year 2013.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Laws 2009, chapter 96, article 3, section 21, is amended to read:

Sec. 21. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section 125A.75:

	<u>734,071,000</u>		
\$	<u>609,003,000</u>	.....	2010
	<u>781,497,000</u>		
\$	<u>772,845,000</u>	.....	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.

Subd. 3. **Aid for children with disabilities.** For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

	<u>1,717,000</u>		
\$	<u>1,109,000</u>	.....	2010
	<u>1,895,000</u>		
\$	<u>1,176,000</u>	.....	2011

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

Subd. 4. **Travel for home-based services.** For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

	<u>258,000</u>		
\$	<u>214,000</u>	.....	2010
	<u>282,000</u>		
\$	<u>276,000</u>	.....	2011

The 2010 appropriation includes \$24,000 for 2009 and ~~\$234,000~~ \$190,000 for 2010.

The 2011 appropriation includes ~~\$26,000~~ \$69,000 for 2010 and ~~\$256,000~~ \$207,000 for 2011.

Subd. 5. **Special education; excess costs.** For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

	<u>110,871,000</u>		
\$	<u>96,926,000</u>	.....	2010
	<u>110,877,000</u>		
\$	<u>110,871,000</u>	.....	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.

Subd. 6. **Court-placed special education revenue.** For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by

court action under Minnesota Statutes, section 125A.79, subdivision 4:

\$	76,000	.....	2010
\$	78,000	.....	2011

Subd. 7. **Special education out-of-state tuition.** For special education out-of-state tuition according to Minnesota Statutes, section 125A.79, subdivision 8:

\$	250,000	.....	2010
\$	250,000	.....	2011

ARTICLE 4

FACILITIES AND TECHNOLOGY

Section 1. Laws 2009, chapter 96, article 4, section 12, is amended to read:

Sec. 12. APPROPRIATIONS.

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Health and safety revenue.** For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

	161,000		
\$	<u>131,000</u>	.....	2010
	160,000		
\$	<u>139,000</u>	.....	2011

The 2010 appropriation includes \$10,000 for 2009 and ~~\$151,000~~ \$121,000 for 2010.

The 2011 appropriation includes ~~\$16,000~~ \$44,000 for 2010 and ~~\$144,000~~ \$95,000 for 2011.

Subd. 3. **Debt service equalization.** For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

	7,948,000		
\$	<u>6,608,000</u>	.....	2010
	9,275,000		
\$	<u>8,466,000</u>	.....	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~~ \$6,338,000 for 2011.

Subd. 4. **Alternative facilities bonding aid.** For alternative facilities bonding aid, according to Minnesota Statutes, section 123B.59, subdivision 1:

	<u>19,287,000</u>		
\$	<u>16,008,000</u>	.....	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.

Subd. 5. **Equity in telecommunications access.** For equity in telecommunications access:

\$	3,750,000	.....	2010
\$	3,750,000	.....	2011

If the appropriation amount is insufficient, the commissioner shall reduce the reimbursement rate in Minnesota Statutes, section 125B.26, subdivisions 4 and 5, and the revenue for fiscal years 2010 and 2011 shall be prorated.

Any balance in the first year does not cancel but is available in the second year.

Subd. 6. **Deferred maintenance aid.** For deferred maintenance aid, according to Minnesota Statutes, section 123B.591, subdivision 4:

	<u>2,302,000</u>		
\$	<u>1,931,000</u>	.....	2010
	<u>2,073,000</u>		
\$	<u>2,191,000</u>	.....	2011

The 2010 appropriation includes \$260,000 for 2009 and ~~\$2,042,000~~ \$1,671,000 for 2010.

The 2011 appropriation includes ~~\$226,000~~ \$617,000 for 2010 and ~~\$1,847,000~~ \$1,574,000 for 2011.

ARTICLE 5

LIBRARIES, NUTRITION, AND ACCOUNTING

Section 1. Laws 2009, chapter 96, article 5, section 13, is amended to read:

Sec. 13. APPROPRIATIONS.

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **School lunch.** For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

	<u>12,688,000</u>		
\$	<u>12,296,000</u>	.....	2010

	<u>13,069,000</u>		
\$	<u>12,665,000</u>	.....	2011

Subd. 3. **School breakfast.** For traditional school breakfast aid under Minnesota Statutes, section 124D.1158:

	<u>4,978,000</u>		
\$	<u>4,773,000</u>	.....	2010
	<u>5,147,000</u>		
\$	<u>4,936,000</u>	.....	2011

Subd. 4. **Kindergarten milk.** For kindergarten milk aid under Minnesota Statutes, section 124D.118:

	<u>1,098,000</u>		
\$	<u>1,103,000</u>	.....	2010
	<u>1,120,000</u>		
\$	<u>1,126,000</u>	.....	2011

Subd. 5. **Summer school service replacement aid.** For summer food service replacement aid under Minnesota Statutes, section 124D.119:

\$	150,000	.....	2010
\$	150,000	.....	2011

Subd. 6. **Basic system support.** For basic system support grants under Minnesota Statutes, section 134.355:

	<u>13,570,000</u>		
\$	<u>11,264,000</u>	.....	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.

Subd. 7. **Multicounty, multitype library systems.** For grants under Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

	<u>1,300,000</u>		
\$	<u>1,079,000</u>	.....	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.

Subd. 8. **Electronic library for Minnesota.** For statewide licenses to online databases selected in cooperation with the Minnesota Office of Higher Education for school media centers, public libraries, state government agency libraries, and public or private college or university libraries:

\$	900,000	.....	2010
\$	900,000	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. **Regional library telecommunications aid.** For regional library telecommunications aid under Minnesota Statutes, section 134.355:

	2,300,000		
\$	<u>1,909,000</u>	.....	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.

ARTICLE 6

EARLY CHILDHOOD EDUCATION, PREVENTION, SELF-SUFFICIENCY, AND LIFELONG LEARNING

Section 1. Laws 2009, chapter 96, article 6, section 11, is amended to read:

Sec. 11. APPROPRIATIONS.

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **School readiness.** For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

	10,095,000		
\$	<u>8,379,000</u>	.....	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.

Subd. 3. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

	22,955,000		
\$	<u>19,131,000</u>	.....	2010

	<u>22,547,000</u>		
\$	<u>22,418,000</u>	.....	2011

The 2010 appropriation includes \$3,020,000 for 2009 and ~~\$19,935,000~~ \$16,111,000 for 2010.

The 2011 appropriation includes ~~\$2,214,000~~ \$5,958,000 for 2010 and ~~\$20,333,000~~ \$16,460,000 for 2011.

Subd. 4. **Health and developmental screening aid.** For health and developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

	<u>3,694,000</u>		
\$	<u>2,904,000</u>	.....	2010
	<u>3,800,000</u>		
\$	<u>3,518,000</u>	.....	2011

The 2010 appropriation includes \$367,000 for 2009 and ~~\$3,327,000~~ \$2,537,000 for 2010.

The 2011 appropriation includes ~~\$369,000~~ \$938,000 for 2010 and ~~\$3,431,000~~ \$2,580,000 for 2011.

Subd. 5. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

\$	20,100,000	.....	2010
\$	20,100,000	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 6. **Educate parents partnership.** For the educate parents partnership under Minnesota Statutes, section 124D.129:

	<u>50,000</u>		
\$	<u>48,000</u>	.....	2010
	<u>50,000</u>		
\$	<u>48,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 7. **Kindergarten entrance assessment initiative and intervention program.** For the kindergarten entrance assessment initiative and intervention program under Minnesota Statutes, section 124D.162:

	<u>287,000</u>		
\$	<u>275,000</u>	.....	2010
	<u>287,000</u>		
\$	<u>273,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Subd. 8. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

	585,000		
\$	<u>487,000</u>	.....	2010
	467,000		
\$	<u>502,000</u>	.....	2011

The 2010 appropriation includes \$73,000 for 2009 and ~~\$512,000~~ \$414,000 for 2010.

The 2011 appropriation ~~included \$56,000~~ includes \$153,000 for 2010 and ~~\$411,000~~ \$349,000 for 2011.

Subd. 9. **Adults with disabilities program aid.** For adults with disabilities programs under Minnesota Statutes, section 124D.56:

	710,000		
\$	<u>590,000</u>	.....	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.

Subd. 10. **Hearing-impaired adults.** For programs for hearing-impaired adults under Minnesota Statutes, section 124D.57:

\$	70,000	.....	2010
\$	70,000	.....	2011

Subd. 11. **School-age care revenue.** For extended day aid under Minnesota Statutes, section 124D.22:

\$	1,000	.....	2010
\$	1,000	.....	2011

The 2010 appropriation includes \$0 for 2009 and \$1,000 for 2010.

The 2011 appropriation includes \$0 for 2010 and \$1,000 for 2011.

Subd. 12. **Adult basic education aid.** For adult basic education aid under Minnesota Statutes, section 124D.531:

	42,975,000		
\$	<u>35,671,000</u>	.....	2010
	44,258,000		
\$	<u>44,049,000</u>	.....	2011

The 2010 appropriation includes \$4,187,000 for 2009 and ~~\$38,788,000~~ \$31,484,000 for 2010.

The 2011 appropriation includes ~~\$4,309,000~~ \$11,644,000 for 2010 and ~~\$39,949,000~~ \$32,405,000 for 2011.

Subd. 13. **GED tests.** For payment of 60 percent of the costs of GED tests under Minnesota Statutes, section 124D.55:

\$	125,000	.....	2010
\$	125,000	.....	2011

Any balance in the first year does not cancel but is available in the second year.

ARTICLE 7

STATE AGENCIES

Section 1. Laws 2009, chapter 96, article 7, section 3, subdivision 2, is amended to read:

Subd. 2. **Department.** (a) For the Department of Education:

\$	<u>20,943,000</u>	.....	2010
\$	<u>20,005,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

(b) \$260,000 each year is for the Minnesota Children's Museum.

(c) \$41,000 each year is for the Minnesota Academy of Science.

(d) ~~\$632,000 each year is for the Board of Teaching~~ \$607,000 in fiscal year 2010 and \$655,000 in fiscal year 2011 is for the Board of Teaching. Of the \$655,000 in fiscal year 2011, \$55,000 is for rulemaking costs outlined in article 2. Additional rulemaking costs of \$30,000 in fiscal year 2012 and \$20,000 in fiscal year 2013 are added to the base of \$600,000. Any balance in the first year does not cancel but is available in the second year.

(e) ~~\$171,000 each year is for the Board of School Administrators~~ \$164,000 in fiscal year 2010 and \$262,000 in fiscal year 2011 is for the Board of School Administrators. Of the \$262,000 in fiscal year 2011, \$100,000 is for rulemaking costs outlined in article 2. Any balance in the first year does not cancel but is available in the second year.

The base appropriation for fiscal year 2012 is \$162,000.

(f) ~~\$40,000 each year~~ \$10,000 in fiscal year 2010 is for an early hearing loss intervention coordinator under Minnesota Statutes, section 125A.63, subdivision 5. ~~If the department expends federal funds to employ a hearing loss coordinator under Minnesota Statutes, section 125A.63, subdivision 5, then the appropriation under this paragraph is reallocated for purposes of employing a world languages coordinator.~~

(g) \$50,000 each year is for the Duluth Children's Museum.

(h) None of the amounts appropriated under this subdivision may be used for Minnesota's

Washington, D.C., office.

(i) The expenditures of federal grants and aids as shown in the biennial budget document and its supplements are approved and appropriated and shall be spent as indicated. The commissioner must provide, to the K-12 Education Finance Division in the house of representatives and the E-12 Budget Division in the senate, details about the distribution of state incentive grants, education technology state grants, teacher incentive funds, and statewide data system funds as outlined in the supplemental federal funds submission dated March 25, 2009.

(j) \$24,000 in fiscal year 2010 and \$23,000 in fiscal year 2011 shall be transferred from the department's special revenue fund to the general fund.

Sec. 2. Laws 2009, chapter 96, article 7, section 5, is amended to read:

Sec. 5. APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.

The sums indicated in this section are appropriated from the general fund to the Perpich Center for Arts Education for the fiscal years designated:

	<u>7,087,000</u>		
\$	<u>6,949,000</u>	.....	2010
	<u>7,087,000</u>		
\$	<u>6,867,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

The base appropriation for later fiscal years is \$6,867,000.

\$19,000 in fiscal year 2010 and \$11,000 in fiscal year 2011 shall be transferred from the Perpich Center's special revenue fund to the general fund.

Sec. 3. APPROPRIATION REDUCTIONS.

The appropriation reductions in this article include, and are not in addition to, appropriation changes and reductions that have been implemented under the commissioner of management and budget's unallotment actions that commenced in July 2009.

ARTICLE 8

HIGHER EDUCATION APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

Subdivision 1. Summary Total. The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>		<u>2011</u>		<u>Total</u>	
<u>General</u>	\$	<u>(619,000)</u>	\$	<u>(52,664,000)</u>	\$	<u>(53,283,000)</u>
<u>Health Care Access</u>		<u>-0-</u>		<u>-0-</u>		<u>-0-</u>
<u>Federal</u>		<u>-0-</u>		<u>-0-</u>		<u>-0-</u>

<u>State Government Special Revenue</u>		-0-	-0-	-0-
Total	\$	(619,000)	\$ (52,664,000)	\$ (53,283,000)

Subd. 2. **Summary by Agency - All Funds.** The amounts shown in this subdivision summarize direct appropriations, by agency, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>Minnesota Office of Higher Education</u>	\$ (619,000)	\$ (6,077,000)	\$ (6,696,000)
<u>Board of Trustees of the Minnesota State Colleges and Universities</u>	-0-	(10,467,000)	(10,467,000)
<u>Board of Regents of the University of Minnesota</u>	-0-	(36,120,000)	(36,120,000)
Total	\$ (619,000)	\$ (52,664,000)	\$ (53,283,000)

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 95, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS Available for the Year Ending June 30 2010 2011

Sec. 3. OFFICE OF HIGHER EDUCATION

<u>Subdivision 1. Total Appropriation</u>	\$	(619,000)	\$ (6,077,000)
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. State Grants</u>	(233,000)	(2,063,000)
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<u>Subd. 3. Child Care Grants</u>	-0-	(500,000)
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77TH DAY]

MONDAY, MARCH 22, 2010

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<u>Subd. 4. State Work-Study</u>	<u>-0-</u>	<u>(2,500,000)</u>
<u>Subd. 5. Indian Scholarships</u>	<u>-0-</u>	<u>(120,000)</u>
<u>Subd. 6. Intervention for College Attendance Program Grants</u>	<u>(22,000)</u>	<u>(43,000)</u>
<u>Subd. 7. Midwest Higher Education Compact</u>	<u>(3,000)</u>	<u>(3,000)</u>
<u>Subd. 8. Technical and Community College Emergency Grants</u>	<u>-0-</u>	<u>(150,000)</u>
<u>Subd. 9. United Family Medicine Residency</u>	<u>(13,000)</u>	<u>(28,000)</u>
<u>Subd. 10. Interstate Tuition Reciprocity</u>	<u>(165,000)</u>	<u>(165,000)</u>
<u>Subd. 11. Minnesota College Savings Plan</u>	<u>(22,000)</u>	<u>(50,000)</u>
<u>Subd. 12. MnLink Gateway and Minitex</u>	<u>(95,000)</u>	<u>(362,000)</u>
<u>Subd. 13. Other Programs</u>	<u>(6,000)</u>	<u>(12,000)</u>

The reduction in the student and parent information program is \$6,000 in fiscal year 2010 and \$3,000 in fiscal year 2011. The reduction in get ready program funds is \$6,000 in fiscal year 2011. The reduction in funds for the Minnesota Minority Education Partnership is \$3,000 in fiscal year 2011.

<u>Subd. 14. Agency Administration</u>	<u>(60,000)</u>	<u>(81,000)</u>
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Sec. 4. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(10,467,000)</u>
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The amounts that must be reduced or added for each purpose are specified in the following subdivisions.

<u>Subd. 2. Central Office and Shared Services Unit</u>	<u>-0-</u>	<u>(742,000)</u>
<u>Subd. 3. Operations and Maintenance</u>	<u>-0-</u>	<u>(9,642,000)</u>
<u>Subd. 4. Learning Network of Minnesota</u>	<u>-0-</u>	<u>(82,000)</u>

Sec. 5. **BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(36,120,000)</u>
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The amounts that must be reduced or added for each purpose are specified in the following subdivisions.

<u>Subd. 2. Operations and Maintenance</u>		<u>-0-</u>		<u>(32,223,000)</u>
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Subd. 3. Special Appropriations

<u>(a) Agriculture and Extension Service</u>		<u>-0-</u>		<u>(2,787,000)</u>
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<u>(b) Health Sciences</u>		<u>-0-</u>		<u>(281,000)</u>
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\$18,000 in fiscal year 2011 is a reduction to the appropriation to support up to 12 resident physicians in the St. Cloud Hospital family practice residency program.

<u>(c) Institute of Technology</u>		<u>-0-</u>		<u>(74,000)</u>
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<u>(d) System Special</u>		<u>-0-</u>		<u>(328,000)</u>
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<u>(e) University of Minnesota and Mayo Foundation Partnership</u>		<u>-0-</u>		<u>(427,000)</u>
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Sec. 6. Laws 2009, chapter 95, article 1, section 3, subdivision 6, is amended to read:

Subd. 6. Achieve Scholarship Program	4,350,000		4,350,000
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For scholarships under Minnesota Statutes, section 136A.127, the office shall transfer the appropriation for fiscal year 2011 to the appropriation for state grants.

Sec. 7. Laws 2009, chapter 95, article 1, section 3, subdivision 12, is amended to read:

Subd. 12. Technical and Community College Emergency Grants	150,000		150,000
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For transfer to the financial aid offices at each of the colleges of the Minnesota State Colleges and Universities to provide emergency aid grants to technical and community college students who are

experiencing extraordinary economic circumstances that may result in the students dropping out of school without completing the term or their program. This is a onetime appropriation.

Sec. 8. Laws 2009, chapter 95, article 1, section 4, subdivision 4, as amended by Laws 2009, chapter 177, section 10, subdivision 4, is amended to read:

Subd. 4. Operations and Maintenance	562,041,000	613,833,000
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(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) \$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.

(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.

~~(f) For fiscal years 2012 and 2013 the base for operations and maintenance is \$602,759,000 each year.~~

Sec. 9. Laws 2009, chapter 95, article 1, section 5, subdivision 2, is amended to read:

Subd. 2. Operations and Maintenance	550,345,000	604,239,000
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(a) This appropriation includes funding for operation and maintenance of the system.

(b) The Board of Regents 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. The plan must focus on protecting direct instruction.

(c) Appropriations under this subdivision may be used for a new scholarship under Minnesota Statutes, section 137.0225, to complement the University's Founders scholarship.

(d) This appropriation includes amounts for an Ojibwe Indian language program on the Duluth campus.

(e) This appropriation includes money for the Dakota language teacher training immersion program on the Twin Cities campus to prepare teachers to teach in Dakota language immersion programs.

(f) This appropriation includes money for the Veterinary Diagnostic Laboratory to preserve accreditation.

(g) This appropriation includes money in fiscal year 2010 for a onetime grant to the Minnesota Wildlife Rehabilitation Center for

their uncompensated expenses.

~~(h) For fiscal years 2012 and 2013, the base for operations and maintenance is \$596,930,000 each year.~~

ARTICLE 9

RELATED HIGHER EDUCATION PROVISIONS

Section 1. Minnesota Statutes 2009 Supplement, section 136A.121, subdivision 9, is amended to read:

Subd. 9. **Awards.** An undergraduate student who meets the office's requirements is eligible to apply for and receive a grant in any year of undergraduate study unless the student has obtained a baccalaureate degree or previously has been enrolled full time or the equivalent for ~~nine~~ eight semesters or the equivalent, excluding courses taken from a Minnesota school or postsecondary institution which is not participating in the state grant program and from which a student transferred no credit. A student who withdraws from enrollment for active military service, or for a major illness, while under the care of a medical professional, that substantially limits the student's ability to complete the term is entitled to an additional semester or the equivalent of grant eligibility. A student enrolled in a two-year program at a four-year institution is only eligible for the tuition and fee maximums established by law for two-year institutions.

Sec. 2. Minnesota Statutes 2009 Supplement, section 136A.127, subdivision 9, is amended to read:

Subd. 9. **Scholarship awards.** The amount of the scholarship is equal to the maximum assigned student responsibility for a four-year program, as defined in section 136A.121, subdivision 5, minus the assigned family responsibility as defined in section 136A.101, subdivision 5a, multiplied by 0.50. The minimum scholarship is \$1,200 per academic year based on the institution's academic calendar and the student's continued eligibility and available appropriations. Awards are subject to student priority under subdivision 9d. The scholarship may be used to pay for qualifying expenses at eligible institutions.

Sec. 3. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9c. **Insufficient appropriation.** If the amount appropriated is determined by the office to be insufficient to make full awards to applicants under subdivision 9, awards may be reduced by one or more of the following:

- (1) a percentage reduction in the maximum award;
- (2) a dollar amount reduction in the minimum award; or
- (3) adding a surcharge to the applicant's assigned family responsibility, as defined in section 136A.101, subdivision 5a.

Sec. 4. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9d. **Student priority.** Achieve scholarship awards must be made to students with complete applications received as of August 31 of each respective fiscal year.

Sec. 5. Minnesota Statutes 2008, section 136A.1701, subdivision 4, is amended to read:

Subd. 4. **Terms and conditions of loans.** (a) The office may loan money upon such terms and conditions as the office may prescribe. ~~The~~ Under the SELF IV program, the principal amount of a loan to an undergraduate student for a single academic year shall not exceed \$6,000 for grade levels 1 and 2 effective July 1, 2006, through June 30, 2007. Effective July 1, 2007, the principal amount of a loan for grade levels 1 and 2 shall not exceed \$7,500. The principal amount of a loan for grade levels 3, 4, and 5 shall not exceed \$7,500 effective July 1, 2006 \$7,500 per grade level. The aggregate principal amount of all loans made under this section to an undergraduate student shall not exceed ~~\$34,500 through June 30, 2007, and \$37,500 after June 30, 2007.~~ The principal amount of a loan to a graduate student for a single academic year shall not exceed \$9,000. The aggregate principal amount of all loans made under this section to a student as an undergraduate and graduate student shall not exceed ~~\$52,500 through June 30, 2007, and \$55,500 after June 30, 2007.~~ The amount of the loan may not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (b).

(b) The cumulative undergraduate borrowing maximums for SELF IV loans are:

(1) ~~effective July 1, 2006, through June 30, 2007:~~

(i) ~~grade level 1, \$6,000;~~

(ii) ~~grade level 2, \$12,000;~~

(iii) ~~grade level 3, \$19,500;~~

(iv) ~~grade level 4, \$27,000; and~~

(v) ~~grade level 5, \$34,500; and~~

(2) ~~effective July 1, 2007:~~

(i) ~~grade level 1, \$7,500;~~

(ii) ~~(2) grade level 2, \$15,000;~~

(iii) ~~(3) grade level 3, \$22,500;~~

(iv) ~~(4) grade level 4, \$30,000; and~~

(v) ~~(5) grade level 5, \$37,500.~~

(c) The principal amount of a SELF V or subsequent phase loan to students enrolled in a bachelor's degree program, postbaccalaureate, or graduate program must not exceed \$10,000 per grade level. For all other eligible students, the principal amount of the loan must not exceed \$7,500 per grade level. The aggregate principal amount of all loans made under this section to a student as an undergraduate and graduate student must not exceed \$70,000. The amount of the loan must not exceed the cost of attendance less all other financial aid, including PLUS loans or other similar parent loans borrowed on the student's behalf. The cumulative SELF loan debt must not exceed the borrowing maximums in paragraph (d).

(d)(1) The cumulative borrowing maximums for SELF V loans and subsequent phases for

students enrolled in a bachelor's degree program or postbaccalaureate program are:

- (i) grade level 1, \$10,000;
- (ii) grade level 2, \$20,000;
- (iii) grade level 3, \$30,000;
- (iv) grade level 4, \$40,000; and
- (v) grade level 5, \$50,000.

(2) For graduate level students, the borrowing limit is \$10,000 per nine-month academic year, with a cumulative maximum for all SELF debt of \$70,000.

(3) For all other eligible students, the cumulative borrowing maximums for SELF V loans and subsequent phases are:

- (i) grade level 1, \$7,500;
- (ii) grade level 2, \$15,000;
- (iii) grade level 3, \$22,500;
- (iv) grade level 4, \$30,000; and
- (v) grade level 5, \$37,500.

Sec. 6. Minnesota Statutes 2008, section 136A.1701, subdivision 7, is amended to read:

Subd. 7. **Repayment of loans.** (a) The office shall establish repayment procedures for loans made under this section, but in no event shall the period of permitted repayment for SELF II or SELF III loans exceed ten years from the eligible student's termination of the student's postsecondary academic or vocational program, or 15 years from the date of the student's first loan under this section, whichever is less.

(b) For SELF IV loans ~~from phases after SELF III~~, eligible students with aggregate principal loan balances from all SELF phases that are less than \$18,750 shall have a repayment period not exceeding ten years from the eligible student's graduation or termination date. For SELF IV loans ~~from phases after SELF III~~, eligible students with aggregate principal loan balances from all SELF phases of \$18,750 or greater shall have a repayment period not exceeding 15 years from the eligible student's graduation or termination date. For SELF IV loans ~~from phases after SELF III~~, the loans shall enter repayment no later than seven years after the first disbursement date on the loan.

(c) For SELF loans from phases after SELF IV, eligible students with aggregate principal loan balances from all SELF phases that are:

- (1) less than \$20,000, must have a repayment period not exceeding ten years from the eligible student's graduation or termination date;
- (2) \$20,000 up to \$40,000, must have a repayment period not exceeding 15 years from the eligible student's graduation or termination date; and
- (3) \$40,000 or greater, must have a repayment period not exceeding 20 years from the eligible

student's graduation or termination date. For SELF loans from phases after SELF IV, the loans must enter repayment no later than nine years after the first disbursement date of the loan.

Sec. 7. Minnesota Statutes 2008, section 136A.69, subdivision 1, is amended to read:

Subdivision 1. **Registration fees.** (a) The office shall collect reasonable registration fees that are sufficient to recover, but do not exceed, its costs of administering the registration program. The office shall charge \$1,100 for initial registration fees and \$950 for annual renewal fees. the fees listed in paragraphs (b) and (c) for new registrations.

(b) A new school offering no more than one degree at each level during its first year must pay registration fees for each applicable level in the following amounts:

<u>associate degree</u>	<u>\$2,000</u>
<u>baccalaureate degree</u>	<u>\$2,500</u>
<u>master's degree</u>	<u>\$3,000</u>
<u>doctorate degree</u>	<u>\$3,500</u>

(c) A new school that will offer more than one degree per level during its first year must pay registration fees in an amount equal to the fee for the first degree at each degree level under paragraph (b), plus fees for each additional nondegree program or degree as follows:

<u>nondegree program</u>	<u>\$250</u>
<u>additional associate degree</u>	<u>\$250</u>
<u>additional baccalaureate degree</u>	<u>\$500</u>
<u>additional master's degree</u>	<u>\$750</u>
<u>additional doctorate degree</u>	<u>\$1,000</u>

(d) The annual renewal registration fee is \$1,200.

Sec. 8. Minnesota Statutes 2008, section 136A.69, subdivision 3, is amended to read:

Subd. 3. **Degree or nondegree program addition fee.** The office processing fee fees for adding a degree or nondegree program that represents a significant departure in the objectives, content, or method of delivery of degree or nondegree programs that are currently offered by the school is \$500 per degree or nondegree program are as follows:

<u>nondegree program that is part of existing degree</u>	<u>-0-</u>
<u>nondegree program that is not a part of an existing degree</u>	<u>\$250 each</u>
<u>majors, specializations, emphasis areas, concentrations, and other similar areas of emphasis</u>	<u>\$250 each</u>
<u>associate degrees</u>	<u>\$500 each</u>
<u>baccalaureate degrees</u>	<u>\$500 each</u>
<u>master's degrees</u>	<u>\$750 each</u>

doctorate degrees

\$2,000 each.

Sec. 9. Minnesota Statutes 2008, section 136A.69, subdivision 4, is amended to read:

Subd. 4. **Visit or consulting fee.** If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised degree or nondegree program, the office shall be reimbursed for the expenses incurred related to the review as follows:

(1) ~~\$300~~ \$400 for the team base fee or for a paper review conducted by a consultant if the office determines ~~that a fact-finding visit is not required;~~

(2) \$300 for each day or part thereof on site per team member; and

(3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Sec. 10. Minnesota Statutes 2008, section 141.255, is amended to read:

141.255 FEES.

Subdivision 1. **Initial licensure fee.** The office processing fee for an initial licensure application is:

(1) ~~\$1,500~~ \$2,500 for a school that will offer no more than one program during its first year of operation;

(2) \$750 for a school licensed exclusively due to the use of the term "college," "university," "academy," or "institute" in their name, or licensed exclusively in order to participate in state grant or SELF loan financial aid programs; and

~~(2) \$2,000 for a school that will offer two or more nondegree level programs~~

(3) \$2,500, plus \$500 for each additional program offered by the school, for a school during its first year of operation; and

~~(3) \$2,500 for a school that will offer two or more degree level programs during its first year of operation.~~

Subd. 2. **Renewal licensure fee; late fee.** (a) The office processing fee for a renewal licensure application is:

~~(1) for a category A school, as determined by the office, the fee is \$865 if the school offers one program or \$1,150 if the school offers two or more programs; and~~

~~(2) for a category B or C school, as determined by the office, the fee is \$430 if the school offers one program or \$575 if the school offers two or more programs.~~

(1) for a school that offers one program, the license renewal fee is \$1,150;

(2) for a school that offers more than one program, the license renewal fee is \$1,150, plus \$200 for each additional program with a maximum renewal licensing fee of \$2,000; and

(3) schools licensed exclusively due to the use of the term "college," "university," "academy,"

or "institute" in their name or licensed exclusively in order to participate in state grant or SELF loan financial aid programs shall pay a renewal fee of \$750.

(b) If a license renewal application is not received by the office by the close of business at least 60 days before the expiration of the current license, a late fee of \$100 per business day, not to exceed \$3,000, shall be assessed.

~~Subd. 3. **Degree level addition fee.** The office processing fee for adding a degree level to an existing program is \$2,000 per program.~~

Subd. 4. **Program addition fee.** The office processing fee for adding a program ~~that represents a significant departure in the objectives, content, or method of delivery of programs to those that~~ are currently offered by the school is \$500 per program.

Subd. 5. **Visit or consulting fee.** If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised program, the office shall be reimbursed for the expenses incurred related to the review as follows:

- (1) ~~\$300~~ \$400 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;
- (2) \$300 for each day or part thereof on site per team member; and
- (3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 6. **Modification fee.** The fee for modification of any existing program is \$100 and is due if there is:

- (1) an increase or decrease of 25 percent or more, from the original date of program approval, in clock hours, credit hours, or calendar length of an existing program;
- (2) a change in academic measurement from clock hours to credit hours or vice versa; or
- (3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

Subd. 7. **Solicitor permit fee.** The solicitor permit fee is \$350 and must be paid annually.

Subd. 8. **Multiple location fee.** Schools wishing to operate at multiple locations must pay:

- (1) \$250 per location, for locations two to five ~~locations~~; and
- (2) an additional ~~\$50~~ \$100 for each location over five.

Subd. 9. **Student transcript fee.** The fee for a student transcript requested from a closed school whose records are held by the office is ~~\$10~~ \$15, with a maximum of five transcripts per request.

Subd. 10. **Public office documents; copies.** ~~The office shall establish rates for copies of any public office document~~ shall be 50 cents per page.

Sec. 11. **REPEALER.**

Minnesota Statutes 2008, sections 136A.1701, subdivision 5; 136A.69, subdivision 2; and

141.255, subdivision 3, are repealed.

Minnesota Statutes 2009 Supplement, sections 135A.61; and 136A.121, subdivision 9b, are repealed.

ARTICLE 10

ENVIRONMENT AND NATURAL RESOURCES

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (1,166,787) \$	(2,997,605) \$	(4,164,392)
<u>Environmental</u>	(1,315,000)	(1,763,000)	(3,078,000)
<u>Remediation</u>	(118,000)	(179,000)	(297,000)
<u>Natural Resources</u>	(7,000)	(877,001)	(884,001)
<u>Game and Fish</u>	-0-	250,000	250,000
<u>Environmental Trust</u>	-0-	1,000,000	1,000,000
<u>Clean Water</u>	-0-	2,500,000	2,500,000
<u>Total</u>	\$ (2,606,787) \$	(3,677,606) \$	(6,284,393)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 37, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from 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. Supplemental appropriations, reductions to appropriations, and transfers for the fiscal year ending June 30, 2010, are effective the day following final enactment.

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

Sec. 3. **POLLUTION CONTROL AGENCY**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(1,710,000)</u>	<u>\$</u>	<u>(2,397,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(276,000)</u>	<u>(455,000)</u>
<u>Environmental</u>	<u>(1,316,000)</u>	<u>(1,763,000)</u>
<u>Remediation</u>	<u>(118,000)</u>	<u>(179,000)</u>

The appropriation additions or reductions for each purpose are specified in the following subdivisions.

<u>Subd. 2. Water</u>	<u>(439,000)</u>	<u>(626,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(186,000)</u>	<u>(304,000)</u>
<u>Environmental</u>	<u>(253,000)</u>	<u>(322,000)</u>

The legislature approves the groundwater protection plan submitted to the legislature in January 2010 as required by Laws 2009, chapter 172, article 2, section 4, paragraph (m), and authorizes the Pollution Control Agency to spend that appropriation in accordance with the approved plan.

<u>Subd. 3. Air</u>	<u>(174,000)</u>	<u>(323,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>Environmental</u>	<u>(174,000)</u>	<u>(323,000)</u>

<u>Subd. 4. Land</u>	<u>(149,000)</u>	<u>(274,000)</u>
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Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>Environmental</u>	<u>(31,000)</u>	<u>(95,000)</u>
<u>Remediation</u>	<u>(118,000)</u>	<u>(179,000)</u>

Subd. 5. Environmental Assistance and Cross Media(919,000) (1,118,000)Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(61,000)</u>	<u>(95,000)</u>
<u>Environmental</u>	<u>(858,000)</u>	<u>(1,023,000)</u>

Subd. 6. Administrative Support(29,000) (56,000)Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(29,000)</u>	<u>(56,000)</u>

Subd. 7. Transfers to the General Fund

By July 1, 2010, the commissioner of the Pollution Control Agency shall transfer \$3,429,000 from the environmental fund to the general fund. Of this amount, \$200,000 is from the metropolitan landfill account and \$150,000 is from the electronic waste account in the environmental fund.

By July 1, 2010, the commissioner shall transfer \$297,000 from the remediation fund to the general fund.

By July 1, 2010, the commissioner shall transfer \$790,000 from the agency's indirect cost account in the miscellaneous special revenue account to the general fund.

Sec. 4. NATURAL RESOURCES**Subdivision 1. Total Appropriation**\$ (859,787) \$ (1,371,606)Appropriations by Fund

<u>General</u>	<u>(859,787)</u>	<u>(1,759,605)</u>
<u>Natural Resources</u>	<u>-0-</u>	<u>(862,001)</u>
<u>Game and Fish</u>	<u>-0-</u>	<u>250,000</u>
<u>Environmental Trust</u>	<u>-0-</u>	<u>1,000,000</u>

Subd. 2. Lands and Minerals(114,450) (283,050)

	<u>Appropriations by Fund</u>			
<u>General</u>	<u>(114,450)</u>	<u>(283,050)</u>		
Subd. 3. <u>Water Resources Management</u>			<u>(50,000)</u>	<u>(120,000)</u>

	<u>Appropriations by Fund</u>			
<u>General</u>	<u>(50,000)</u>	<u>(120,000)</u>		
Subd. 4. <u>Forest Management</u>			<u>(176,000)</u>	<u>891,000</u>

	<u>Appropriations by Fund</u>			
<u>General</u>	<u>(176,000)</u>	<u>(359,000)</u>		
<u>Game and Fish</u>	<u>-0-</u>	<u>250,000</u>		
<u>Environmental Trust</u>	<u>-0-</u>	<u>1,000,000</u>		

\$250,000 in 2011 is from the heritage enhancement account to maintain and expand the ecological classification system program on state forest lands. This is a onetime appropriation.

\$1,000,000 in 2011 is from the environmental trust fund to the commissioner of natural resources under Minnesota Statutes, section 88.82, for grants to communities to provide funding for no-interest loans to private land owners for the removal of emerald ash borer infested ash trees on private lands. Grants made to communities will be available for ten years. At the end of the ten-year grant period, the full grant amount will be canceled for redeposit in the environmental trust fund. This appropriation cancels on June 30, 2012.

\$106,089 in 2011 is transferred from the forest resource assessment appropriation in the dedicated receipts account in the natural resources fund to the general fund. This is a onetime transfer.

Subd. 5. <u>Parks and Trails Management</u>			<u>(203,337)</u>	<u>(1,345,556)</u>
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	<u>Appropriations by Fund</u>			
<u>General</u>	<u>(203,337)</u>	<u>(483,555)</u>		
<u>Natural Resources</u>	<u>0</u>	<u>(862,001)</u>		

77TH DAY]

MONDAY, MARCH 22, 2010

8527

Subd. 6. Fish and Wildlife Management -0- (50,000)

Appropriations by Fund

General -0- (50,000)

\$340,000 in 2011 is transferred from the account balance in the water recreation electronic licensing appropriation in the natural resources fund to the general fund. This is a onetime transfer.

Subd. 7. Ecological Services (170,000) (140,000)

Appropriations by Fund

General (170,000) (140,000)

Subd. 8. Enforcement (136,000) (224,000)

Appropriations by Fund

General (136,000) (224,000)

On June 30, 2010, the balance of surcharges on criminal and traffic offenders credited to the game and fish fund under Minnesota Statutes, section 357.021, subdivision 7, and collected prior to that date are transferred to the general fund.

Subd. 9. Operations Support (10,000) (100,000)

Appropriations by Fund

General (10,000) (100,000)

Sec. 5. BOARD OF WATER AND SOIL RESOURCES

Subdivision 1. Total Appropriation \$ -0- \$ (460,000)

Appropriations by Fund

General -0- (460,000)

\$20,000 in 2011 is a reduction from the appropriation for establishing and maintaining riparian vegetation buffers of restored native prairie and restored prairie.

\$100,000 in 2011 is a reduction in the appropriation for cost-share grants to local governments for public drainage records modernization.

\$100,000 in 2011 is a reduction from the appropriation for grants to local units of government within the 11-county metropolitan area to improve response to major wetland violations.

\$100,000 in 2011 is a reduction from the appropriation to transfer to the commissioner of natural resources for enforcement of wetland violations.

\$25,000 in 2011 is a reduction in the appropriation to provide assistance to local drainage management officials and for the costs of the Drainage Work Group.

\$40,000 in 2011 is a reduction in the appropriation for implementation and enforcement of the Wetland Conservation Act.

\$384,000 of the current balance in the agricultural watershed restoration account is canceled back to the general fund on December 15, 2010.

Subd. 2. Reduction; DR-1717 Disaster Relief

Laws 2007, First Special Session chapter 2, article 1, is reduced as follows:

\$40,000 in 2010 from funds received interagency for disaster relief in the area included in DR-1717.

Subd. 3. Reduction; Rehabilitation Erosion and Sediment Control

Laws 2008, chapter 363, article 5, section 5, is reduced as follows:

\$125,000 in 2010 from the appropriation for implementing rehabilitation erosion and sediment control projects in the area included in DR-1717.

Subd. 4. Returned Grants

Beginning July 1, 2010, all returned grant money originating from general fund grant programs will be deposited into individual accounts in the special revenue fund and held for eventual transfer back to the general fund. On December 15, 2010, and on December 15 of each year thereafter, \$310,000 of the receipts in this special revenue fund will be transferred to the general fund. If less than \$310,000 is available on the transfer date, an additional transfer on June 15 sufficient to make the \$310,000 annual obligation will be made.

Sec. 6. METROPOLITAN COUNCIL

Subdivision 1. Total Appropriation \$ -0- \$ 2,388,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>-0-</u>	<u>(112,000)</u>
<u>Clean Water</u>	<u>-0-</u>	<u>2,500,000</u>

The fiscal year 2011 general fund base appropriation for regional parks is reduced by \$112,000. This reduction is permanent.

\$2,000,000 is from the clean water fund pursuant to Minnesota Statutes, section 114D.50, to the Metropolitan Council to provide grants or loans to local governments for nonmunicipal wastewater inflow and infiltration reduction programs in the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2. This appropriation applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and is available until expended.

\$500,000 is from the clean water fund for implementation of the master water supply plan developed under Minnesota Statutes, section 473.1565. This appropriation applies in the counties of Anoka, Carver, Dakota,

Hennepin, Ramsey, Scott, and Washington,
and is available until expended.

Sec. 7. MINNEOTA CONSERVATION CORPS

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(14,000)</u>	<u>\$</u>	<u>(29,000)</u>
<u>Appropriations by Fund</u>				
	<u>2010</u>		<u>2011</u>	
<u>General</u>	<u>(7,000)</u>		<u>(14,000)</u>	
<u>Natural Resources</u>	<u>(7,000)</u>		<u>(15,000)</u>	

The appropriation reduction in the natural resources fund is in the current biennium only. On June 1, 2010, \$7,000 will be transferred from the natural resources fund to the general fund. On June 1, 2011, \$15,000 will be transferred from the natural resources fund to the general fund.

Sec. 8. ZOOLOGICAL BOARD

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(24,000)</u>	<u>\$</u>	<u>(197,000)</u>
<u>Appropriations by Fund</u>				
	<u>2010</u>		<u>2011</u>	
<u>General</u>	<u>(24,000)</u>		<u>(197,000)</u>	

Sec. 9. Minnesota Statutes 2008, section 84.027, subdivision 15, is amended to read:

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

(1) provide for the electronic transfer of funds generated by electronic transactions, including by telephone;

(2) assign an identification number to an applicant who purchases a hunting or fishing license or recreational vehicle registration by electronic means, to serve as temporary authorization to engage in the activity requiring a license or registration until the license or registration is received or expires;

(3) charge and permit agents to charge a fee of individuals who make electronic transactions and transactions by telephone or Internet, including issuing fees and an additional transaction fee not to exceed \$3.50;

(4) charge and permit agents to charge a convenience fee not to exceed three percent of the cost of

the license to individuals who use electronic bank cards for payment. An electronic licensing system agent charging a fee of individuals making an electronic bank card transaction in person must post a sign informing individuals of the fee. The sign must be near the point of payment, clearly visible, include the amount of the fee, and state: "License agents are allowed by state law to charge a fee not to exceed three percent of the cost of state licenses to persons who use electronic bank cards for payment. The fee is not required by state law.";

(5) establish, by written order, an electronic licensing system commission to be paid by revenues generated from all sales made through the electronic licensing system. The commissioner shall establish the commission in a manner that neither significantly overrecovers nor underrecovers costs involved in providing the electronic licensing system; and

(6) adopt rules to administer the provisions of this subdivision.

(b) The fees established under paragraph (a), clauses (3) and (4), and the commission established under paragraph (a), clause (5), are not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.

(c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

Sec. 10. Minnesota Statutes 2008, section 85.052, subdivision 4, is amended to read:

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

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

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

Sec. 11. Minnesota Statutes 2008, section 85.22, subdivision 5, is amended to read:

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

Sec. 12. Minnesota Statutes 2008, section 97A.015, is amended by adding a subdivision to read:

Subd. 1a. **Accompanied.** "Accompanied" means:

(1) for a youth age 13 or under hunting small game other than wild turkey, a parent or guardian over age 18 is within unaided sight and hearing distance of the youth hunter that is adequate for the parent or guardian to provide direction and control over the youth hunter;

(2) for a youth age 13 or under hunting wild turkey or big game, a parent or guardian over age 18 is in close enough proximity of the youth hunter for the parent or guardian to immediately assume

control of the youth hunter's firearm or bow; or

(3) for a person age 13 or over born after December 31, 1979, and hunting with an apprentice hunter validation under section 97B.022, an adult licensed to hunt in Minnesota whose license was not obtained using an apprentice hunter validation is within unaided sight and hearing distance of the person that is adequate for the licensed adult to provide direction and control over the apprentice hunter.

Sec. 13. Minnesota Statutes 2009 Supplement, 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), ~~(13)~~, ~~(14)~~, and ~~(15)~~ (8), and 3, clauses ~~(2)~~, (3), (4), ~~(10)~~, (5), and (11), and ~~(12)~~, 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. 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.

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. 14. Minnesota Statutes 2009 Supplement, 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)~~ (5), and subdivision 3, clause ~~(7)~~ (8), 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. 15. [97A.26] PEACE OFFICER TRAINING ACCOUNT.

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

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

Sec. 16. Minnesota Statutes 2008, section 97A.435, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** Persons eligible for a turkey license shall be determined by ~~this section and commissioner's rule adopted by the commissioner. A person is eligible for a turkey license only if the person is at least age 16 before the season opens, possesses a firearms safety certificate, or, if under age 12, is accompanied by a parent or guardian.~~

Sec. 17. Minnesota Statutes 2009 Supplement, 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, clause

~~(5)~~ (6).

Sec. 18. Minnesota Statutes 2008, section 97A.445, subdivision 5, is amended to read:

Subd. 5. **Small game hunting; Take a Kid Hunting Weekend.** (a) A resident over age 18 may take small game by hunting without a license during one Saturday and Sunday of the small game hunting season designated by rule of the commissioner if accompanied by a child who is under age 16 18. The commissioner shall publicize the Saturday and Sunday as "Take a Kid Hunting Weekend." Notwithstanding section 97A.451, subdivision 3, a person under age 18 does not need a hunting license to take small game by hunting on the weekend designated under this paragraph.

(b) Notwithstanding section 97A.451, subdivision 3, a person under age 16 may take waterfowl without a license when accompanied by a nonhunting adult age 18 or over during youth waterfowl hunting days designated by rule of the commissioner in accordance with federal law.

Sec. 19. Minnesota Statutes 2008, section 97A.451, subdivision 3, is amended to read:

Subd. 3. **~~Residents under age 16; small game Resident and nonresident hunting.~~** (a) ~~A resident under age 16 must obtain a small game license in order to take small game by firearms or bow and arrow without paying the applicable fees under section 97A.475, subdivisions 2, 4, and 5, if the resident is:~~ Except as otherwise specifically provided by law, a person must obtain a license to hunt big game or small game by firearms or bow and arrow and is eligible to obtain a license and use it for hunting if the person was born on or before December 31, 1979, or, if born after December 31, 1979, is:

(1) 12 years of age or under and is accompanied by a parent or guardian;

(2) 13 years of age, possesses a hunter education firearms safety certificate, and is accompanied by a parent or guardian;

(3) 14 years of age or over and possesses a hunter education firearms safety certificate; or

(4) 13 years of age or over, possesses an apprentice hunter validation, and is accompanied by an adult 18 years of age or over who is licensed to hunt in Minnesota and whose license was not obtained using an apprentice hunter validation.

~~(1) age 14 or 15 and possesses a firearms safety certificate;~~

~~(2) age 13, possesses a firearms safety certificate, and is accompanied by a parent or guardian;~~

~~(3) age 13, 14, or 15, possesses an apprentice hunter validation, and is accompanied by a parent or guardian who possesses a small game license that was not obtained using an apprentice hunter validation; or~~

~~(4) age 12 or under and is accompanied by a parent or guardian.~~

(b) A resident under age 16 may take small game by trapping without a small game license, but a resident 13 years of age or older must have a trapping license to take small game by trapping. A resident under age 13 may trap without a trapping license, but may not register fisher, otter, bobcat, or pine marten unless the resident is at least age five. Any fisher, otter, bobcat, or pine marten taken by a resident under age five must be included in the limit of the accompanying parent or guardian.

~~(c) A resident under age 12 may apply for a turkey license and may take a turkey without a firearms safety certificate if the resident is accompanied by an adult parent or guardian who has a firearms safety certificate.~~

~~(d) A resident under age 12 may apply for a prairie chicken license and may take a prairie chicken without a firearms safety certificate if the resident is accompanied by an adult parent or guardian who has a firearms safety certificate.~~

Sec. 20. Minnesota Statutes 2009 Supplement, 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 under age 18 to take small game, \$2.50;
- (2) for persons age 18 or over and under age 65 to take small game, \$12.50;
- ~~(2)~~ (3) for persons ages 16 and 17 and age 65 or over, \$6 to take small game;
- ~~(3)~~ (4) for persons age 18 or over to take turkey, \$23;
- (4) (5) for persons under age 18 to take turkey, \$12 \$2.50;
- ~~(5)~~ (6) for persons age 18 or over to take deer with firearms during the regular firearms season, \$26;
- ~~(6)~~ (7) for persons age 18 or over to take deer by archery, \$26;
- ~~(7)~~ (8) for persons age 18 or over to take deer by muzzleloader during the muzzleloader season, \$26;
- ~~(8)~~ (9) to take moose, for a party of not more than six persons, \$310;
- ~~(9)~~ (10) to take bear, \$38;
- ~~(10)~~ (11) to take elk, for a party of not more than two persons, \$250;
- ~~(11)~~ (12) to take Canada geese during a special season, \$4;
- ~~(12)~~ (13) to take prairie chickens, \$20;
- ~~(13)~~ (14) for persons under age 18 to take deer with firearms during the regular firearms season, \$13 \$2.50;
- (14) (15) for persons under age 18 to take deer by archery, \$13 \$2.50; and
- ~~(15)~~ (16) for persons under age 18 to take deer by muzzleloader during the muzzleloader season, \$13 \$2.50.

Sec. 21. Minnesota Statutes 2009 Supplement, 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) persons under age 18 to take small game, \$2.50;
- (2) persons age 18 or over to take small game, \$73;
- ~~(2)~~ (3) persons age 18 or over to take deer with firearms during the regular firearms season, \$135;
- ~~(3)~~ (4) persons age 18 or over to take deer by archery, \$135;
- ~~(4)~~ (5) persons age 18 or over to take deer by muzzleloader during the muzzleloader season, \$135;
- ~~(5)~~ (6) to take bear, \$195;
- ~~(6)~~ (7) persons age 18 and older or over to take turkey, \$78;
- ~~(7)~~ (8) persons under age 18 to take turkey, \$12 \$2.50;
- ~~(8)~~ (9) to take raccoon or bobcat, \$155;
- ~~(9)~~ (10) to take Canada geese during a special season, \$4;
- ~~(10)~~ (11) persons under age 18 to take deer with firearms during the regular firearms season in any open season option or time period, \$13;
- ~~(11)~~ (12) persons under age 18 to take deer by archery, \$13; and
- ~~(12)~~ (13) persons under age 18 to take deer during the muzzleloader season, \$13 \$2.50.
- (b) A \$5 surcharge shall be added to nonresident hunting licenses issued under paragraph (a), clauses ~~(1)~~ (2) to ~~(8)~~ (9). An additional commission may not be assessed on this surcharge.

Sec. 22. Minnesota Statutes 2008, section 97A.475, subdivision 3a, is amended to read:

Subd. 3a. **Deer license surcharge.** A person may agree to add a donation of \$1, \$3, or \$5 to the fees for annual resident and nonresident licenses to take deer by firearms or archery established under subdivisions 2, clauses ~~(5)~~, (6), (7), ~~(11)~~, and ~~(13)~~ (8), and 3, clauses ~~(2)~~, (3), (4), and ~~(9)~~ (5). Beginning March 1, 2008, fees for bonus licenses to take deer by firearms or archery established under section 97B.301, subdivision 4, must be increased by a surcharge of \$1. An additional commission may not be assessed on the donation or surcharge and the following statement must be included in the annual deer hunting regulations: "The deer license donations and surcharges are being paid by hunters for deer management, including assisting with the costs of processing deer donated for charitable purposes."

Sec. 23. Minnesota Statutes 2008, section 97A.475, subdivision 4, is amended to read:

Subd. 4. **Small game surcharge.** Fees for annual licenses to take small game must be increased by a surcharge of \$6.50. An additional commission may not be assessed on the surcharge and the following statement must be included in the annual small game hunting regulations: "This \$6.50 surcharge is being paid by hunters for the acquisition and development of wildlife lands." Small game licenses issued to individuals under age 18 are exempt from this surcharge.

Sec. 24. Minnesota Statutes 2008, section 97A.475, subdivision 43, is amended to read:

Subd. 43. **Duplicate licenses.** The fees for duplicate licenses are:

- (1) for licenses to take big game, \$5; ~~and~~
- (2) for a license issued to a person under age 18, \$1; and
- (3) for other licenses, \$2.

Sec. 25. Minnesota Statutes 2008, section 97A.475, subdivision 44, is amended to read:

Subd. 44. **Replacement licenses.** (a) The fee for a replacement firearms deer license is \$5.

(b) The fee for a replacement firearms deer license issued to a person under age 18 is \$1.

Sec. 26. Minnesota Statutes 2008, section 97B.015, subdivision 4, is amended to read:

Subd. 4. **Student fee.** To defray the expense of the course, the Enforcement Division shall collect a fee from each person that takes the hunter education firearm safety course. The commissioner shall establish a fee that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the services. The fee is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The fees shall be deposited in the game and fish fund and the amount thereof is appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the program. In addition to the fee established by the commissioner, instructors may charge each person up to the established fee amount for class materials and expenses.

Sec. 27. Minnesota Statutes 2008, section 97B.015, subdivision 5, is amended to read:

Subd. 5. **Hunter education firearms safety certificate.** The commissioner shall issue a hunter education firearms safety certificate to a person that satisfactorily completes the required course of instruction. A person must be at least age 11 to take the hunter education firearms safety course ~~and may receive a firearms safety certificate, but the certificate is not valid for hunting until the year the person reaches age 12. A person who is age 11 and has a firearms safety certificate may purchase a license to take big game that will be valid for hunting during the entire regular season for which the license is valid if the person will reach age 12 during that calendar year. A firearms safety certificate issued to a person under age 12 by another state as provided in section 97B.020 is not valid for hunting in Minnesota until the person reaches age 12.~~ The form and content of the hunter education firearms safety certificate shall be prescribed by the commissioner.

Sec. 28. Minnesota Statutes 2008, section 97B.015, subdivision 5a, is amended to read:

Subd. 5a. **Exemption for military personnel.** Notwithstanding subdivision 5, a person who has successfully completed basic training in the United States armed forces is exempt from the range and shooting exercise portion of the required course of instruction for the hunter education firearms safety certificate. The commissioner may require written proof of the person's military training, as deemed appropriate for implementing this subdivision. The commissioner shall publicly announce this exemption from the range and shooting exercise requirement and the availability of the department's online, remote study option for adults seeking hunter education firearms safety certification. Military personnel are not exempt from any other requirement of this section for obtaining a hunter education firearms safety certificate.

Sec. 29. Minnesota Statutes 2008, section 97B.015, subdivision 6, is amended to read:

Subd. 6. **Provisional certificate for persons with developmental disability.** Upon the recommendation of a course instructor, the commissioner may issue a provisional hunter education firearms safety certificate to a person who satisfactorily completes the classroom portion of the hunter education firearms safety course but is unable to pass the written or an alternate format exam portion of the course because of developmental disability as defined in section 97B.1055, subdivision 1. The certificate is valid only when used according to section 97B.1055.

Sec. 30. Minnesota Statutes 2008, section 97B.015, subdivision 7, is amended to read:

Subd. 7. **Fee for duplicate certificate.** The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate hunter education firearms safety certificate. The commissioner shall establish a fee that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. The fee is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the fee notwithstanding section 16A.1283. The duplicate certificate fees, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the game and fish fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, and issuing fees collected by the commissioner, are appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the hunter education firearm safety course program.

Sec. 31. Minnesota Statutes 2008, section 97B.020, is amended to read:

97B.020 HUNTER EDUCATION FIREARMS SAFETY CERTIFICATE REQUIRED.

(a) Except as provided in this section ~~and section 97A.451, subdivision 3a~~, a person age 13 or over born after December 31, 1979, may not obtain an annual license to take wild animals by firearms unless the person has:

- (1) a hunter education firearms safety certificate or equivalent certificate;
- (2) a driver's license or identification card with a valid hunter education firearms safety qualification indicator issued under section 171.07, subdivision 13;
- (3) a previous hunting license with a valid hunter education firearms safety qualification indicator;
- (4) an apprentice hunter validation issued under section 97B.022; or
- (5) other evidence indicating that the person has completed in this state or in another state a hunter safety course recognized by the department under a reciprocity agreement or certified by the department as substantially similar.

(b) A person who is on active duty and has successfully completed basic training in the United States armed forces, reserve component, or National Guard may obtain a hunting license or approval authorizing hunting regardless of whether the person is issued a hunter education firearms safety certificate.

(c) A person age 13 or over born after December 31, 1979, may not use a lifetime license to take wild animals by firearms, unless the person meets the requirements for obtaining an annual license under paragraph (a) or (b).

Sec. 32. Minnesota Statutes 2008, section 97B.021, subdivision 1, is amended to read:

Subdivision 1. **Restrictions.** (a) Except as provided in this subdivision, a person under the age of 16 may not possess a firearm, unless accompanied by a parent or guardian.

(b) A person under age 16 may possess a firearm without being accompanied by a parent or guardian:

(1) on land owned by, or occupied as the principal residence of, the person or the person's parent or guardian;

(2) while participating in an organized target shooting program with adult supervision;

(3) while the person is participating in a hunter education firearms safety program or traveling to and from class; or

(4) if the person is age 14 or 15 and has a hunter education firearms safety certificate.

(c) A person age 13, 14, or 15 hunting with an apprentice hunter validation may possess a firearm if accompanied by a parent or guardian age 18 or over who is licensed to hunt in Minnesota and whose license was not obtained using an apprentice hunter validation.

Sec. 33. **[97B.0215] PARENT OR GUARDIAN RESPONSIBILITY; VIOLATION.**

A parent or guardian may not knowingly direct, allow, or permit a person under the age of 18 to hunt without the required license, permit, training, or certification, or in violation of the game and fish laws.

Sec. 34. Minnesota Statutes 2008, section 97B.022, subdivision 2, is amended to read:

Subd. 2. **Apprentice hunter validation requirements.** A resident born after December 31, 1979, who is age ~~12~~ 13 or older over and who does not possess a hunter education firearms safety certificate or a nonresident who is age 13 to 17 and who does not possess a hunter education firearms safety certificate may be issued an apprentice hunter validation. An apprentice hunter validation is valid for only ~~one~~ two license year years in a lifetime. An individual in possession of an apprentice hunter validation may hunt small game and, deer, and bear only when accompanied by an adult licensed to hunt in Minnesota whose license was not obtained using an apprentice hunter validation. An apprentice hunter validation holder must obtain all required licenses and stamps.

Sec. 35. Minnesota Statutes 2008, section 97B.301, subdivision 3, is amended to read:

Subd. 3. **Party hunting.** If two or more persons with licenses to take deer by firearms, or two or more persons with licenses to take deer by archery, are hunting as a party, a member of the party may take more than one deer, but the total number of deer taken by the party may not exceed the number of persons licensed to take deer in the party. For a deer license issued to a person under age 18, only the person to whom the license is issued may take and tag a deer under that license.

Sec. 36. Minnesota Statutes 2008, section 97B.301, subdivision 6, is amended to read:

Subd. 6. **Residents or nonresidents under age 18 may take deer of either sex.** A resident or nonresident under the age of 18 may take a deer of either sex except in those antlerless permit areas and seasons where no antlerless permits are offered. In antlerless permit areas where no antlerless

permits are offered, the commissioner may provide a limited number of youth either sex permits to residents or nonresidents under age 18, under the procedures provided in section 97B.305, and may give preference to residents or nonresidents under the age of 18 that have not previously been selected. This subdivision does not authorize the taking of an antlerless deer on the youth hunter's license by another member of a party ~~under subdivision 3.~~

Sec. 37. Minnesota Statutes 2008, section 97B.601, subdivision 4, is amended to read:

Subd. 4. Exception to license requirements. (a) ~~A resident under age 16 may take small game without a small game license, and a resident under age 13 may trap without a trapping license, as provided in section 97A.451, subdivision 3.~~

(b) A person may take small game without a small game license on land occupied by the person as a principal residence.

(c) An owner or occupant may take certain small game causing damage without a small game or trapping license as provided in section 97B.655.

(d) A person may use dogs to pursue and tree raccoons under section 97B.621, subdivision 2, during the closed season without a license.

(e) A person may take a turkey or a prairie chicken without a small game license.

(f) A person participating in "Take a Kid Hunting Weekend" may take small game without a license as provided in section 97A.445, subdivision 5.

(g) A person under age 16 may take waterfowl without a small game license on youth waterfowl days as provided in section 97A.445, subdivision 5.

(h) Certain military personnel or discharged veterans may take small game without a license as provided in section 97A.465.

Sec. 38. Minnesota Statutes 2008, section 103G.705, subdivision 2, is amended to read:

Subd. 2. Stream protection and improvement fund. There is established in the state treasury a stream protection and redevelopment fund. All repayments of loans made and administrative fees assessed under subdivision 1 must be deposited in this fund. Interest earned on money in the fund accrues to the fund and money in the fund is appropriated to the commissioner of natural resources for purposes of the stream protection and redevelopment program, including costs incurred by the commissioner to establish and administer the program. Beginning in fiscal year 2010, all repayments of loans made and administrative fees assessed under subdivision 1 must be transferred to the general fund. This includes any balance within the fund from repayments and administrative fees assessed prior to July 1, 2009.

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

Sec. 39. Minnesota Statutes 2009 Supplement, section 357.021, subdivision 7, is amended to read:

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

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

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

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

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

(c) In addition to any amounts credited under paragraph (a), the commissioner of management and budget shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$12 parking surcharge, to the general fund.

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

Sec. 40. Laws 2009, chapter 172, article 2, section 5, is amended to read:

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. This appropriation is available until June 30, 2012.

(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. 41. **REPEALER.**

Minnesota Statutes 2008, sections 97A.451, subdivisions 3a and 4; 97A.485, subdivision 12; and 97B.022, subdivision 1, are repealed.

ARTICLE 11

ENERGY AND COMMERCE**Section 1. SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ <u>210,000</u>	\$ <u>(322,000)</u>	\$ <u>(112,000)</u>
<u>Petroleum Tank Cleanup</u>	<u>(25,000)</u>	<u>(32,000)</u>	<u>(57,000)</u>
<u>Total</u>	\$ <u>185,000</u>	\$ <u>(354,000)</u>	\$ <u>(169,000)</u>

Sec. 2. ENERGY FINANCE APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 37, article 2, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is 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. Supplemental appropriations, reductions to appropriations, and transfers for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 3. DEPARTMENT OF COMMERCE

Subdivision 1. **Total Appropriation** \$ 185,000 \$ (354,000)

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>210,000</u>	<u>(322,000)</u>
<u>Petroleum Cleanup</u>	<u>(25,000)</u>	<u>(32,000)</u>

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

Subd. 2. **Financial Institutions** 400,000 -0-

This is a onetime appropriation for

implementation of the federal SAFE Act.

Subd. 3. <u>Petroleum Tank Release Cleanup Board</u>	<u>(25,000)</u>	<u>(32,000)</u>
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Open appropriations established under Minnesota Statutes, sections 16A.127, 115.10, 115C.09, and 115C.094, from the petroleum tank fund are reduced by \$544,000. Prior to June 30, 2010, the commissioner of commerce shall transfer \$569,000 from the unexpended balance of the petroleum tank fund established in Minnesota Statutes, section 115C.08, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$32,000 from the unexpended balance of the petroleum tank fund established in Minnesota Statutes, section 115C.08, to the general fund.

Subd. 4. <u>Administrative Services</u>	<u>(66,000)</u>	<u>(126,000)</u>
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Subd. 5. <u>Market Assurance</u>	<u>(124,000)</u>	<u>(196,000)</u>
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Subd. 6. Telecommunications Access Minnesota

Prior to June 30, 2010, the commissioner of commerce shall transfer \$128,000 from the unexpended balance of the telecommunications access Minnesota fund established in Minnesota Statutes, section 237.52, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$135,000 from the unexpended balance of the telecommunications access Minnesota fund established in Minnesota Statutes, section 237.52, to the general fund.

Subd. 7. Transfers

Prior to June 30, 2010, the commissioner of commerce shall transfer \$34,000 from the unexpended balance of the license technology surcharge account established in Minnesota Statutes, section 45.24, to the general fund.

Prior to June 30, 2011, the commissioner of

commerce shall transfer \$52,000 from the unexpended balance of the license technology surcharge account established in Minnesota Statutes, section 45.24, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$64,000 from the unexpended balance of the insurance fraud prevention account established in Minnesota Statutes, section 45.0135, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$48,000 from the unexpended balance of the insurance fraud prevention account established in Minnesota Statutes, section 45.0135, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$133,000 from the unexpended balance of the automobile theft prevention account established in Minnesota Statutes, section 168A.40, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$111,000 from the unexpended balance of the automobile theft prevention account established in Minnesota Statutes, section 168A.40, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$49,000 from the unexpended balance of the real estate education, research and recovery fund established in Minnesota Statutes, section 82.43, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$5,000 from the unexpended balance of the real estate education, research and recovery fund established in Minnesota Statutes, section 82.43, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$7,000 from the unexpended balance of the consumer education account established in Minnesota Statutes, section 58.10, to the general fund.

Prior to June 30, 2010, the commissioner

of commerce shall transfer \$4,000 from the unexpended balance of the HMO regulation account established under Minnesota Statutes, section 471.59, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$9,000 from the unexpended balance of the HMO regulation account established under Minnesota Statutes, section 471.59, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$4,000 from the unexpended balance of the renewable energy equipment grants account established under Minnesota Statutes, section 239.101, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$15,000 from the unexpended balance of the energy planning and systems account established in Minnesota Statutes, section 216C.052, to the general fund. Funds transferred to the general fund will be considered general administrative costs of the administrator.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$43,000 from the unexpended balance of the conservation improvement technical assistance account established in Minnesota Statutes, section 216B.241, subdivision 1d, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$17,000 from the unexpended balance of the conservation improvement technical assistance account established in Minnesota Statutes, section 216B.241, subdivision 1d, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$316,000 from the unexpended balance of the conservation improvement applied research and development grants account established in Minnesota Statutes, section 216B.241,

subdivision 1e, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$213,000 from the unexpended balance of the conservation improvement applied research and development grants account established in Minnesota Statutes, section 216B.241, subdivision 1e, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$22,000 from the unexpended balance of the residential propane account established in Minnesota Statutes, section 239.785, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$18,000 from the unexpended balance of the residential propane account established in Minnesota Statutes, section 239.785, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$22,000 from the unexpended balance of the facilities energy efficiency account established in Minnesota Statutes, section 216B.241, subdivision 1f, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$30,000 from the unexpended balance of the facilities energy efficiency account established in Minnesota Statutes, section 216B.241, subdivision 1f, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$11,000 from the unexpended balance of the power plant assessment account established in Minnesota Statutes, section 216E.18, subdivision 3, to the general fund. Funds transferred to the general fund will be considered expenditures for assessment purposes.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$15,000 from the unexpended balance of the power plant assessment account established in Minnesota Statutes, section 216E.18, subdivision 3, to

the general fund. Funds transferred to the general fund will be considered expenditures for assessment purposes.

Prior to June 30, 2010, the commissioner of commerce shall transfer the remaining balance of the pipeline account under Minnesota Statutes, section 216G.02, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$40,000 from the unexpended balance of the biogas recovery grants appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$4,000 from the unexpended balance of the solar electricity projects appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$6,000 from the unexpended balance of the CERTS continuation appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$39,000 from the unexpended balance of the automotive projects appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$19,000 from the unexpended balance of the hydrogen road map appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$40,000 from the unexpended balance of the renewable energy grants appropriation in Laws 2007, chapter 57, article 2, section 3, subdivision 6, to the

general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$8,000 from the unexpended balance of the green economy and manufacturing appropriation in Laws 2008, chapter 363, article 6, section 3, subdivision 4, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$13,000 from the unexpended balance of the greenhouse gas advisory group appropriation in Laws 2008, chapter 340, section 5, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$18,000 from the unexpended balance of the heat flow maps appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$31,000 from the unexpended balance of the CERTS appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2011, the commissioner of commerce shall transfer \$38,000 from the unexpended balance of the CERTS appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$24,000 from the unexpended balance of the solar rebates appropriation in Laws 2009, chapter 37, article 2, section 3, subdivision 7, to the general fund.

Prior to June 30, 2010, the commissioner of commerce shall transfer \$90,000 from the unexpended balance of the IRETI grant appropriation in Laws 2009, chapter 37, article 2, section 13, to the general fund.

Prior to June 30, 2010, the commissioner of

commerce shall transfer \$36,000 from the unexpended balance of the solar lab grant appropriation in Laws 2009, chapter 37, article 2, section 13, to the general fund.

Sec. 4. Minnesota Statutes 2009 Supplement, section 45.30, subdivision 6, is amended to read:

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance. A course that is required by federal criteria or a reciprocity agreement to receive a substantive review will be approved or disapproved on the basis of its compliance with the provisions of laws and rules relating to the appropriate industry. At the commissioner's discretion, a course that is not required by federal criteria or a reciprocity agreement to receive a substantive review may be approved based on a qualified provider's certification on a form specified by the commissioner that the course complies with the provisions of this chapter and the laws and rules relating to the appropriate industry. For the purposes of this section, a "qualified provider" is one of the following: (1) a degree-granting institution of higher learning located within this state; (2) a private school licensed by the Minnesota Office of Higher Education; or (3) when conducting courses for its members, a bona fide trade association that staffs and maintains in this state a physical location that contains course and student records and that has done so for not less than three years. The commissioner may review any approved course and may cancel its approval with regard to all future offerings. The commissioner must make the final determination as to accreditation and assignment of credit hours for courses. Courses must be at least one hour in length, except courses for real estate appraisers must be at least two hours in length.

~~Individuals wishing to receive credit for continuing education courses that have not been previously approved may submit the course information for approval. Courses must be in compliance with the laws and rules governing the types of courses that will and will not be approved.~~

Approval will not include time spent on meals or other unrelated activities.

(b) Courses must be submitted at least 30 days before the initial proposed course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application. The commissioner must deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

(d) When either the content of an approved course or its method of instruction changes, the course is no longer approved for license education credit. A new application must be submitted for the changed course if the education provider intends to offer it for license education credit.

Sec. 5. Minnesota Statutes 2008, section 58.04, subdivision 1, is amended to read:

Subdivision 1. **Residential mortgage originator licensing requirements.** (a) No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and must have and maintain at all times one of the following: approval as a mortgagee by either the federal Department of Housing and Urban Development or the Federal National Mortgage Association; a minimum net worth, net

~~of intangibles, of at least \$250,000; or a surety bond or irrevocable letter of credit in the amount of \$50,000 amounts prescribed under section 58.08. Net worth, net of intangibles, must be calculated in accordance with generally accepted accounting principles.~~

(c) The following persons are exempt from the residential mortgage originator licensing requirements:

- (1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period;
- (2) a financial institution as defined in section 58.02, subdivision 10;
- (3) an agency of the federal government, or of a state or municipal government;
- (4) an employee or employer pension plan making loans only to its participants;
- (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; or
- (6) a person exempted by order of the commissioner.

Sec. 6. Minnesota Statutes 2009 Supplement, section 58.06, subdivision 2, is amended to read:

Subd. 2. **Application contents.** (a) The application must contain the name and complete business address or addresses of the license applicant. The license applicant must be a partnership, limited liability partnership, association, limited liability company, corporation, or other form of business organization, and the application must contain the names and complete business addresses of each partner, member, director, and principal officer. The application must also include a description of the activities of the license applicant, in the detail and for the periods the commissioner may require.

(b) A residential mortgage originator applicant must submit ~~one of the following:~~

~~(1) evidence which shows, to the commissioner's satisfaction, that either the federal Department of Housing and Urban Development or the Federal National Mortgage Association has approved the residential mortgage originator applicant as a mortgagee;~~

~~(2) a surety bond or irrevocable letter of credit in the amount of not less than \$50,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers. The bond or letter of credit must be submitted with the license application, and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner within ten days of its execution; or~~

~~(3) a copy of the residential mortgage originator applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statements of changes in shareholder equity, and statement of changes in financial position. Financial statements must be as of a date within 12 months of the date of application.~~ a surety bond that meets the requirements of section 58.08, subdivision 1a.

(c) The application must also include all of the following:

(1) an affirmation under oath that the applicant:

(i) is in compliance with the requirements of section 58.125;

~~(ii) will maintain a perpetual roster of individuals employed as residential mortgage originators, including employees and independent contractors, which includes the dates that mandatory testing, initial education, and continuing education were completed. In addition, the roster must be made available to the commissioner on demand, within three business days of the commissioner's request;~~

~~(iii)~~ (ii) will advise the commissioner of any material changes to the information submitted in the most recent application within ten days of the change;

~~(iv)~~ (iii) will advise the commissioner in writing immediately of any bankruptcy petitions filed against or by the applicant or licensee;

~~(v)~~ (iv) will maintain at all times either a net worth, net of intangibles, of at least \$250,000 or a surety bond or irrevocable letter of credit in the amount of at least \$50,000 \$100,000;

~~(vi)~~ (v) complies with federal and state tax laws; and

~~(vii)~~ (vi) complies with sections 345.31 to 345.60, the Minnesota unclaimed property law;

(2) information as to the mortgage lending, servicing, or brokering experience of the applicant and persons in control of the applicant;

(3) information as to criminal convictions, excluding traffic violations, of persons in control of the license applicant;

(4) whether a court of competent jurisdiction has found that the applicant or persons in control of the applicant have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit in performing an act for which a license is required under this chapter;

(5) whether the applicant or persons in control of the applicant have been the subject of: an order of suspension or revocation, cease and desist order, or injunctive order, or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency or by the Secretary of Housing and Urban Development within the ten-year period immediately preceding submission of the application; and

(6) other information required by the commissioner.

Sec. 7. Minnesota Statutes 2008, section 58.08, is amended by adding a subdivision to read:

Subd. 1a. **Residential mortgage originators.** (a) An applicant for a residential mortgage originator license must file with the department a surety bond in the amount of \$100,000, issued by an insurance company authorized to do so in this state. The bond must cover all mortgage loan originators who are employees or independent agents of the applicant. The bond must be available for the recovery of expenses, fines, and fees levied by the commissioner under this chapter and for losses incurred by borrowers as a result of a licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.

(b) The bond must be submitted with the originator's license application and evidence of

continued coverage must be submitted with each renewal. Any change in the bond must be submitted for approval by the commissioner, within ten days of its execution. The bond or a substitute bond shall remain in effect during all periods of licensing.

(c) Upon filing of the mortgage call report as required by section 58A.17, a licensee shall maintain or increase its surety bond to reflect the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year in accordance with the table in this paragraph. A licensee may decrease its surety bond in accordance with the table in this paragraph if the surety bond required is less than the amount of the surety bond on file with the department.

<u>Dollar Amount of Closed Residential Mortgage Loans</u>	<u>Surety Bond Required</u>
<u>\$0 to \$5,000,000</u>	<u>\$100,000</u>
<u>\$5,000,000.01 to \$10,000,000</u>	<u>\$125,000</u>
<u>\$10,000,000.01 to \$25,000,000</u>	<u>\$150,000</u>
<u>Over \$25,000,000</u>	<u>\$200,000</u>

For purposes of this subdivision, "mortgage loan originator" has the meaning given the term in section 58A.02, subdivision 8.

Sec. 8. Minnesota Statutes 2008, section 58.09, is amended to read:

58.09 TERM OF LICENSE.

~~Initial~~ Licenses for residential mortgage originators and residential mortgage servicers issued under this chapter expire on ~~July 31, 2001,~~ December 31 and are renewable on ~~August 1, 2001,~~ and on ~~August 1~~ January 1 of each ~~odd-numbered~~ year after that date. ~~A new licensee whose license expires less than 12 months from the date of issuance shall pay a fee equal to one-half the applicable initial license fee set forth in section 58.10, subdivision 1, clause (1) or (3).~~

Sec. 9. Minnesota Statutes 2008, section 58.10, subdivision 1, is amended to read:

Subdivision 1. **Amounts.** The following fees must be paid to the commissioner:

(1) for ~~an initial~~ a residential mortgage originator license, ~~\$2,125~~ \$1,000, \$50 of which is credited to the consumer education account in the special revenue fund;

(2) for a renewal license, ~~\$1,125~~ \$500, \$50 of which is credited to the consumer education account in the special revenue fund;

(3) for ~~an initial~~ a residential mortgage servicer's license, ~~\$1,000~~ \$500;

(4) for a renewal license, ~~\$500~~ \$250; and

(5) for a certificate of exemption, \$100.

Sec. 10. Minnesota Statutes 2008, section 58.11, is amended to read:

58.11 LICENSE RENEWAL.

Subdivision 1. **Term.** Licenses are renewable on ~~August 1, 2001,~~ and on ~~August 1~~ January 1 of

each ~~odd-numbered~~ year after that date.

Subd. 2. **Timely renewal.** (a) A person whose application is properly and timely filed who has not received notice of denial of renewal is considered approved for renewal and the person may continue to transact business as a residential mortgage originator or servicer whether or not the renewed license has been received on or before ~~August~~ January 1 of the renewal year. Application for renewal of a license is considered timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, ~~July~~ December 15 of the renewal year. An application for renewal is considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter, and containing any information that the commissioner requires.

(b) A person who fails to make a timely application for renewal of a license and who has not received the renewal license as of ~~August~~ January 1 of the renewal year is unlicensed until the renewal license has been issued by the commissioner and is received by the person.

Subd. 3. **Contents of renewal application.** Application for the renewal of an existing license must contain the information specified in section 58.06, subdivision 2; however, only the requested information having changed from the most recent prior application need be submitted.

Subd. 4. **Cancellation.** A licensee ceasing an activity or activities regulated by this chapter and desiring to no longer be licensed shall so inform the commissioner in writing and, at the same time, surrender the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business.

Sec. 11. **[58A.01] TITLE.**

This chapter may be cited as the "Minnesota Secure and Fair Enforcement for Mortgage Licensing Act of 2009" or "Minnesota S.A.F.E. Mortgage Licensing Act of 2009."

Sec. 12. **[58A.02] DEFINITIONS.**

Subdivision 1. **Application.** For purposes of this chapter, the definitions in subdivisions 2 to 16 have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 3. **Depository institution.** "Depository institution" has the meaning given in United States Code, title 12, section 1813, and includes a credit union.

Subd. 4. **Federal banking agencies.** "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the comptroller of the currency, the director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

Subd. 5. **Immediate family member.** "Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Subd. 6. **Individual.** "Individual" means a natural person.

Subd. 7. **Loan processor or underwriter.** "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the

supervision and instruction of a person licensed or exempt from licensing under chapter 58. For purposes of this subdivision, the term "clerical or support duties" may include after the receipt of an application:

(1) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

Subd. 8. Mortgage loan originator. "Mortgage loan originator":

(1) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan;

(2) does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in section 58A.03, subdivision 3;

(3) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered according to Minnesota law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by an agent of the lender, mortgage broker, or other mortgage loan originator; and

(4) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in United States Code, title 11, section 101(53D).

Subd. 9. Nationwide Mortgage Licensing System and Registry. "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

Subd. 10. Nontraditional mortgage product. "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage loan.

Subd. 11. Person. "Person" means a natural person, corporation, company, limited liability company, partnership, or association.

Subd. 12. Real estate brokerage activity. "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(3) negotiating, on behalf of a party, a portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect

to the transaction;

(4) engaging in an activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(5) offering to engage in any activity, or act in any capacity, described in clause (1), (2), (3), or (4).

Subd. 13. **Registered mortgage loan originator.** "Registered mortgage loan originator" means an individual who:

(1) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(2) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

Subd. 14. **Residential mortgage loan.** "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in United States Code, title 15, section 1602(v), or residential real estate upon which a dwelling is constructed or intended to be constructed.

Subd. 15. **Residential real estate.** "Residential real estate" means real property located in Minnesota, upon which a dwelling is constructed or is intended to be constructed.

Subd. 16. **Unique identifier.** "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Sec. 13. **[58A.03] LICENSE AND REGISTRATION REQUIRED.**

Subdivision 1. **Generally.** An individual, unless specifically exempted from this chapter under subdivision 2, shall not engage in the business of a mortgage loan originator with respect to a dwelling located in this state without first obtaining and maintaining a license under this chapter. An individual may not engage in the mortgage loan business unless the individual is employed and supervised by an entity which is either licensed or exempt from licensing under chapter 58. A licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

Subd. 2. **Exemptions.** The following are exempt from this chapter:

(1) a registered mortgage loan originator, when acting for an entity described in section 58A.02, subdivision 13, clause (1);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a residential mortgage loan secured by a

dwelling that served as the individual's residence; and

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator.

Subd. 3. **Independent contractor loan processors or underwriters.** A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license under subdivision 1. An independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

EFFECTIVE DATE. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for subdivision 1 is July 31, 2010, or a later date approved by the Secretary of the U.S. Department of Housing and Urban Development, under the authority granted in Public Law 110-289, section 1508(a).

Sec. 14. **[58A.04] STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

Subdivision 1. **Application form.** An applicant for a license shall apply in a form as prescribed by the commissioner. The form must contain content as set forth by rule, instruction, or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.

Subd. 2. **Commissioner may establish relationships or contracts.** In order to fulfill the purposes of this chapter, the commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

Subd. 3. **Waive or modify requirements.** For the purpose of participating in the Nationwide Mortgage Licensing System and Registry, the commissioner is authorized to waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and to establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

Subd. 4. **Background checks.** In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation, and a governmental agency or entity authorized to receive the information for a state, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain:

(i) an independent credit report obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(ii) information related to administrative, civil, or criminal findings by a governmental jurisdiction.

Subd. 5. **Agent for purposes of requesting and distributing criminal information.** For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subdivision 4, clauses (1) and (2), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

Subd. 6. **Agent for purposes of requesting and distributing noncriminal information.** For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subdivision 4, clause (2)(i) and (ii), the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

Sec. 15. **[58A.05] ISSUANCE OF LICENSE.**

The commissioner shall not issue a mortgage loan originator license unless the commissioner finds at a minimum, that:

(1) the applicant has never had a mortgage loan originator license revoked in a governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation;

(2) the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(i) during the seven-year period preceding the date of the application for licensing and registration;

(ii) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or

(iii) provided that a pardon of a conviction is not a conviction for purposes of this clause;

(3) the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this chapter. For purposes of this chapter, a person has shown that the person is not financially responsible when the person has shown a disregard in the management of the person's own financial condition. A determination that an individual has not shown financial responsibility may include, but is not limited to:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; and

(iv) a pattern of seriously delinquent accounts within the past three years;

(4) the applicant has completed the prelicensing education requirement described in section 58A.06;

(5) the applicant has passed a written test that meets the test requirement described in section 58A.07; and

(6) the applicant has met the surety bond requirement as required under section 58A.13.

Sec. 16. [58A.06] PRELICENSING AND RELICENSING EDUCATION OF LOAN ORIGINATORS.

Subdivision 1. **Minimum educational requirements.** In order to meet the prelicensing education requirement referred to in section 58A.05, clause (4), a person shall complete at least 20 hours of education approved according to subdivision 2, that includes at least:

(1) three hours of federal law and regulations;

(2) three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and

(3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, prelicensing education courses must be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a prelicensing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes a prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Prelicensing education may be offered in a classroom, on line, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Reciprocity of education.** The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of prelicensing education requirements in Minnesota.

Subd. 6. **Relicensing education requirements.** A person previously licensed under this chapter after the effective date of this chapter applying to be licensed again must prove that the person has completed all of the continuing education requirements for the year in which the license was last held.

Sec. 17. [58A.07] TESTING OF LOAN ORIGINATORS.

Subdivision 1. **Generally.** In order to meet the written test requirement referred to in section 58A.05, clause (5), an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the Nationwide Mortgage Licensing System and

Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

Subd. 2. **Qualified test.** A written test must not be treated as a qualified written test for purposes of subdivision 1 unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

- (1) ethics;
- (2) federal law and regulation pertaining to mortgage origination;
- (3) state law and rule pertaining to mortgage origination; and
- (4) federal and state law and rule, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

Subd. 3. **Testing location.** Nothing in this section prohibits a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of a subsidiary or affiliate of the employer of the applicant, or the location of an entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

Subd. 4. **Minimum competence.** (a) An individual is not considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(b) An individual may retake a test three consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(c) After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

(d) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator.

Sec. 18. [58A.08] STANDARDS FOR LICENSE RENEWAL.

Subdivision 1. **Generally.** The minimum standards for license renewal for a mortgage loan originator include that the mortgage loan originator:

- (1) continues to meet the minimum standards for license issuance under section 58A.05;
- (2) has satisfied the annual continuing education requirements described in section 58A.09; and
- (3) has paid all required fees for renewal of the license.

Subd. 2. **Failure to satisfy minimum standards of license renewal.** The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal expires. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

Sec. 19. [58A.09] CONTINUING EDUCATION FOR MORTGAGE LOAN

ORIGINATORS.

Subdivision 1. **Generally.** In order to meet the annual continuing education requirements referred to in section 58A.08, subdivision 1, clause (2), a licensed mortgage loan originator shall complete at least eight hours of education approved according to subdivision 2 that includes at least:

- (1) three hours of federal law and regulations;
- (2) two hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Subd. 2. **Approved educational courses.** For purposes of subdivision 1, continuing education courses must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course must include review and approval of the course provider.

Subd. 3. **Approval of employer and affiliate educational courses.** Nothing in this section precludes an education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or a subsidiary or affiliate of the employer or entity.

Subd. 4. **Venue of education.** Continuing education may be offered either in a classroom, on line, or by other means approved by the Nationwide Mortgage Licensing System and Registry.

Subd. 5. **Calculation of continuing education credits.** A licensed mortgage loan originator:

- (1) except for subdivision 9 and section 58A.08, subdivision 2, may only receive credit for a continuing education course in the year in which the course is taken; and
- (2) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

Subd. 6. **Instructor credit.** A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

Subd. 7. **Reciprocity of education.** A person having successfully completed the education requirements approved by the Nationwide Mortgage Licensing System and Registry in subdivision 1 for a state must be accepted as credit toward completion of continuing education requirements in Minnesota.

Subd. 8. **Lapse in license.** A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held before a new or renewed license is issued.

Subd. 9. **Deficiency.** A person meeting the requirements of section 58A.08, subdivision 1,

clauses (1) and (3), may make up a deficiency in continuing education as established by rule of the commissioner.

Sec. 20. [58A.10] AUTHORITY TO REQUIRE LICENSE.

In addition to any other duties imposed upon the commissioner by law, the commissioner shall require mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the commissioner may participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the commissioner may establish by rule or order requirements as necessary, including but not limited to:

(1) background checks for:

(i) criminal history through fingerprint or other databases;

(ii) civil or administrative records;

(iii) credit history; or

(iv) other information as determined necessary by the Nationwide Mortgage Licensing System and Registry;

(2) the payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(3) the setting or resetting as necessary of renewal or reporting dates; and

(4) requirements for amending or surrendering a license or other activities the commissioner considers necessary for participation in the Nationwide Mortgage Licensing System and Registry.

Sec. 21. [58A.11] NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.

The commissioner shall establish a process that allows mortgage loan originators to challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner.

Sec. 22. [58A.12] ENFORCEMENT AUTHORITIES, VIOLATIONS, AND PENALTIES.

(a) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may, pursuant to chapter 14:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, rules issued under this chapter, or order or directive entered under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at anytime to meet the requirements of section 58A.05 or 58A.08, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against persons subject to this chapter for violations of this chapter;

(4) impose fines on persons subject to this chapter pursuant to paragraphs (b) to (d); and

(5) issue orders or directives under this chapter as follows:

(i) order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(ii) order or direct persons subject to this chapter to cease any harmful activities or violations of this chapter, including immediate temporary orders to cease and desist;

(iii) enter immediate temporary orders to cease business under a license or interim license issued pursuant to the authority granted under section 58A.03, subdivision 4, if the commissioner determines that the license was erroneously granted or the licensee is currently in violation of this chapter; and

(iv) order or direct other affirmative action the commissioner considers necessary.

(b) The commissioner may impose a civil penalty on a mortgage loan originator or person subject to this chapter, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under authority of this chapter.

(c) The maximum amount of penalty for each act or omission described in paragraph (b) is \$25,000.

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

Sec. 23. [58A.13] SURETY BOND REQUIRED.

Subdivision 1. **Coverage, form, and rules.** (a) Each mortgage loan originator must be covered by a surety bond meeting the requirements of this section. In the event that the mortgage loan originator is an employee or exclusive agent of a person subject to this chapter, the surety bond of the person subject to this chapter can be used in lieu of the mortgage loan originator's surety bond requirement.

(b) The surety bond shall provide coverage for each mortgage loan originator in an amount as prescribed in subdivision 2.

(c) The surety bond must be in a form as prescribed by the commissioner.

Subd. 2. **Penal sum of surety bond.** The penal sum of the surety bond must be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner.

Subd. 3. **Action on bond.** When an action is commenced on a licensee's bond the commissioner may require the filing of a new bond.

Subd. 4. **New bond.** Immediately upon recovery upon any action on the bond the licensee shall file a new bond.

Sec. 24. [58A.14] CONFIDENTIALITY.

Subdivision 1. **Protections.** Except as otherwise provided in Public Law 110-289, section 1512, the requirements under chapter 13 or any federal law regarding the privacy or confidentiality of any

information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by chapter 13 or federal law.

Subd. 2. **Agreements and sharing arrangements.** For purposes of this section, the commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the commissioner.

Subd. 3. **Nonapplicability of certain requirements.** Information or material that is subject to a privilege or confidentiality under subdivision 1 is not subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

Subd. 4. **Coordination with Minnesota Government Data Practices Act.** Chapter 13 relating to the disclosure of confidential supervisory information or any information or material described in subdivision 1 that is inconsistent with subdivision 1 is superseded by the requirements of this section.

Subd. 5. **Public access to information.** This section does not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that are included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Sec. 25. **[58A.15] INVESTIGATION AND EXAMINATION AUTHORITY.**

Subdivision 1. **Generally.** In addition to any authority allowed under this chapter, the commissioner may conduct investigations and examinations according to subdivisions 2 to 9.

Subd. 2. **Authority to access information.** For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this chapter, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence including but not limited to:

(1) criminal, civil, and administrative history information, including nonconviction data;

(2) personal history and experience information including independent credit reports obtained from a consumer reporting agency described in United States Code, title 15, section 1681a(p); and

(3) any other documents, information, or evidence the commissioner considers relevant to the inquiry or investigation regardless of the location, possession, control, or custody of the documents, information, or evidence.

Subd. 3. **Investigation, examination, and subpoena authority.** For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine a licensee, individual, or person subject to this chapter, as often as necessary in order to carry out the purposes of this chapter. The commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to produce books, accounts, records, files, and any other documents the commissioner considers relevant to the inquiry.

Subd. 4. **Availability of books and records.** A licensee, individual, or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of the licensee, individual, or person subject to this chapter. The commissioner shall have access to the books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this chapter concerning the licensee's, individual's, or person's business.

Subd. 5. **Reports and other information as directed.** A licensee, individual, or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including but not limited to:

(1) accounting compilations;

(2) information lists and data concerning loan transactions in a format prescribed by the commissioner; or

(3) other information the commissioner considers necessary to carry out the purposes of this section.

Subd. 6. **Control access to records.** In making an examination or investigation authorized by this chapter, the commissioner may control access to documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records has access to the documents or records as necessary to conduct its ordinary business affairs.

Subd. 7. **Additional authority.** In order to carry out the purposes of this section, the commissioner may:

(1) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(2) enter into agreements or relationships with other government officials or regulatory

associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(3) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;

(4) accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(5) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

Subd. 8. **Effect of authority.** The authority of this section remains in effect, whether a licensee, individual, or person subject to this chapter acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

Subd. 9. **Withhold records.** A licensee, individual, or person subject to investigation or examination under this section shall not knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Sec. 26. **[58A.16] PROHIBITED ACTS AND PRACTICES.**

Subdivision 1. **Generally.** It is a violation of this chapter for a person or individual subject to this chapter to:

(1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) engage in any unfair or deceptive practice toward any person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter;

(7) fail to make disclosures as required by this chapter and any other applicable state or federal law or regulations;

(8) fail to comply with this chapter or rules adopted under this chapter or fail to comply with any other state or federal law or regulations applicable to any business authorized or conducted under this chapter;

(9) make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan; or engage in bait-and-switch advertising;

(10) negligently make a false statement or knowingly and willfully make an omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with an investigation conducted by the commissioner or another governmental agency;

(11) make a payment, threat, or promise, directly or indirectly, to a person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make a payment threat or promise, directly or indirectly, to an appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(12) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(13) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(14) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Subd. 2. **Loan processor or underwriter activities.** An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

Sec. 27. [58A.17] MORTGAGE CALL REPORTS.

A mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which must be in the form and contain the information the Nationwide Mortgage Licensing System and Registry requires.

Sec. 28. [58A.18] REPORT TO NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

The commissioner shall regularly report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in section 58A.14.

Sec. 29. [58A.20] UNIQUE IDENTIFIER SHOWN.

The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or Web sites, and any other documents as established by rule or order of the commissioner.

Sec. 30. Minnesota Statutes 2008, section 80A.46, is amended to read:

80A.46 SECTION 202; EXEMPT TRANSACTIONS.

The following transactions are exempt from the requirements of sections 80A.49 through 80A.54, except 80A.50, paragraph (a), clause (3), and 80A.71:

(1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers in Minnesota during any period of 12 consecutive months, whether effected by or through a broker-dealer or not;

(2) a nonissuer transaction by or through a broker-dealer registered, or exempt from registration under this chapter, and a resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, in a security of a class that has been outstanding in the hands of the public for at least 90 days, if, at the date of the transaction:

(A) the issuer of the security is engaged in business, the issuer is not in the organizational stage or in bankruptcy or receivership, and the issuer is not a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(B) the security is sold at a price reasonably related to its current market price;

(C) the security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the broker-dealer as an underwriter of the security or a redistribution;

(D) a nationally recognized securities manual or its electronic equivalent designated by rule adopted or order issued under this chapter or a record filed with the Securities and Exchange Commission that is publicly available contains:

(i) a description of the business and operations of the issuer;

(ii) the names of the issuer's executive officers and the names of the issuer's directors, if any;

(iii) an audited balance sheet of the issuer as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had an audited balance sheet, a pro forma balance sheet for the combined organization; and

(iv) an audited income statement for each of the issuer's two immediately previous fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case of a reorganization or merger when each party to the reorganization or merger had audited income statements, a pro forma income statement; and

(E) any one of the following requirements is met:

(i) the issuer of the security has a class of equity securities listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934 or designated for trading on the National Association of Securities Dealers Automated Quotation System;

(ii) the issuer of the security is a unit investment trust registered under the Investment Company Act of 1940;

(iii) the issuer of the security, including its predecessors, has been engaged in continuous

business for at least three years; or

(iv) the issuer of the security has total assets of at least \$2,000,000 based on an audited balance sheet as of a date within 18 months before the date of the transaction or, in the case of a reorganization or merger when the parties to the reorganization or merger each had such an audited balance sheet, a pro forma balance sheet for the combined organization;

(3) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security of a foreign issuer that is a margin security defined in regulations or rules adopted by the Board of Governors of the Federal Reserve System;

(4) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in an outstanding security if the guarantor of the security files reports with the Securities and Exchange Commission under the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. Sections 78m or 78o(d));

(5) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter in a security that:

(A) is rated at the time of the transaction by a nationally recognized statistical rating organization in one of its four highest rating categories; or

(B) has a fixed maturity or a fixed interest or dividend, if:

(i) a default has not occurred during the current fiscal year or within the three previous fiscal years or during the existence of the issuer and any predecessor if less than three fiscal years, in the payment of principal, interest, or dividends on the security; and

(ii) the issuer is engaged in business, is not in the organizational stage or in bankruptcy or receivership, and is not and has not been within the previous 12 months a blank check, blind pool, or shell company that has no specific business plan or purpose or has indicated that its primary business plan is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person;

(6) a nonissuer transaction by or through a broker-dealer registered or exempt from registration under this chapter effecting an unsolicited order or offer to purchase;

(7) a nonissuer transaction executed by a bona fide pledgee without the purpose of evading this chapter;

(8) a nonissuer transaction by a federal covered investment adviser with investments under management in excess of \$100,000,000 acting in the exercise of discretionary authority in a signed record for the account of others;

(9) a transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved by the administrator after a hearing;

(10) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(11) a transaction in a note, bond, debenture, or other evidence of indebtedness secured by a mortgage or other security agreement if:

(A) the note, bond, debenture, or other evidence of indebtedness is offered and sold with the mortgage or other security agreement as a unit;

(B) a general solicitation or general advertisement of the transaction is not made; and

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person not registered under this chapter as a broker-dealer or as an agent;

(12) a transaction by an executor, administrator of an estate, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(13) a sale or offer to sell to:

(A) an institutional investor;

(B) an accredited investor;

(C) a federal covered investment adviser; or

(D) any other person exempted by rule adopted or order issued under this chapter;

(14) a sale or an offer to sell securities by an issuer, if the transaction is part of a single issue in which:

(A) not more than 35 purchasers are present in this state during any 12 consecutive months, other than those designated in paragraph (13);

(B) a general solicitation or general advertising is not made in connection with the offer to sell or sale of the securities;

(C) a commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; and

(D) the issuer reasonably believes that all the purchasers in this state, other than those designated in paragraph (13), are purchasing for investment.

Any issuer selling to purchasers in this state in reliance on this clause (14) exemption must provide to the administrator notice of the transaction by filing a statement of issuer form as adopted by rule. Notice must be filed at least ten days in advance of any sale or such shorter period as permitted by the administrator. However, an issuer who makes sales to ten or fewer purchasers in Minnesota during any period of 12 consecutive months is not required to provide this notice;

(15) a transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration, other than a standby commission, is not paid or given, directly or indirectly, for soliciting a security holder in this state. The person making the offer and effecting the transaction must provide to the administrator notice of the transaction by filing a written description of the transaction. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(16) an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(A) a registration or offering statement or similar record as required under the Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

(B) a stop order of which the offeror is aware has not been issued against the offeror by the administrator or the Securities and Exchange Commission, and an audit, inspection, or proceeding that is public and that may culminate in a stop order is not known by the offeror to be pending;

(17) an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(A) a registration statement has been filed under this chapter, but is not effective;

(B) a solicitation of interest is provided in a record to offerees in compliance with a rule adopted by the administrator under this chapter; and

(C) a stop order of which the offeror is aware has not been issued by the administrator under this chapter and an audit, inspection, or proceeding that may culminate in a stop order is not known by the offeror to be pending;

(18) a transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or its parent or subsidiary and the other person, or its parent or subsidiary, are parties. The person distributing the issuer's securities must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(19) a rescission offer, sale, or purchase under section 80A.77;

(20) an offer or sale of a security to a person not a resident of this state and not present in this state if the offer or sale does not constitute a violation of the laws of the state or foreign jurisdiction in which the offeree or purchaser is present and is not part of an unlawful plan or scheme to evade this chapter;

(21) employees' stock purchase, savings, option, profit-sharing, pension, or similar employees' benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees including offers or sales of such securities to:

(A) directors; general partners; trustees, if the issuer is a business trust; officers; consultants; and advisors;

(B) family members who acquire such securities from those persons through gifts or domestic relations orders;

(C) former employees, directors, general partners, trustees, officers, consultants, and advisors if those individuals were employed by or providing services to the issuer when the securities were

offered; and

(D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's subsidiaries or parents, or who derive more than 50 percent of their annual income from those organizations.

A person establishing an employee benefit plan under the exemption in this clause (21) must provide to the administrator notice of the transaction by filing a written description of the transaction along with a consent to service of process complying with section 80A.88. Notice must be filed at least ten days in advance of any transaction or such shorter period as permitted by the administrator;

(22) a transaction involving:

(A) a stock dividend or equivalent equity distribution, whether the corporation or other business organization distributing the dividend or equivalent equity distribution is the issuer or not, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend if each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock;

(B) an act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash; or

(C) the solicitation of tenders of securities by an offeror in a tender offer in compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

(23) a nonissuer transaction in an outstanding security by or through a broker-dealer registered or exempt from registration under this chapter, if the issuer is a reporting issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order issued under this chapter; has been subject to continuous reporting requirements in the foreign jurisdiction for not less than 180 days before the transaction; and the security is listed on the foreign jurisdiction's securities exchange that has been designated by this paragraph or by rule adopted or order issued under this chapter, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing. For purposes of this paragraph, Canada, together with its provinces and territories, is a designated foreign jurisdiction and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an administrative hearing in compliance with chapter 14, the administrator, by rule adopted or order issued under this chapter, may revoke the designation of a securities exchange under this paragraph, if the administrator finds that revocation is necessary or appropriate in the public interest and for the protection of investors;

(24) any transaction effected by or through a Canadian broker-dealer exempted from broker-dealer registration pursuant to section 80A.56(b)(3); or

(25)(A) the offer and sale by a cooperative organized under chapter 308A, or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when the securities are issued as patronage dividends. This paragraph applies to a cooperative organized under chapter 308A, or under the laws of another state, only if the cooperative has filed with the administrator a consent to service of process under section 80A.88 and has, not less than ten days before the issuance or delivery, furnished the administrator with a written general

description of the transaction and any other information that the administrator requires by rule or otherwise;

(B) the offer and sale by a cooperative organized under chapter 308B of its securities when the securities are offered and sold to its existing members or when the purchase of the securities is necessary or incidental to establishing patron membership in the cooperative, or when such securities are issued as patronage dividends. The administrator has the power to define "patron membership" for purposes of this paragraph. This paragraph applies to securities, other than securities issued as patronage dividends, only when:

(i) the issuer, before the completion of the sale of the securities, provides each offeree or purchaser disclosure materials that, to the extent material to an understanding of the issuer, its business, and the securities being offered, substantially meet the disclosure conditions and limitations found in rule 502(b) of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502; and

(ii) within 15 days after the completion of the first sale in each offering completed in reliance upon this exemption, the cooperative has filed with the administrator a consent to service of process under section 80A.88 (or has previously filed such a consent), and has furnished the administrator with a written general description of the transaction and any other information that the administrator requires by rule or otherwise; and

(C) a cooperative may, at or about the same time as offers or sales are being completed in reliance upon the exemptions from registration found in this subpart and as part of a common plan of financing, offer or sell its securities in reliance upon any other exemption from registration available under this chapter. The offer or sale of securities in reliance upon the exemptions found in this subpart will not be considered or deemed a part of or be integrated with any offer or sale of securities conducted by the cooperative in reliance upon any other exemption from registration available under this chapter, nor will offers or sales of securities by the cooperative in reliance upon any other exemption from registration available under this chapter be considered or deemed a part of or be integrated with any offer or sale conducted by the cooperative in reliance upon this paragraph.

Sec. 31. ASSESSMENT.

(a) The commissioner of commerce may levy a pro rata assessment on institutions licensed under Minnesota Statutes, chapter 58, to recover the costs to the Department of Commerce for administering the licensing and registration requirements of Minnesota Statutes, section 58A.10.

(b) The commissioner shall levy the assessments and notify each institution of the amount of the assessment being levied by September 30, 2010. The institution shall pay the assessment to the department no later than November 30, 2010. If an institution fails to pay its assessment by this date, its license may be suspended by the commissioner until it is paid in full.

(c) This section expires December 1, 2010.

Sec. 32. REPEALER.

Minnesota Statutes 2009 Supplement, section 58.126, is repealed.

Sec. 33. EFFECTIVE DATE.

Sections 5 to 29, 31, and 32 are effective July 31, 2010.

ARTICLE 12
AGRICULTURE

Section 1. **APPROPRIATIONS.**

Unless otherwise stated, the sums shown in the columns marked "Appropriations" are added to, or if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 94, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
Sec. 2. <u>AGRICULTURE</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ <u>(1,217,000)</u>	\$ <u>(1,484,000)</u>
<u>The amounts that may be spent for each purpose are specified in the following subdivisions.</u>		
Subd. 2. <u>Protection Services</u>	<u>(142,000)</u>	<u>(467,000)</u>
Subd. 3. <u>Agricultural Marketing and Development</u>	<u>(127,000)</u>	<u>(8,000)</u>
<u>\$6,000 in 2010 is a reduction for grants to farmers for demonstration projects involving sustainable agriculture, as authorized in Minnesota Statutes, section 17.116.</u>		
<u>\$113,000 in 2010 is a reduction from Laws 2006, chapter 282, article 10, section 4, for the agricultural best management program.</u>		
Subd. 4. <u>Bioenergy and Value-Added Agriculture</u>	<u>(821,000)</u>	<u>(855,000)</u>
<u>\$821,000 in 2010 and \$855,000 in 2011 are reductions from the appropriation for ethanol producer payments.</u>		

Subd. 5. Administration and Financial Assistance(127,000)(154,000)

\$23,000 in 2010 and \$36,000 in 2011 are reductions from the appropriation for the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2.

\$1,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Livestock Breeders Association.

\$15,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Agricultural Education and Leadership Council.

\$28,000 in 2011 is a reduction from the appropriation for payments to county and district agricultural societies and associations.

\$3,000 in 2011 is a reduction from the appropriation for the Northern Crops Institute.

\$4,000 in 2010 and \$4,000 in 2011 are reductions from the appropriation for grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties.

\$3,000 in 2010 and \$3,000 in 2011 are reductions from the appropriation for grants to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants including plant breeding, nutrient management, pest management, disease management yield, and viability.

\$28,000 in 2010 and \$30,000 in 2011 are reductions from the appropriation for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable

organizations that are eligible to receive food from the food banks.

\$60,000 in 2010 is a reduction from the appropriation for the agricultural growth, research, and innovation program.

\$6,000 in 2011 is a reduction from the appropriation for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$1,000 in 2011 is a reduction from the appropriation for a grant to the Minnesota Horticultural Society.

\$4,000 in 2010 is a reduction from the appropriation for transfer to the University of Minnesota Extension service for farm-to-school grants to school districts in Minneapolis, Moorhead, White Earth, and Willmar.

\$5,000 in 2010 and \$27,000 in 2011 are reductions from the appropriation and are intended to be a reduction in costs attributed to the commissioner's office.

Subd. 6. Transfers In

Notwithstanding any other law to the contrary, the commissioner of management and budget shall transfer \$405,000 from the agricultural fund to the general fund by July 15, 2010. By July 15, 2011, the commissioner of management and budget will transfer \$629,000 from the agricultural fund to the general fund.

Notwithstanding any other law to the contrary, the commissioner of management and budget shall transfer \$6,000 from the miscellaneous special revenue fund to the general fund by July 15, 2010. By July 15, 2011, the commissioner of management and budget shall transfer \$6,000 from the

miscellaneous special revenue fund to the general fund.

Sec. 3. BOARD OF ANIMAL HEALTH \$ (87,000) \$ (141,000)

\$87,000 in 2010 and \$141,000 in 2011 is from the appropriation for general operations.

Sec. 4. AGRICULTURE UTILIZATION RESEARCH INSTITUTE \$ (382,000) \$ (1,442,000)

Sec. 5. Minnesota Statutes 2008, section 18G.07, is amended to read:

18G.07 TREE CARE AND TREE TRIMMING COMPANY ~~REGISTRY~~ REGISTRATION.

Subdivision 1. **Creation of registry.** The commissioner shall maintain a list of all persons and companies that provide tree care or tree trimming services in Minnesota. All tree care providers, tree trimmers, and persons who remove trees, limbs, branches, brush, or shrubs for hire must ~~provide the following information to~~ be registered by the commissioner:

Subd. 1a. **Basic registration.** (a) Tree care or tree trimming companies must register annually by providing the following to the commissioner:

- (1) accurate and up-to-date business name, address, and telephone number;
- (2) a complete list of all Minnesota counties in which they work; and
- (3) ~~a complete list of persons in the business who are certified by the International Society of Arborists~~ a nonrefundable fee of \$25 for initial application or renewing basic registration.

(b) Registration expires December 31, must be renewed annually, and the fee remitted by January 7 of the year for which it is issued. In addition, a penalty of ten percent of the fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Subd. 1b. **Professional registration.** (a) Professional registration is provided to identify those companies with qualifications to treat trees for pests or diseases or prune, trim, or remove trees from above the ground. Tree care or tree trimming companies may obtain annual professional registration by providing the following to the commissioner:

- (1) accurate and up-to-date business name, address, and telephone number;
- (2) a complete list of all Minnesota counties in which they work;
- (3) a complete list of persons in the business who have an associate's degree or higher in arboriculture, forestry, or horticulture; a complete list of persons in the business who are certified by the International Society of Arboriculture (ISA), and their ISA certification identification number; and a complete list of persons in the business who are certified by the Minnesota Nursery and Landscape Association (MNLA);
- (4) as appropriate, evidence of accreditation of the company by the Tree Care Industry

Association;

(5) a complete list of persons in the business who are licensed pesticide applicators in Minnesota if the company is applying restricted use pesticides;

(6) verification by the company that it maintains a Minnesota workers' compensation insurance certificate and that the company maintains a certificate of liability insurance and has a Minnesota sales tax identification number. Companies that prune or trim trees from above the ground must be covered by classification 0106 of the workers' compensation insurance codes; and

(7) a nonrefundable fee of \$250 for initial application or renewing a basic registration.

(b) Registration expires December 31, must be renewed annually, and the fee remitted by January 7 of the year for which it is issued. In addition, a penalty of ten percent of the fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal not received by the due date.

Subd. 2. **Information dissemination.** The commissioner shall provide registered tree care companies with information and data regarding any existing or potential regulated forest pest infestations within the state.

Subd. 3. **Violation.** It is unlawful for a person to provide tree care or tree trimming services in Minnesota without being registered with the commissioner.

Sec. 6. Laws 2007, chapter 45, article 1, section 3, subdivision 4, as amended by Laws 2008, chapter 297, article 1, section 64; and Laws 2008, chapter 363, article 7, section 6, is amended to read:

Subd. 4. Bioenergy and Value-Added Agricultural Products

19,918,000

15,168,000

\$15,168,000 the first year and \$15,168,000 the second year are for ethanol producer payments under Minnesota Statutes, section 41A.09. If the total amount for which all producers are eligible in a quarter exceeds the amount available for payments, the commissioner shall make payments on a pro rata basis. If the appropriation exceeds the total amount for which all producers are eligible in a fiscal year for scheduled payments and for deficiencies in payments during previous fiscal years, the balance in the appropriation is available to the commissioner for value-added agricultural programs including the value-added agricultural product processing and marketing grant program under Minnesota Statutes, section 17.101, subdivision 5. The appropriation remains

available until spent.

\$3,000,000 the first year is for grants to bioenergy projects. The NextGen Energy Board shall make recommendations to the commissioner on grants for owners of Minnesota facilities producing bioenergy, organizations that provide for on-station, on-farm field scale research and outreach to develop and test the agronomic and economic requirements of diverse stands of prairie plants and other perennials for bioenergy systems, or certain nongovernmental entities. For the purposes of this paragraph, "bioenergy" includes transportation fuels derived from cellulosic material as well as the generation of energy for commercial heat, industrial process heat, or electrical power from cellulosic material via gasification or other processes. The board must give priority to a bioenergy facility that is at least 60 percent owned and controlled by farmers, as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (n), or natural persons residing in the county or counties contiguous to where the facility is located. Grants are limited to 50 percent of the cost of research, technical assistance, or equipment related to bioenergy production or \$1,000,000, whichever is less. Grants to nongovernmental entities for the development of business plans and structures related to community ownership of eligible bioenergy facilities together may not exceed \$150,000. The board shall make a good faith effort to select projects that have merit and when taken together represent a variety of bioenergy technologies, biomass feedstocks, and geographic regions of the state. Projects must have a qualified engineer certification on the technology and fuel source. Grantees shall provide reports at the request of the commissioner and must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable. No later than February 1, 2009, the commissioner shall report on

the projects funded under this appropriation to the house and senate committees with jurisdiction over agriculture finance. The commissioner's costs in administering the program may be paid from the appropriation. ~~Any unencumbered balance does not cancel at the end of the first year and is available in the second year.~~ This appropriation is available until June 30, 2011.

\$200,000 the first year is for a grant to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to a joint venture combined heat and power energy facility located in Scott or LeSueur County for the creation of a centrally located biomass fuel supply depot with the capability of unloading, processing, testing, scaling, and storing renewable biomass fuels. The grant must be matched by at least \$3 of nonstate funds for every \$1 of state funds. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$300,000 the first year is for a grant to the Bois Forte Band of Chippewa for a feasibility study of a renewable energy biofuels demonstration facility on the Bois Forte

Reservation in St. Louis and Koochiching Counties. The grant shall be used by the Bois Forte Band to conduct a detailed feasibility study of the economic and technical viability of developing a multistream renewable energy biofuels demonstration facility on Bois Forte Reservation land to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$300,000 the first year is for a grant to the White Earth Band of Chippewa for a feasibility study of a renewable energy biofuels production, research, and production facility on the White Earth Reservation in Mahnomen County. The grant must be used by the White Earth Band and the University of Minnesota to conduct a detailed feasibility study of the economic and technical viability of (1) developing a multistream renewable energy biofuels demonstration facility on White Earth Reservation land to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy, and (2) developing, harvesting, and marketing native prairie plants and seeds for bioenergy production. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to the Elk River Economic Development Authority for upfront engineering and a feasibility study of the Elk River renewable fuels facility. The facility must use a plasma gasification

process to convert primarily cellulosic material, but may also use plastics and other components from municipal solid waste, as feedstock for the production of methanol for use in biodiesel production facilities. Any unencumbered balance in fiscal year 2008 does not cancel but is available for fiscal year 2009. Notwithstanding Minnesota Statutes, section 16A.285, the agency must not transfer this appropriation. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

\$200,000 the first year is for a grant to Chisago County to conduct a detailed feasibility study of the economic and technical viability of developing a multistream renewable energy biofuels demonstration facility in Chisago, Isanti, or Pine County to utilize existing forest resources, woody biomass, and cellulosic material to produce biofuels or bioenergy. Chisago County may expend funds to Isanti and Pine Counties and the University of Minnesota for any costs incurred as part of the study. The feasibility study must consider the capacity of: (1) the seed bank at Wild River State Park to expand the existing prairie grass, woody biomass, and cellulosic material resources in Chisago, Isanti, and Pine Counties; (2) willing and interested landowners in Chisago, Isanti, and Pine Counties to grow cellulosic materials; and (3) the Minnesota Conservation Corps, the sentence to serve program, and other existing workforce programs in east central Minnesota to contribute labor to these efforts. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2009, must report to the house and senate committees with

jurisdiction over agriculture finance. This is a onetime appropriation and is available until spent.

Sec. 7. Laws 2007, chapter 45, article 1, section 3, subdivision 5, as amended by Laws 2008, chapter 297, article 1, section 65, is amended to read:

Subd. 5. Administration and Financial Assistance	7,338,000	6,751,000
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\$1,005,000 the first year and \$1,005,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2 . The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a work plan detailing plans for expenditures under this program to the chairs of the house and senate committees dealing with agricultural policy and budget on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs.

\$50,000 the first year and \$50,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

\$19,000 the first year and \$19,000 the second year are for a grant to the Minnesota Livestock Breeders Association.

\$250,000 the first year and \$250,000 the second year are for grants to the Minnesota Agricultural Education Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

\$600,000 the first year is for grants for fertilizer research as awarded by the

Minnesota Agricultural Fertilizer Research and Education Council under Minnesota Statutes, section 18C.71. The amount available to the commissioner pursuant to Minnesota Statutes, section 18C.70, subdivision 2, for administration of this activity is available until February 1, 2009, by which time the commissioner shall report to the house and senate committees with jurisdiction over agriculture finance. The report must include the progress and outcome of funded projects as well as the sentiment of the council concerning the need for additional research funded through an industry checkoff fee. The amount available for grants is available until June 30, 2011.

\$465,000 the first year and \$465,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed not later than July 15 of each year. These payments are the amount of aid owed by the state for an annual fair held in the previous calendar year.

\$65,000 the first year and \$65,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties. The grant recipient may subcontract with a qualified third party for some or all of the basic and applied research.

\$500,000 the first year and \$500,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Second Harvest food bank

serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses.

\$100,000 the first year and \$100,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Horticultural Society.

\$50,000 is for a grant to the University of Minnesota, Department of Horticultural Science, Enology Laboratory, to upgrade and purchase instrumentation to allow rapid and accurate measurement of enology components. This is a onetime appropriation and is available until expended.

Sec. 8. Laws 2009, chapter 94, article 1, section 3, subdivision 5, is amended to read:

Subd. 5. Administration and Financial Assistance	8,177,000	7,037,000
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Appropriations by Fund

	2010	2011
General	7,377,000	6,237,000

Agricultural

800,000

800,000

\$780,000 the first year and \$755,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a work plan detailing plans for expenditures under this program to the chairs of the house of representatives and senate committees dealing with agricultural policy and budget on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs.

\$50,000 the first year and \$50,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

\$19,000 the first year and \$19,000 the second year are for a grant to the Minnesota Livestock Breeders Association.

\$250,000 the first year and \$250,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

\$474,000 the first year and \$474,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed no later than July 15 of each year. These payments are the amount of

aid from the state for an annual fair held in the previous calendar year.

\$1,000 the first year and \$1,000 the second year are for grants to the Minnesota State Poultry Association.

\$65,000 the first year and \$65,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied research on the improved production of forage and turf seed related to new and improved varieties. The grant recipient may subcontract with a qualified third party for some or all of the basic and applied research.

\$50,000 the first year and \$50,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied agronomic research on native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. The grant recipient must actively participate in the Agricultural Utilization Research Institute's Renewable Energy Roundtable and no later than February 1, 2011, must report to the house of representatives and senate committees with jurisdiction over agriculture finance.

\$500,000 the first year and \$500,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Second Harvest food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Second Harvest food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance

Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses.

\$1,000,000 the first year is for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Priority must be given to livestock programs under Minnesota Statutes, section 17.118. Priority for livestock grants shall be given to persons who are beginning livestock producers and livestock producers who are rebuilding after a disaster that was due to natural or other unintended conditions. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available in the second year.

\$100,000 the first year and \$100,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for mental health counseling support to farm families and business operators through farm business management programs at Central Lakes College and Ridgewater College.

\$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Horticultural Society.

Notwithstanding Minnesota Statutes, section 18C.131, \$800,000 the first year and \$800,000 the second year are from the

fertilizer account in the agricultural fund for grants for fertilizer research as awarded by the Minnesota Agricultural Fertilizer Research and Education Council under Minnesota Statutes, section 18C.71. The amount appropriated in either fiscal year must not exceed 57 percent of the inspection fee revenue collected under Minnesota Statutes, section 18C.425, subdivision 6, during the previous fiscal year. No later than February 1, 2011, the commissioner shall report to the legislative committees with jurisdiction over agriculture finance. The report must include the progress and outcome of funded projects as well as the sentiment of the council concerning the need for additional research funds. The appropriation for the first year is available until June 30, 2013, and the appropriation for the second year is available until June 30, 2014.

\$60,000 the first year is for a transfer to the University of Minnesota Extension Service for farm-to-school grants to school districts in Minneapolis, Moorhead, White Earth, and Willmar.

*\$30,000 is for star farms program development. The commissioner, in consultation with other state and local agencies, farm groups, conservation groups, legislators, and other interested persons, shall develop a proposal for a star farms program. By January 15, 2010, the commissioner shall submit the proposal to the legislative committees and divisions with jurisdiction over agriculture and environmental policy and finance. This is a onetime appropriation. * (The preceding paragraph beginning "\$30,000 is for star farms program" was indicated as vetoed by the governor.)*

\$25,000 the first year is for the administration of the Feeding Minnesota Task Force, under new Minnesota Statutes, section 31.97. This is a onetime appropriation.

ARTICLE 13**VETERANS AFFAIRS APPROPRIATIONS**Section 1. **VETERANS AFFAIRS.**

The sums shown in the columns marked "Appropriations" are added to, or if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 94, article 3, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 2. **VETERANS AFFAIRS**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>1,935,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Veterans Services</u>		<u>-0-</u>		<u>100,000</u>
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\$100,000 in fiscal year 2011 is for compensation for honor guards at the funerals of veterans in accordance with the program established in Minnesota Statutes, section 197.231.

<u>Subd. 3. Veterans Homes</u>		<u>-0-</u>		<u>1,835,000</u>
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\$1,360,000 is for operational expenses related to the 21-bed addition at the Fergus Falls Veterans Home.

\$475,000 is for start-up expenses related to the opening of an adult daycare facility at the Minneapolis Veterans Home.

Sec. 3. Minnesota Statutes 2009 Supplement, section 190.19, subdivision 2a, is amended to read:

Subd. 2a. **Uses; veterans.** Money appropriated to the Department of Veterans Affairs from the Minnesota "Support Our Troops" account may be used for:

- (1) grants to veterans service organizations;
- (2) outreach to underserved veterans; ~~and~~
- (3) providing services and programs for veterans and their families; and
- ~~(3) (4) transfers to the vehicle services account for Gold Star license plates under section 168.1253.~~

Sec. 4. Minnesota Statutes 2009 Supplement, section 198.003, subdivision 4a, is amended to read:

Subd. 4a. **Federal funding.** The commissioner ~~is authorized to~~ may apply for and, accept, and spend federal funding for purposes of this section.

Sec. 5. Laws 2009, chapter 94, article 3, section 2, subdivision 3, is amended to read:

Subd. 3. Veterans Homes	43,673,000	43,916,000
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Veterans Homes Special Revenue Account.

The general fund appropriations made to the department may be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the department for the operation of veterans homes facilities and programs.

Repair and Betterment. Of this appropriation, \$1,000,000 in fiscal year 2010 and \$500,000 in fiscal year 2011 are to be used for repair, maintenance, rehabilitation, and betterment activities at facilities statewide.

Hastings Veterans Home. \$220,000 each year is for increases in the mental health program at the Hastings Veterans Home.

~~**Food.** \$92,000 in fiscal year 2010 and \$189,000 in fiscal year 2011 are for increases in food costs at the Minnesota veterans homes.~~

~~**Pharmaceuticals.** \$287,000 in fiscal year 2010 and \$617,000 in fiscal year 2011 are for increases in pharmaceutical costs.~~

~~**Fuel and Utilities.** \$277,000 in fiscal year 2010 and \$593,000 in fiscal year 2011 are for increases in fuel and utility costs at the Minnesota veterans homes.~~

Medicare Part D. \$141,000 in fiscal year 2010 and \$141,000 in fiscal year 2011 are for implementation of Minnesota Statutes, section 198.003, subdivision 7.

Sec. 6. **EFFECTIVE DATE.**

Section 2 is effective the day following final enactment.

ARTICLE 14

ECONOMIC DEVELOPMENT APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

		<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$	(4,365,000)	\$	(11,343,000)	\$	(15,708,000)
<u>Total</u>	<u>\$</u>	<u>(4,365,000)</u>	<u>\$</u>	<u>(11,343,000)</u>	<u>\$</u>	<u>(15,708,000)</u>

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 78, article 1, unless otherwise specified, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

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

Sec. 3. **EMPLOYMENT AND ECONOMIC DEVELOPMENT**

Subdivision 1. **Total Appropriation** \$ (1,044,000) \$ (2,270,000)

The appropriation reductions for each

purpose are specified in the following subdivisions.

Subd. 2. Business and Community Development (366,000) (588,000)

(a) \$35,000 in 2011 is from the appropriation for a grant to Women Venture.

(b) \$20,000 in 2011 is from the appropriation for a grant to the Metropolitan Economic Development Association.

(c) \$75,000 in 2011 is from the appropriation for a grant to BioBusiness Alliance of Minnesota.

(d) \$15,000 in 2011 is from the appropriation for a grant to the Minnesota Inventors Congress.

(e) \$25,000 in 2010 and \$25,000 in 2011 are from the appropriation for the Office of Science and Technology.

(f) \$75,000 in 2011 is from the appropriation for a grant to Enterprise Minnesota, Inc.

(g) The general fund base for business and community development is \$6,653,000 in fiscal year 2012 and \$6,653,000 in fiscal year 2013.

Subd. 3. Workforce Development (648,000) (1,652,000)

(a) \$145,000 in 2010 and \$145,000 in 2011 are from the appropriation for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17.

(b) \$193,000 in 2010 and \$195,000 in 2011 are from the appropriation for state services for the blind activities.

(c) \$159,000 in 2010 and \$161,000 in 2011 are from the appropriation for grants to centers for independent living.

(d) \$60,000 in 2011 is from the appropriation to Twin Cities RISE! for a grant under Minnesota Statutes, section 166J.8747.

(e) \$25,000 in 2011 is from the appropriation for a grant to Northern Connections in Perham.

(f) \$25,000 in 2011 is from the appropriation for a grant to Advocating Change Together.

(g) \$22,000 in 2010 and \$708,000 in 2011 are from the appropriation for extended employment services under Minnesota Statutes, section 268A.15. Notwithstanding Minnesota Rules, parts 3300.2030 to 3300.2055, the commissioner may adjust contracts with eligible extended employment providers in order to achieve required reductions through June 30, 2011. The general fund base for extended employment services is \$5,137,000 in fiscal year 2012 and \$5,137,000 in fiscal year 2013.

(h) \$3,000 in 2010 and \$125,000 in 2011 are from the appropriation to supplement funds paid for wage incentives for the community support fund established in Minnesota Rules, part 3300.2045.

(i) \$50,000 in 2011 is from the appropriation for grants to Minnesota Diversified Industries, Inc. The general fund base for Minnesota Diversified Industries, Inc. is \$50,000 in fiscal year 2012 and \$50,000 in fiscal year 2013.

(j) \$111,000 in 2010 and \$113,000 in 2011 are from the appropriation for grants to programs that provide employment support services to persons with mental illness under Minnesota Statutes, sections 268A.13 and 268A.14. \$2,000 in each year is from the appropriation for administrative expenses.

(k) \$25,000 in 2011 is from the appropriation for a grant under Minnesota Statutes, section 268A.03, to Rise, Inc.

(l) \$20,000 in 2011 is from the appropriation for a grant to Lifetrack Resources.

(m) \$15,000 in 2010 is from the appropriation for a grant to Lutheran Social Service of

Minnesota.

(n) The general fund base for workforce development is \$28,729,000 in fiscal year 2012 and \$28,729,000 in fiscal year 2013.

Subd. 4. State-funded Administration(30,000)(30,000)

The general fund base for state-funded administration is \$2,396,000 in fiscal year 2012 and \$2,396,000 in fiscal year 2013.

Subd. 5. Transfers and Cancellations

(a) \$367,000 in 2010 and \$367,000 in 2011 are transferred from the contaminated cleanup grants appropriation in the petroleum tank release cleanup fund under Minnesota Statutes, section 115C.08, subdivision 4, to the general fund.

(b) \$80,000 in 2010 is transferred from the unemployment insurance state administration account in the special revenue fund under Minnesota Statutes, section 268.196, subdivision 1, to the general fund.

(c) \$160,000 in 2010 is transferred from the capital access program account in the special revenue fund under Minnesota Statutes, section 116J.876, subdivision 4, to the general fund.

(d) \$5,000,000 in 2010 is transferred from the Minnesota mineral 21st century fund under Minnesota Statutes, section 116J.423, subdivision 1, to the general fund.

(e) The remaining balance from the Laws 2007, chapter 135, article 1, section 3, appropriation for a grant to Le Sueur County is canceled.

(f) The remaining balance from the Laws 2008, chapter 358, article 5, section 4, subdivision 3, appropriation for Section 125 Employer Incentives is canceled.

Sec. 4. PUBLIC FACILITIES AUTHORITY\$(11,000) \$(7,000)

The reduction is from the appropriation for small community wastewater treatment program under Minnesota Statutes, chapter 446A.

Sec. 5. **EXPLORE MINNESOTA TOURISM** \$ (938,000) \$ (672,000)

(a) \$700,000 in 2010 is from the appropriation for a grant to the Minnesota Film and TV Board for the film jobs production program under Minnesota Statutes, section 116U.26.

(b) \$325,000 in 2011 is from the operating appropriation for the Minnesota Film and TV Board.

Sec. 6. **HOUSING FINANCE AGENCY** \$ (2,061,000) \$ (2,603,000)

(a) \$2,061,000 in 2010 and \$1,603,000 in 2011 are from the appropriation for the affordable rental investment fund program under Minnesota Statutes, section 462A.21, subdivision 8b.

(b) \$1,000,000 in 2011 is from the appropriation for the housing rehabilitation program under Minnesota Statutes, section 462A.05, subdivision 14, for rental housing developments.

(c) In 2010, the Housing Finance Agency shall transfer \$2,061,000 from the affordable rental investment fund program in the housing development fund, to the general fund.

Sec. 7. **DEPARTMENT OF LABOR AND INDUSTRY** \$ (16,000) \$ (26,000)

This reduction is from the general fund appropriation for labor standards and apprenticeship.

Sec. 8. **BUREAU OF MEDIATION SERVICES** \$ (31,000) \$ (53,000)

(a) \$27,000 in 2010 and \$47,000 in 2011 are from the appropriation for mediation services.

(b) \$4,000 in 2010 and \$6,000 in 2011 are from the appropriation for labor management cooperation grants.

Sec. 9. MINNESOTA HISTORICAL SOCIETY

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(217,000)</u>	<u>\$</u>	<u>(501,000)</u>
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The appropriation reductions for each purpose are specified in the following subdivisions.

<u>Subd. 2. Education and Outreach</u>		<u>(124,000)</u>		<u>(286,000)</u>
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<u>Subd. 3. Preservation and Access</u>		<u>(93,000)</u>		<u>(215,000)</u>
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Sec. 10. BOARD OF THE ARTS

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(2,875,000)</u>
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The appropriation reductions for each purpose are specified in the following subdivisions.

<u>Subd. 2. Operations and Services</u>		<u>-0-</u>		<u>(217,000)</u>
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The base for operations and services in fiscal year 2012 is \$217,000. The base in fiscal year 2013 is \$0.

<u>Subd. 3. Grant Programs</u>		<u>-0-</u>		<u>(1,839,000)</u>
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The base for grant programs in fiscal year 2012 is \$1,838,000. The base in fiscal year 2013 is \$0.

<u>Subd. 4. Regional Arts Councils</u>		<u>-0-</u>		<u>(819,000)</u>
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The base for regional arts councils in fiscal year 2012 is \$819,000. The base in fiscal year 2013 is \$0.

Sec. 11. <u>MINNESOTA HUMANITIES CENTER</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(250,000)</u>
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Sec. 12. <u>PUBLIC BROADCASTING</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(2,015,000)</u>
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(a) The appropriation reductions under this section are from the commissioner of administration for the purposes specified.

(b) \$1,161,000 in 2011 is from the appropriation for matching grants for public television.

(c) \$200,000 in 2011 is from the appropriation for public television equipment grants.

(d) \$17,000 in 2011 is from the appropriation for grants to Twin Cities regional cable channels.

(e) \$287,000 in 2011 is from the appropriation for community service grants to public educational radio stations.

(f) \$100,000 in 2011 is from the appropriation for equipment grants to public educational radio stations.

(g) \$250,000 in 2011 is for equipment grants to Minnesota Public Radio, Inc.

Sec. 13. <u>BOARD OF ACCOUNTANCY</u>	\$	<u>(10,000)</u>	\$	<u>(15,000)</u>
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Sec. 14. <u>BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN</u>	\$	<u>(17,000)</u>	\$	<u>(24,000)</u>
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Sec. 15. <u>BOARD OF COSMETOLOGIST EXAMINERS</u>	\$	<u>(13,000)</u>	\$	<u>(20,000)</u>
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Sec. 16. <u>BOARD OF BARBER EXAMINERS</u>	\$	<u>(3,000)</u>	\$	<u>(6,000)</u>
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Sec. 17. <u>COMBATIVE SPORTS COMMISSION</u>	\$	<u>(4,000)</u>	\$	<u>(6,000)</u>
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Sec. 18. TRANSFER OF FUNDS

Prior to June 30, 2010, the commissioner of Iron Range Resources shall transfer \$30,000,000 from the Douglas J. Johnson Economic Protection Trust to the general fund. This is a onetime transfer.

ARTICLE 15

GRANT PROGRAM MERGER

Section 1. [116J.433] MINNESOTA BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE GRANT PROGRAM.

Subdivision 1. Grant program established. The commissioner is authorized to make grants to eligible units of government to provide up to 50 percent of the capital costs of public infrastructure necessary for eligible economic development projects. The grantee must provide a match for the

remainder of the costs of the project, either in cash or through in-kind contributions. The purpose of the grants is to keep or enhance jobs in the area, increase the tax base, expand or create new economic development, or expand the growth of new bioscience businesses and organizations.

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

(b) "Bioscience" means the following, but is not limited to:

(1) researching, developing, or manufacturing a biotechnology product or service or a biotechnology-related health sciences product or service;

(2) researching, developing, or manufacturing a biotechnology medical device product or service or a biotechnology-related medical device product or service; or

(3) promoting, supplying, or servicing a facility or operation involved in clause (1) or (2), if the business derives more than 50 percent of its gross receipts from those activities.

(c)(1) "Eligible economic development project" or "eligible project" means a project to develop public infrastructure to serve the development of the following types of activities:

(i) manufacturing;

(ii) technology;

(iii) warehousing and distribution;

(iv) research and development;

(v) agricultural processing, defined as transforming, packaging, sorting, or grading livestock or livestock products into goods that are used for intermediate or final consumption, including goods for nonfood use;

(vi) industrial park development that would be used by any other business listed in this subdivision; or

(vii) bioscience business development capital improvement projects including: manufacturing; technology; warehousing and distribution; research and development; bioscience business incubator; agricultural bioprocessing; or industrial, office, or research park development that would be used by a bioscience-based business.

(2) "Eligible economic development project" or "eligible project" does not mean a project to develop public infrastructure for:

(i) retail development, except as incidental to an eligible purpose;

(ii) office space development, except as incidental to an eligible purpose; or

(iii) medical clinics and nursing homes.

(d) "Eligible unit of government" means a county or city, and in the case of a bioscience-related project, a public institution of higher education.

(e) "In-kind contributions" means the value of the site, site preparation, other public

infrastructure needed for the project, prepaid costs for planning and design work, or material and labor costs provided for the project.

(f) "Governing body" means the city council, county board of commissioners, or the board of trustees or board of regents for public institutions of higher education.

(g) "Metropolitan area" has the meaning given in section 473.121, subdivision 2.

(h) "Public infrastructure" means publicly owned physical infrastructure in this state, including, but not limited to, wastewater collection and treatment systems, drinking water systems, storm sewers, utility extensions, telecommunications infrastructure, streets, roads, bridges, and parking facilities. Additionally, for bioscience projects, public infrastructure includes facilities that directly support economic development of basic science, clinical research, or research infrastructure.

Subd. 3. **Application review.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section. At a minimum, an eligible unit of government must include in its application a resolution of the governing body certifying that the required local match is available. The commissioner must evaluate complete applications for eligible projects using the following criteria:

(1) the project is an eligible project as defined under subdivision 2, paragraph (c);

(2) the project will result in both public and private capital investment and provide measurable economic benefits to the areas in which the project would be located;

(3) the eligible project is not relocating substantially the same operation from another location in the state, unless the commissioner determines the eligible project cannot be reasonably accommodated within the local governmental unit in which the business is currently located, or the business would otherwise relocate to another state or country; and

(4) the project is ready to proceed upon award.

(b) The commissioner must give priority to eligible projects with one or more of the following characteristics when making a determination for funding:

(1) inclusion of bioscience business development;

(2) job creation and long-term job preservation;

(3) increase in property tax base;

(4) the general public benefit, including environmental benefits to the state and region, efficient use of public transportation, efficient use of existing infrastructure, provision of affordable housing, multiuse development, crime reduction, blight reduction, community stabilization;

(5) projects with committed businesses and the potential of the local governmental unit to attract viable businesses;

(6) proximity to public transit if located in a metropolitan area; or

(7) multijurisdictional eligible projects that take into account the need for affordable housing, transportation, and environmental impact.

(c) The factors in paragraph (b) are not listed in a rank order of priority; rather, the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate.

(d) If applications for grants exceed the available appropriations, grants must be made for public infrastructure that, in the commissioner's judgment, provides the highest return in public benefits per dollar of state investment.

(e) The determination of whether to make a grant is within the discretion of the commissioner, subject to this section. The commissioner's decisions and application of the priorities are not subject to judicial review, except for abuse of discretion.

Subd. 4. **Set asides.** (a) Thirty percent of funds available in any fiscal year for the purposes of this section must be reserved for eligible bioscience projects statewide for the first nine months of the fiscal year. If funds are not committed due to insufficient applications for projects that are ready to proceed, the balance must be made available for the general program.

(b) Fifty percent of funds available in a fiscal year for purposes of this section must be reserved for grants to cities and counties located outside the metropolitan area for the first nine months of the fiscal year. If funds are not committed due to insufficient applications for projects that are ready to proceed, the balance must be made available for the general program.

(c) Funds remaining at the end of the fiscal year are reallocated to the set-asides under paragraphs (a) and (b) and continue to be made available for the program until spent.

Subd. 5. **Maximum grant amount.** (a) Grants must be matched with local funds and may not exceed 50 percent of capital costs of public infrastructure. Other state grant awards are not local matches for purposes of this section.

(b) An eligible unit of government may receive:

(1) no more than \$2,000,000 on bioscience-related projects, with preference given to requests at or below \$1,000,000; or

(2) no more than \$500,000 on projects without a qualifying bioscience component, with preference given to projects requesting \$250,000 or less.

Subd. 6. **Program administrative costs.** Program costs incurred by the commissioner shall be reimbursed in part from a fee in the amount of two percent of the grant award payable to the Department of Employment and Economic Development from local sources prior to release of any grant funding. Fees collected shall be deposited to the special revenue fund and are annually appropriated to the commissioner to reimburse costs incurred in administering the program.

Subd. 7. **Cancellation of grant; return of grant money.** If, after 12 months, the commissioner determines that a project has not proceeded in a timely manner and is unlikely to be completed, the commissioner may cancel the grant and require the grantee to return all grant money disbursed for that project.

Subd. 8. **Appropriation.** Grant money returned to the commissioner is appropriated to the commissioner to make additional grants under this section and is available until spent.

Sec. 2. **REPEALER.**

Minnesota Statutes 2008, sections 116J.431, subdivisions 3, 7, and 8; and 116J.435, subdivisions 1, 4, 5, 6, and 7, are repealed.

Minnesota Statutes 2009 Supplement, sections 116J.431, subdivisions 1, 1a, 2, 4, and 6; and 116J.435, subdivisions 2 and 3, are repealed.

ARTICLE 16

LICENSING FEES

Section 1. **[326B.091] DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of sections 326B.091 to 326B.098, the terms defined in this section have the meanings given them.

Subd. 2. **Applicant.** "Applicant" means a person who has submitted to the department an application for a license.

Subd. 3. **License.** "License" means any registration, certification, or other form of approval authorized by chapters 326B and 327B to be issued by the commissioner or department as a condition of doing business or conducting a trade, profession, or occupation in Minnesota. License includes specifically but not exclusively an authorization issued by the commissioner or department: to perform electrical work, plumbing or water conditioning work, high pressure piping work, or residential building work of a residential contractor, residential remodeler, or residential roofer; to install manufactured housing; to serve as a building official; or to operate a boiler or boat.

Subd. 4. **Licensee.** "Licensee" means the person named on the license as the person authorized to do business or conduct the trade, profession, or occupation in Minnesota.

Subd. 5. **Notification date.** "Notification date" means the date of the written notification from the department to an applicant that the applicant is qualified to take the examination required for licensure.

Subd. 6. **Renewal deadline.** "Renewal deadline," when used with respect to a license, means 30 days before the date that the license expires.

Sec. 2. **[326B.092] FEES.**

Subdivision 1. **Licenses requiring examination administered by commissioner.** (a) If the applicant for a license must pass an examination administered by the commissioner in order to obtain the license, then the application for the initial license must be accompanied by an application and examination fee of \$50, which is separate from the license fee. The license fee is due after the applicant passes the examination and before the license is issued.

(b) If the applicant for a Minnesota license holds a license in another state and is seeking Minnesota licensure without examination based on reciprocity, then the application for the Minnesota license must be accompanied by the application and examination fee of \$50, which is separate from the license fee. If the commissioner approves the application, then the license fee is due before the license is issued.

Subd. 2. **Licenses not requiring examination administered by commissioner.** If the applicant for a license is not required to pass an examination in order to obtain the license, or is required to pass

an examination that is not administered by the commissioner, then the license fee must accompany the application for the license. If the application is for a license issued under sections 326B.802 to 326B.885 and is not an application for license renewal, then the contractor recovery fund fee required under section 326B.89, subdivision 3, is due after the department has determined that the applicant meets the qualifications for licensing and before the license is issued.

Subd. 3. **Late fee.** The department must receive a complete application for license renewal by the renewal deadline but not more than 90 days before the renewal deadline. If the department receives a renewal application after the expiration of the license, then the renewal application must be accompanied by a late fee equal to one-half of the license renewal fee; except that, for the purpose of calculating the late fee only, the license renewal fee shall not include any contractor recovery fund fee required by section 326B.89, subdivision 3.

Subd. 4. **Lapsed licensed fee.** If the department receives a renewal application within two years after expiration of the license, the renewal application must be accompanied by all license renewal fees to cover the period that the license was expired, plus the late fee described in subdivision 3 and the license renewal fee for the current renewal period.

Subd. 5. **Insufficient fees.** If the applicant does not include all required fees with the application, then the application will be incomplete and the department will notify the applicant of the amount of the deficiency.

Subd. 6. **Fees nonrefundable.** Application and examination fees, license fees, license renewal fees, and late fees are nonrefundable except for:

(1) license renewal fees received more than two years after expiration of the license, as described in section 326B.094, subdivision 2;

(2) any overpayment of fees; and

(3) if the license is not renewed, the contractor recovery fund fee and any additional assessment paid under subdivision 7, paragraph (e).

Subd. 7. **License fees and license renewal fees.** (a) The license fee for each license except a renewed license shall be the base license fee plus any applicable board fee, as set forth in this subdivision. The license renewal fee for each renewed license is the base license fee plus any applicable board fee, continuing education fee, and contractor recovery fund fee and additional assessment, as set forth in this subdivision.

(b) For purposes of this section, "license duration" means the number of years for which the license is issued except that:

(1) if the initial license is not issued for a whole number of years, the license duration shall be rounded up to the next whole number; and

(2) if the department receives an application for license renewal after the renewal deadline, license duration means the number of years for which the renewed license would have been issued if the renewal application had been submitted on time and all other requirements for renewal had been met.

(c) The base license fee shall depend on whether the license is classified as an entry level, master,

journeyman, or business license, and on the license duration. The base license fee shall be:

<u>License Classification</u>	<u>License Duration</u>		
	<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>
<u>Entry level</u>	<u>\$10</u>	<u>\$20</u>	<u>\$30</u>
<u>Journeyman</u>	<u>\$20</u>	<u>\$40</u>	<u>\$60</u>
<u>Master</u>	<u>\$40</u>	<u>\$80</u>	<u>\$120</u>
<u>Business</u>	<u>\$90</u>	<u>\$180</u>	<u>\$270</u>

(d) If there is a continuing education requirement for renewal of the license, then a continuing education fee must be included in the renewal license fee. The continuing education fee for all license classifications shall be: \$10 if the renewal license duration is one year; \$20 if the renewal license duration is two years; and \$30 if the renewal license duration is three years.

(e) If the license is issued under sections 326B.31 to 326B.59 or 326B.90 to 326B.93, then a board fee must be included in the license fee and the renewal license fee. The board fee for all license classifications shall be: \$4 if the license duration is one year; \$8 if the license duration is two years; and \$12 if the license duration is three years.

(f) If the application is for the renewal of a license issued under sections 326B.802 to 326B.885, then the contractor recovery fund fee required under section 326B.89, subdivision 3, and any additional assessment required under section 326B.89, subdivision 16, must be included in the license renewal fee.

Sec. 3. [326B.093] LICENSES REQUIRING EXAMINATION ADMINISTERED BY COMMISSIONER.

Subdivision 1. **Qualifications for examination.** If the applicant for a license must pass an examination administered by the commissioner in order to obtain the license, then the applicant's complete application must demonstrate that the applicant is qualified to take the examination. The applicant is qualified to take the examination if the applicant meets all requirements for the license except for passing the examination.

Subd. 2. **Not qualified for examination.** If the applicant is not qualified to take the examination, then the commissioner must deny the application. The applicant may subsequently submit another application, accompanied by the required fee.

Subd. 3. **Taking the examination.** If the applicant is qualified to take the examination, then the department must notify the applicant, and the applicant may schedule a time to take the examination within one year after the notification date. If the applicant does not take the examination at the scheduled time, the applicant may, one time only, reschedule a time to take the examination on a date within one year after the notification date. If the applicant fails to take the examination within one year after the notification date, the commissioner must deny the application and the applicant forfeits the application/examination fee. The applicant may subsequently submit another application, accompanied by the required application/examination fee.

Subd. 4. **Examination results.** If the applicant receives a passing score on the examination and meets all other requirements for licensure, the commissioner must approve the application and notify

the applicant of the approval within 60 days of the date of the passing score. The applicant must, within 90 days after the notification of approval, pay the license fee. Upon receipt of the license fee, the commissioner must issue the license. If the applicant does not pay the license fee within 90 days after the notification of approval, the commissioner will rescind the approval and must deny the application. If the applicant does not receive a passing score on the examination, the commissioner must deny the application. If the application is denied because of the applicant's failure to receive a passing score on the examination, then the applicant cannot submit a new application for the license until at least 30 days after the notification of denial.

Sec. 4. [326B.094] RENEWAL OF LICENSES.

Subdivision 1. **Expiration of licenses.** Unless and until the department or commissioner issues a renewal of a license, the license expires on the expiration date printed on the license. While the license is expired, the licensee cannot perform the activities authorized by the license.

Subd. 2. **Availability of renewal.** A licensee may apply to renew a license no later than two years after the expiration of the license. If the department receives a complete renewal application no later than two years after the expiration of the license, then the department must approve or deny the renewal application within 60 days of receiving the complete renewal application. If the department receives a renewal application more than two years after the expiration of the license, the department must return the renewal license fee to the applicant without approving or denying the application. If the licensee wishes to obtain a valid license more than two years after expiration of the license, the licensee must apply for a new license.

Subd. 3. **Deadline for avoiding license expiration.** The department must receive a complete application to renew a license no later than the renewal deadline. If the department does not receive a complete application by the renewal deadline, the license may expire before the department has either approved or denied the renewal application.

Sec. 5. [326B.095] INCOMPLETE LICENSE APPLICATIONS.

This section applies to both applications for initial licenses and license renewal applications. If the department determines that an application is incomplete, the department must notify the applicant of the deficiencies that must be corrected in order to complete the application. If the applicant wishes to complete the application, the department must receive the completed application within 90 days after the date the department mailed or delivered the incomplete application to the applicant. If the department does not receive the completed application by this deadline, the commissioner must deny the application and the applicant will forfeit all fees except as provided in section 326B.092, subdivision 6. If the application is for license renewal and the department receives the corrected application after the license has expired, then the corrected application must be accompanied by the late fee.

Sec. 6. [326B.096] REINSTATEMENT OF LICENSES.

Subdivision 1. **Reinstatement after revocation.** (a) If a license is revoked under this chapter and if an applicant for a license needs to pass an examination administered by the commissioner before becoming licensed, then, in order to have the license reinstated, the person who holds the revoked license must:

- (1) retake the examination and achieve a passing score; and

(2) meet all other requirements for an initial license, including payment of the application and examination fee and the license fee. The person holding the revoked license is not eligible for Minnesota licensure without examination based on reciprocity.

(b) If a license is revoked under a chapter other than this chapter, then, in order to have the license reinstated, the person who holds the revoked license must:

(1) apply for reinstatement to the commissioner no later than two years after the effective date of the revocation;

(2) pay a \$100 reinstatement application fee and any applicable renewal license fee; and

(3) meet all applicable requirements for licensure, except that, unless required by the order revoking the license, the applicant does not need to retake any examination and does not need to repay a license fee that was paid before the revocation.

Subd. 2. **Reinstatement after suspension.** If a license is suspended, then, in order to have the license reinstated, the person who holds the suspended license must:

(1) apply for reinstatement to the commissioner no later than two years after the completion of the suspension period;

(2) pay a \$100 reinstatement application fee and any applicable renewal license fee; and

(3) meet all applicable requirements for licensure, except that, unless required by the order suspending the license, the applicant does not need to retake any examination and does not need to repay a license fee that was paid before the suspension.

Subd. 3. **Reinstatement after voluntary termination.** A licensee who is not an individual may voluntarily terminate a license issued to the person under this chapter. If a licensee has voluntarily terminated a license under this subdivision, then, in order to have the license reinstated, the person who holds the terminated license must:

(1) apply for reinstatement to the commissioner no later than the date that the license would have expired if it had not been terminated;

(2) pay a \$100 reinstatement application fee and any applicable renewal license fee; and

(3) meet all applicable requirements for licensure, except that the applicant does not need to repay a license fee that was paid before the termination.

Sec. 7. **[326B.097] PROHIBITION OF TRANSFER.**

A licensee shall not transfer or sell any license.

Sec. 8. **[326B.098] CONTINUING EDUCATION.**

Subdivision 1. **Applicability.** This section applies to seminars offered by the department for the purpose of allowing licensees to meet continuing education requirements for license renewal.

Subd. 2. **Rescheduling.** An individual who is registered with the department to attend a seminar may reschedule one time only, to attend the same seminar on a date within one year after the date of the seminar the individual was registered to attend.

Subd. 3. **Fees nonrefundable.** All seminar fees paid to the department are nonrefundable except for any overpayment of fees.

Sec. 9. Minnesota Statutes 2008, section 326B.133, subdivision 1, is amended to read:

Subdivision 1. **Designation.** Each municipality shall designate a building official to administer the code. A municipality may designate no more than one building official responsible for code administration defined by each certification category ~~established in rule~~ created by statute or rule. Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been designated, the state building official may use whichever state employees are necessary to perform the duties of the building official until the municipality makes a temporary or permanent designation. All costs incurred by virtue of these services rendered by state employees must be borne by the involved municipality and receipts arising from these services must be paid to the commissioner.

Sec. 10. Minnesota Statutes 2008, section 326B.133, is amended by adding a subdivision to read:

Subd. 2a. **Application; renewal; fees; expiration.** (a) An applicant for certification shall submit a completed application on a form approved by the commissioner to the department. The commissioner shall review applications for compliance with the requirements established by rule.

(b) Application for initial certification or renewal certification as a building official, building official-limited, or accessibility specialist shall be according to this section and sections 326B.092 to 326B.095.

(c) Fees shall be paid to the department according to section 326B.092.

(d) Unless revoked or suspended under this chapter, all certifications issued or renewed under this section expire two years from the date of original issuance and every two years thereafter.

Sec. 11. Minnesota Statutes 2008, section 326B.133, subdivision 3, is amended to read:

Subd. 3. **Certification criteria.** The commissioner shall by rule establish certification criteria as proof of qualification pursuant to subdivision 2. The commissioner may:

(1) develop and administer written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;

(2) accept documentation of successful completion of testing programs developed and administered by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or

(3) determine qualifications by satisfactory completion of clause (2) and a mandatory training program developed or approved by the commissioner.

Upon a determination of qualification under clause (1), (2), or (3), the commissioner shall issue a certificate to the building official stating that the official is certified. ~~Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70.~~ The commissioner or a designee may establish categories of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their

responsibilities.

Sec. 12. Minnesota Statutes 2008, section 326B.133, is amended by adding a subdivision to read:

Subd. 3a. Certification categories. (a) If a municipality has adopted or adopts the State Building Code, the responsibilities for code administration and enforcement are under the authority of its designated building official or the certified building official-limited.

(b) Certified building official. This certification is identified as "certified building official" on the certificate card. This certification is granted to an individual who has met the certified building official requirements established by rule and passed the written examination prepared by the state. A person with this certification may serve as the designated building official for any municipality. For the purposes of calculating fees under section 326B.092, certification as a building official is a master license.

(c) Certified building official-limited. This certification is identified as "certified building official-limited" on the certification card. This certification is granted to an individual who has met the certified building official-limited requirements established by rule and passed the written examination prepared by the state. An individual with this certification may perform code administration for one- and two-family dwellings, their accessory structures, and "exempt classes of buildings" as provided in Minnesota Rules, part 1800.5000, of the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design, and "facilities for persons with physical disabilities" that are governed by the State Building Code. Subject to the limitations of the building official-limited certification, an individual with this certification may serve as the designated building official for any municipality. Code administration for all other buildings must be performed by a certified building official as defined in paragraph (a). A certified building official-limited may conduct inspections for other structures regulated by the State Building Code under the direction of a designated certified building official or the state building official.

Subject to all other certification requirements, as of January 1, 2012, valid Class I certifications shall be included in the certified building official-limited category upon the next immediate renewal. For the purposes of calculating fees under section 326B.092, certification as a building official-limited is a journeyman license.

(d) Accessibility specialist. This certification is identified as accessibility specialist on the certification card. This certification is granted to an individual who has met the "accessibility specialist" requirements established by rule and passed the written examination prepared by the state. An individual with this classification is limited to the administration of those provisions of the State Building Code that provide access for persons with disabilities. For the purposes of calculating fees under section 326B.092, certification as an accessibility specialist is a journeyman license.

Sec. 13. Minnesota Statutes 2008, section 326B.133, subdivision 8, is amended to read:

Subd. 8. Continuing education requirements; extension of time. (a) This subdivision establishes the number of continuing education units required within each two-year certification period.

A certified building official shall accumulate 16 continuing education units in any education

program that is approved under Minnesota Rules, part 1301.1000.

A certified building official-limited shall, in each year of the initial two-year certification period, accumulate eight continuing education units in any education program that is approved under Minnesota Rules, part 1301.1000. Continuing education units shall be reported annually during the initial two-year certification period by the method established in rule. A certified building official-limited shall accumulate 16 continuing education units for each two-year certification period thereafter in any education program that is approved under Minnesota Rules, part 1301.1000.

An accessibility specialist must accumulate four continuing education units in any of the programs described in Minnesota Rules, part 1301.1000, subpart 1 or 2. The four units must be for courses relating to building accessibility, plan review, field inspection, or building code administration.

Continuing education programs may be approved as established in rule.

(b) Subject to sections 326B.101 to 326B.194, the commissioner may by rule establish or approve continuing education programs for certified building officials dealing with matters of building code administration, inspection, and enforcement.

Each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the commissioner to ~~retain~~ renew certification.

(c) The state building official may grant an extension of time to comply with continuing education requirements if the certificate holder requesting the extension of time shows cause for the extension. The request for the extension must be in writing. For purposes of this section, the certificate holder's current certification effective dates shall remain the same. The extension does not relieve the certificate holder from complying with the continuing education requirements for the next two-year period.

Sec. 14. Minnesota Statutes 2008, section 326B.133, subdivision 11, is amended to read:

Subd. 11. **Failure to renew.** An individual who has failed to make a timely application for renewal of a certificate is not certified and must not serve as the designated building official for any municipality, or a certified building official, a certified building official-limited, or an accessibility specialist until a renewed certificate has been issued by the commissioner.

Sec. 15. Minnesota Statutes 2008, section 326B.197, is amended to read:

326B.197 BOND REQUIRED FOR CERTAIN CONTRACTORS.

(a) A person contracting to do gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work must give and maintain bond to the state in the amount of \$25,000 for all work entered into within the state. The bond must be for the benefit of persons suffering financial loss by reason of the contractor's failure to comply with the requirements of the State Mechanical Code. A bond given to the state must be filed with the commissioner of labor and industry and is in lieu of all other bonds to any political subdivision required for work covered by this section. The bond must be written by a corporate surety licensed to do business in the state.

(b) The commissioner of labor and industry may charge each person giving bond under this section ~~an annual~~ a biennial bond filing fee of \$15 \$100.

Sec. 16. Minnesota Statutes 2008, section 326B.33, subdivision 18, is amended to read:

Subd. 18. **Examination.** In addition to the other requirements described in this section and sections 326B.091 to 326B.098, and except as provided in subdivision 20, as a precondition to issuance of a personal license, each applicant must pass a written or oral examination developed and administered by the commissioner to ensure the competence of each applicant for license. An oral examination shall be administered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as a licensed individual. ~~No individual failing an examination may retake it for six months thereafter, but within such six months the individual may take an examination for a lesser grade of license. Any individual failing to renew a personal license for two years or more after its expiration, and any licensee whose personal license is revoked under this chapter, shall be required to retake the examination before being issued a new license. An individual whose personal license is revoked under any other chapter is not required to retake the examination before being issued a new license, unless the personal license was revoked two years or more before the commissioner received the completed application for a new license. A licensee whose personal license is suspended for any reason is not required to retake the examination before the personal license is reinstated, unless the personal license has not been reinstated within two years after the suspension began.~~

~~An applicant for a personal license shall submit to the commissioner an application and examination fee at the time of application. Upon approval of the application, the commissioner shall schedule the applicant for the next available examination, which shall be held within 60 days. The applicant shall be allowed one opportunity to reschedule an examination without being required to submit another application and examination fee. Additionally, an applicant who fails an examination, or whose application was not approved, shall submit another application and examination fee.~~

Sec. 17. Minnesota Statutes 2009 Supplement, section 326B.33, subdivision 19, is amended to read:

Subd. 19. **License, registration, and renewal fees; expiration.** (a) Unless revoked or suspended under this chapter, all licenses issued or renewed under this section expire on the date specified in this subdivision. Master licenses expire March 1 of each odd-numbered year after issuance or renewal. Electrical contractor licenses expire March 1 of each even-numbered year after issuance or renewal. Technology system contractor licenses expire August 1 of each even-numbered year after issuance or renewal. All other personal licenses expire two years from the date of original issuance and every two years thereafter. Registrations of unlicensed individuals expire one year from the date of original issuance and every year thereafter.

~~(b) Fees for application and examination, and for the original issuance and each subsequent renewal, are:~~

~~(1) For each personal license application and examination: \$35;~~

~~(2) For original issuance and each subsequent renewal of:~~

~~Class A Master or master special electrician, including master elevator constructor: \$40 per year;~~

~~Class B Master: \$25 per year;~~

~~Power Limited Technician: \$15 per year;~~

~~Class A Journeyman, Class B Journeyman, Installer, Elevator Constructor, Lineman, or Maintenance Electrician other than master special electrician: \$15 per year;~~

~~Contractor: \$100 per year;~~

~~Unlicensed individual registration: \$15 per year.~~

~~(c) If any new license is issued in accordance with this subdivision for less than two years, the fee for the license shall be prorated on an annual basis.~~

~~(d) A license fee may not be refunded after a license is issued or renewed. However, if the fee paid for a license was not prorated in accordance with this subdivision, the amount of the overpayment shall be refunded.~~

~~(e) Any contractor who seeks reissuance of a license after it has been revoked or suspended under this chapter shall submit a reissuance fee of \$100 before the license is reinstated.~~

~~(f) An individual or contractor who fails to renew a license before 30 days after the expiration or registration of the license must submit a late fee equal to one year's license fee in addition to the full renewal fee. Fees for renewed licenses or registrations are not prorated. An individual or contractor that fails to renew a license or registration by the expiration date is unlicensed until the license or registration is renewed.~~

(b) For purposes of calculating license fees and renewal license fees required under section 326B.092:

(1) the registration of an unlicensed individual under subdivision 12 shall be considered an entry level license;

(2) the following licenses shall be considered journeyman licenses: Class A journeyman electrician, Class B journeyman electrician, Class A installer, Class B installer, elevator constructor, lineman, maintenance electrician, and power limited technician;

(3) the following licenses shall be considered master licenses: Class A master electrician, Class B master electrician, and master elevator constructor; and

(4) the following licenses shall be considered business licenses: Class A electrical contractor, Class B electrical contractor, elevator contractor, and technology systems contractor.

(c) For each filing of a certificate of responsible person by an employer, the fee is \$100.

Sec. 18. Minnesota Statutes 2008, section 326B.33, subdivision 20, is amended to read:

Subd. 20. **Reciprocity.** The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a personal license without requiring the applicant to pass an examination provided the applicant:

(a) submits an application under this section;

(b) pays the application and examination fee and license fee required under ~~this~~ section 326B.092; and

(c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.

(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this subdivision.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this subdivision if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a personal license for two years or more after its expiration is not eligible for a license under this subdivision.

Sec. 19. Minnesota Statutes 2008, section 326B.33, subdivision 21, is amended to read:

Subd. 21. **Exemptions from licensing.** (a) An individual who is a maintenance electrician is not required to hold or obtain a license under sections 326B.31 to 326B.399 if:

(1) the individual is engaged in the maintenance and repair of electrical equipment, apparatus, and facilities that are owned or leased by the individual's employer and that are located within the limits of property operated, maintained, and either owned or leased by the individual's employer;

(2) the individual is supervised by:

(i) the responsible master electrician for a contractor who has contracted with the individual's employer to provide services for which a contractor's license is required; or

(ii) a licensed master electrician, a licensed maintenance electrician, an electrical engineer, or, if the maintenance and repair work is limited to technology circuits or systems work, a licensed power limited technician; and

(3) the individual's employer has filed on file with the commissioner a current certificate of responsible person, signed by the responsible master electrician of the contractor, the licensed master electrician, the licensed maintenance electrician, the electrical engineer, or the licensed power limited technician, and stating that the person signing the certificate is responsible for ensuring that the maintenance and repair work performed by the employer's employees complies

with the Minnesota Electrical Act and the rules adopted under that act. The employer must pay a filing fee to file a certificate of responsible person with the commissioner. The certificate shall expire two years from the date of filing. In order to maintain a current certificate of responsible person, the employer must resubmit a certificate of responsible person, with a filing fee, no later than two years from the date of the previous submittal.

(b) Employees of a licensed electrical or technology systems contractor or other employer where provided with supervision by a master electrician in accordance with subdivision 1, or power limited technician in accordance with subdivision 7, paragraph (a), clause (1), are not required to hold a license under sections 326B.31 to 326B.399 for the planning, laying out, installing, altering, and repairing of technology circuits or systems except planning, laying out, or installing:

(1) in other than residential dwellings, class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems through communication, alarm, and security systems are exempted from this paragraph;

(2) class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or

(3) technology circuits or systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code.

(c) Companies and their employees that plan, lay out, install, alter, or repair class 2 and class 3 remote control wiring associated with plug or cord and plug connected appliances other than security or fire alarm systems installed in a residential dwelling are not required to hold a license under sections 326B.31 to 326B.399.

(d) Heating, ventilating, air conditioning, and refrigeration contractors and their employees are not required to hold or obtain a license under sections 326B.31 to 326B.399 when performing heating, ventilating, air conditioning, or refrigeration work as described in section 326B.38.

(e) Employees of any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility, cable communications company, or telephone company, shall not be required to hold a license under sections 326B.31 to 326B.399:

(1) while performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility, cable communications company, or telephone company in the exercise of its utility, antenna, or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current or provided service by or for the benefit of any person other than such utility, cable communications company, or telephone company, and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(2) while performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

(3) while installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction.

(f) An owner shall not be required to hold or obtain a license under sections 326B.31 to 326B.399.

Sec. 20. Minnesota Statutes 2008, section 326B.42, is amended by adding a subdivision to read:

Subd. 1a. **Contractor.** "Contractor" means a person who performs or offers to perform any plumbing work, with or without compensation, who is licensed as a contractor by the commissioner. Contractor includes plumbing contractors and restricted plumbing contractors.

Sec. 21. Minnesota Statutes 2008, section 326B.42, is amended by adding a subdivision to read:

Subd. 8. **Plumbing contractor.** "Plumbing contractor" means a licensed contractor whose responsible licensed plumber is a licensed master plumber.

Sec. 22. Minnesota Statutes 2008, section 326B.42, is amended by adding a subdivision to read:

Subd. 9. **Responsible licensed plumber.** A contractor's "responsible licensed plumber" means the licensed master plumber or licensed restricted master plumber designated in writing by the contractor in the contractor's license application, or in another manner acceptable to the commissioner, as the individual responsible for the contractor's compliance with sections 326B.41 to 326B.49, all rules adopted under these sections and sections 326B.50 to 326B.59, and all orders issued under section 326B.082.

Sec. 23. Minnesota Statutes 2008, section 326B.42, is amended by adding a subdivision to read:

Subd. 10. **Restricted plumbing contractor.** "Restricted plumbing contractor" means a licensed contractor whose responsible licensed plumber is a licensed restricted master plumber.

Sec. 24. Minnesota Statutes 2008, section 326B.44, is amended to read:

326B.44 LOCAL REGULATIONS.

Any of the following entities may, by ordinance, adopt local regulations providing for plumbing permits, approval of plans and specifications, and inspections of plumbing, which regulations are not in conflict with the plumbing code: any city having a system of waterworks or sewerage, regardless of population; any town having a population of 5,000 or more according to the last federal census, exclusive of any statutory cities located therein; and the Metropolitan Airports Commission. No such entity shall prohibit ~~plumbers~~ plumbing contractors licensed by the commissioner from engaging in or working at the business of plumbing, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No such entity shall require any person who engages in the business of plumbing to post a bond as a prerequisite for engaging in the business of plumbing, except the bond to the state required under section 326B.46 and except any performance bond required under a contract with the person for the performance of plumbing work for the entity. No such entity shall require any person who engages in the business of plumbing to maintain public liability insurance as a prerequisite for engaging in the business of plumbing, except the insurance

required under section 326B.46 and except any public liability insurance required under a contract with the person for the performance of plumbing work for the entity. No city or town may require a license for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person engaged in the business of installing water softeners, who is not licensed as a ~~master plumber or journeyman plumber~~ contractor by the commissioner, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the Plumbing Board.

Sec. 25. Minnesota Statutes 2008, section 326B.46, as amended by Laws 2009, chapter 78, article 5, section 14, and chapter 109, section 13, is amended to read:

326B.46 LICENSING, BOND AND INSURANCE.

Subdivision 1. **License required.** (a) No ~~person~~ individual shall engage in or work at the business of a master plumber, restricted master plumber, journeyman plumber, and restricted journeyman plumber unless licensed to do so by the state commissioner. A license is not required for individuals performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. A master plumber may also work as a journeyman plumber, a restricted journeyman plumber, and a restricted master plumber. A journeyman plumber may also work as a restricted journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standards prescribed by the Plumbing Board on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

(b) No person shall engage in the business of planning, superintending, or installing plumbing or shall install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, or in cities and towns with a population of fewer than 5,000 according to the last federal census, a restricted master plumber, who shall be responsible for proper installation, is in charge of the plumbing work of the person, ~~firm, or corporation.~~

(c) Except as provided in subdivision 2, no person shall perform or offer to perform plumbing work with or without compensation unless the person obtains a contractor's license. A contractor's license does not of itself qualify its holder to perform the plumbing work authorized by holding a master, journeyman, restricted master, or restricted journeyman license.

Subd. 1a. **Exemptions from licensing.** (a) An individual without a contractor license may do plumbing work on the individual's residence in accordance with subdivision 1, paragraph (a).

(b) An individual who is an employee working on the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by the individual's employer and which is within the limits of property owned or leased, and operated or maintained by the individual's employer, shall not be required to maintain a contractor license as long as the employer has on file with the commissioner a current certificate of responsible person. The certificate must be signed by the responsible master plumber or, in an area of the state that is not a city or town with a population of

more than 5,000 according to the last federal census, restricted master plumber, and must state that the person signing the certificate is responsible for ensuring that the maintenance and repair work performed by the employer's employees comply with sections 326B.41 to 326B.49, all rules adopted under those sections and sections 326B.50 to 326B.59, and all orders issued under section 326B.082. The employer must pay a filing fee to file a certificate of responsible person with the commissioner. The certificate shall expire two years from the date of filing. In order to maintain a current certificate of responsible person, the employer must resubmit a certificate of responsible person, with a filing fee, no later than two years from the date of the previous submittal. The filing of the certificate of responsible person does not exempt any employee of the employer from the requirements of this chapter regarding individual licensing as a plumber or registration as a plumber's apprentice.

(c) If a contractor employs a licensed plumber, the licensed plumber does not need a separate contractor license to perform plumbing work on behalf of the employer within the scope of the licensed plumber's license.

Subd. 1b. **Employment of master plumber or restricted master plumber.** (a) Each contractor must designate a responsible licensed plumber, who shall be responsible for the performance of all plumbing work in accordance with sections 326B.41 to 326B.49, all rules adopted under these sections and sections 326B.50 to 326B.59, and all orders issued under section 326B.082. A plumbing contractor's responsible licensed plumber must be a master plumber. A restricted plumbing contractor's responsible licensed plumber must be a master plumber or a restricted master plumber. A plumbing contractor license authorizes the contractor to offer to perform and, through licensed and registered individuals, to perform plumbing work in all areas of the state. A restricted plumbing contractor license authorizes the contractor to offer to perform and, through licensed and registered individuals, to perform plumbing work in all areas of the state except in cities and towns with a population of more than 5,000 according to the last federal census.

(b) If the contractor is an individual or sole proprietorship, the responsible licensed plumber must be the individual, proprietor, or managing employee. If the contractor is a partnership, the responsible licensed plumber must be a general partner or managing employee. If the contractor is a limited liability company, the responsible licensed plumber must be a chief manager or managing employee. If the contractor is a corporation, the responsible licensed plumber must be an officer or managing employee. If the responsible licensed plumber is a managing employee, the responsible licensed plumber must be actively engaged in performing plumbing work on behalf of the contractor, and cannot be employed in any capacity as a plumber for any other contractor. An individual may be the responsible licensed plumber for only one contractor.

(c) All applications and renewals for contractor licenses shall include a verified statement that the applicant or licensee has complied with this subdivision.

Subd. 2. **Bond; insurance.** Any person ~~contracting to do plumbing work must give~~ As a condition of licensing, each contractor shall give and maintain bond to the state in the amount of at least \$25,000 for (1) all plumbing work entered into within the state or (2) all plumbing work and subsurface sewage treatment work entered into within the state. If the bond is for both plumbing work and subsurface sewage treatment work, the bond must comply with the requirements of this section and section 115.56, subdivision 2, paragraph (e). The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the State Plumbing Code and, if the bond is for both plumbing work and subsurface sewage treatment work, financial loss by reason of failure to comply with the requirements of sections 115.55 and 115.56.

The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in the state.

~~In addition, each applicant for a master plumber license or restricted master plumber license, or renewal thereof, shall provide evidence of as a condition of licensing, each contractor shall have and maintain in effect public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the commissioner a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license.~~

~~Subd. 3. **Bond and insurance exemption.** If a master plumber or restricted master plumber who is in compliance with the bond and insurance requirements of subdivision 2, employs a licensed plumber, the employee plumber shall not be required to meet the bond and insurance requirements of subdivision 2. An individual who is an employee working on the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by the individual's employer and which is within the limits of property owned or leased, and operated or maintained by the individual's employer, shall not be required to meet the bond and insurance requirements of subdivision 2.~~

~~Subd. 4. **Fee.** (a) Each person giving bond to the state under subdivision 2 shall pay the department a bond registration fee of \$40 for one year or \$80 for two years.~~

~~(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.475 or 326B.49, subdivision 1.~~

Subd. 5. **Exterior connections.** Persons licensed as manufactured home installers under chapter 327B are not required to be licensed under sections 326B.42 to 326B.49 when connecting the exterior building drain sewer outlets to the aboveground building sewer system and when connecting the exterior water line to the aboveground water system to the manufactured home as described in National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, title 42, section 5401 et seq. No additional licensure, bond, or insurance related to the scope of work permitted under this subdivision may be required of a licensed manufactured home installer by any unit of government.

Sec. 26. Minnesota Statutes 2008, section 326B.47, is amended to read:

326B.47 PLUMBER'S APPRENTICES.

Subdivision 1. **Registration; supervision; records.** (a) All plumber's apprentices must be registered. To be a registered plumber's apprentice, an individual must either:

(1) be an individual employed in the trade of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300; or

(2) be an unlicensed individual registered with the commissioner under subdivision 3.

(b) A plumber's apprentice is authorized to assist in the installation of plumbing only while

under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber. The master, restricted master, journeyman, or restricted journeyman plumber is responsible for ensuring that all plumbing work performed by the plumber's apprentice complies with the plumbing code. The supervising master, restricted master, journeyman, or restricted journeyman must be licensed and must be employed by the same employer as the plumber's apprentice. Licensed individuals shall not permit plumber's apprentices to perform plumbing work except under the direct supervision of an individual actually licensed to perform such work. Plumber's apprentices shall not supervise the performance of plumbing work or make assignments of plumbing work to unlicensed individuals.

(c) Contractors employing plumber's apprentices to perform plumbing work shall maintain records establishing compliance with this subdivision that shall identify all plumber's apprentices performing plumbing work, and shall permit the department to examine and copy all such records.

Subd. 2. **Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to becoming a plumber's apprentice may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the individual did not have any practical plumbing experience in the 12-month period immediately prior to becoming a plumber's apprentice. The Plumbing Board may adopt rules to evaluate whether the individual's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the individual has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Subd. 3. **Registration, rules, applications, renewals, and fees.** An unlicensed individual may register by completing and submitting to the commissioner ~~a registration~~ an application form provided by the commissioner, with all fees required by section 326B.092. A completed registration application form must state the date the individual began training, the individual's age, schooling, previous experience, and employer, and other information required by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals. Each applicant for initial registration as a plumber's apprentice shall pay the department an application fee of \$25. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past due renewal fee plus a late fee of \$25. No applications for renewal registration will be accepted more than three months after expiration of the previously issued registration.

Sec. 27. Minnesota Statutes 2008, section 326B.475, subdivision 2, is amended to read:

Subd. 2. **Use of license.** A restricted master plumber and restricted journeyman plumber may engage in the plumbing trade in all areas of the state except in cities and towns with a population of more than 5,000 according to the last federal census.

Sec. 28. Minnesota Statutes 2009 Supplement, section 326B.475, subdivision 4, is amended to read:

Subd. 4. **Renewal; use period for license.** (a) A restricted master plumber and restricted journeyman plumber license must be renewed for as long as that licensee engages in the plumbing trade. Notwithstanding section 326B.094, failure to renew a restricted master plumber and restricted journeyman plumber license within 12 months after the expiration date will result in permanent forfeiture of the restricted master plumber and restricted journeyman plumber license.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of restricted master plumber and restricted journeyman plumber licenses from one year to two years. By June 30, 2011, all restricted master plumber and restricted journeyman plumber licenses shall be two-year licenses.

Sec. 29. Minnesota Statutes 2009 Supplement, section 326B.49, subdivision 1, is amended to read:

Subdivision 1. **Application, examination, and license fees.** (a) Applications for master and journeyman plumber's license licenses shall be made to the commissioner, with fee all fees required by section 326B.092. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the commissioner only after passing a satisfactory examination developed and administered by the commissioner, based upon rules adopted by the Plumbing Board, showing fitness. Examination fees for both journeyman and master plumbers shall be \$50 for each examination. Upon being notified of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. The license fee for each initial master plumber's license shall be \$240. The license fee for each initial journeyman plumber's license shall be \$110.

(b) All initial master and journeyman plumber's licenses shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The license fee for each renewal master plumber's license shall be \$120 for one year or \$240 for two years. The license fee for each renewal journeyman plumber's license shall be \$55 for one year or \$110 for two years. All master plumber's licenses shall expire on December 31 of each even-numbered year after issuance or renewal. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master and journeyman plumber's licenses from one year to two years. By June 30, 2011, all renewed master and journeyman plumber's licenses shall be two-year licenses.

(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A journeyman or master plumber who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25. Applications for contractor licenses shall be made to the commissioner, with all fees required by section 326B.092. All contractor licenses shall expire on December 31 of each odd-numbered year after issuance or renewal.

(d) For purposes of calculating license fees and renewal license fees required under section 326B.092:

(1) the following licenses shall be considered business licenses: plumbing contractor and restricted plumbing contractor;

(2) the following licenses shall be considered master licenses: master plumber and restricted master plumber;

(3) the following licenses shall be considered journeyman licenses: journeyman plumber and restricted journeyman plumber; and

(4) the registration of a plumber's apprentice under section 326B.47, subdivision 3, shall be considered an entry level license.

(e) For each filing of a certificate of responsible person by an employer, the fee is \$100.

Sec. 30. Minnesota Statutes 2008, section 326B.50, is amended by adding a subdivision to read:

Subd. 1a. **Responsible licensed master.** "Responsible licensed master" means the licensed water conditioning master or licensed master plumber designated in writing by the water conditioning contractor in the water conditioning contractor's license application, or in another manner acceptable to the commissioner, as the individual responsible for the water conditioning contractor's compliance with sections 326B.50 to 326B.59, all rules adopted under these sections, the Minnesota Plumbing Code, and all orders issued under section 326B.082.

Sec. 31. Minnesota Statutes 2008, section 326B.50, is amended by adding a subdivision to read:

Subd. 2a. **Water conditioning contractor.** "Water conditioning contractor" means a person who performs or offers to perform any water conditioning installation or water conditioning servicing, with or without compensation, who is licensed as a water conditioning contractor by the commissioner.

Sec. 32. Minnesota Statutes 2008, section 326B.50, is amended by adding a subdivision to read:

Subd. 3a. **Water conditioning journeyman.** "Water conditioning journeyman" means an individual, other than a water conditioning master, who has demonstrated practical knowledge of water conditioning installation and servicing, and who is licensed by the commissioner as a water conditioning journeyman.

Sec. 33. Minnesota Statutes 2008, section 326B.50, is amended by adding a subdivision to read:

Subd. 3b. **Water conditioning master.** "Water conditioning master" means an individual who has demonstrated skill in planning, superintending, installing, and servicing water conditioning installations, and who is licensed by the commissioner as a water conditioning master.

Sec. 34. Minnesota Statutes 2008, section 326B.54, is amended to read:

326B.54 VIOLATIONS TO BE REPORTED TO COMMISSIONER.

Such local authority as may be designated by any such ordinance for the issuance of such water conditioning installation and servicing permits and approval of such plans shall report to the commissioner persistent or willful violations of the same and any incompetence of a licensed water conditioning contractor, licensed water conditioning master, or licensed water conditioning ~~installer~~ journeyman observed by the local authority.

Sec. 35. Minnesota Statutes 2008, section 326B.55, as amended by 2010 H.F. No. 927, section 13, if enacted, is amended to read:

326B.55 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.

Subdivision 1. **Licensing.** (a) Except as provided in paragraph (d), no individual shall perform water conditioning installation or water conditioning servicing unless licensed by the commissioner as a master plumber, journeyman plumber, water conditioning master, or water conditioning journeyman, or, in all areas of the state except in cities and towns with a population of more than 5,000 according to the last federal census, as a restricted master plumber or restricted journeyman plumber.

(b) Except as provided in paragraph (e), no person shall perform or offer to perform water conditioning installation or water conditioning servicing with or without compensation unless the person obtains a water conditioning contractor's license. A water conditioning contractor's license does not of itself qualify its holder to perform the water conditioning installation or water conditioning servicing authorized by holding a water conditioning master or water conditioning journeyman license.

(c) Except as provided in paragraph (d), no person shall engage in or work at the business of water conditioning installation or servicing anywhere in the state unless (1) at all times an individual licensed as a master plumber or water conditioning contractor master by the commissioner shall be, who is responsible for the proper installation and servicing, is in charge of the water conditioning installation and servicing work of such person, and (2) all installations, other than

If a water conditioning contractor employs a licensed master, restricted master, journeyman or restricted journeyman plumber, or a licensed water conditioning master or journeyman, then the licensed individual does not need a separate water conditioning contractor license to perform water conditioning installation or servicing on behalf of the employer within the scope of the individual's plumber license.

(d) No water conditioning contractor, water conditioning master, or water conditioning journeyman license is required:

(1) for exchanges of portable water conditioning equipment, are performed by a licensed water conditioning contractor or licensed water conditioning installer. Any individual not so licensed may; or

(2) for an individual to perform water conditioning work that complies with the minimum standards prescribed by the Plumbing Board on premises or that part of premises owned and occupied by the worker individual as a residence, unless otherwise prohibited by a local ordinance.

Subd. 2. **Qualifications for licensing.** (a) A water conditioning contractor master license shall be issued only to an individual who has demonstrated skill in planning, superintending, and servicing water conditioning installations, and has successfully passed the examination for water conditioning contractors masters. A water conditioning installer journeyman license shall only be issued to an individual other than a water conditioning contractor master who has demonstrated practical knowledge of water conditioning installation, and has successfully passed the examination for water conditioning installers journeymen. A water conditioning installer journeyman must successfully pass the examination for water conditioning contractors masters before being licensed as a water conditioning contractor master.

(b) Each water conditioning contractor must designate a responsible licensed master plumber

or a responsible licensed water conditioning master, who shall be responsible for the performance of all water conditioning installation and servicing in accordance with the requirements of sections 326B.50 to 326B.59, all rules adopted under these sections, the Minnesota Plumbing Code, and all orders issued under section 326B.082. If the water conditioning contractor is an individual or sole proprietorship, the responsible licensed master must be the individual, proprietor, or managing employee. If the water conditioning contractor is a partnership, the responsible licensed master must be a general partner or managing employee. If the water conditioning contractor is a limited liability company, the responsible licensed master must be a chief manager or managing employee. If the water conditioning contractor is a corporation, the responsible licensed master must be an officer or managing employee. If the responsible licensed master is a managing employee, the responsible licensed master must be actively engaged in performing water conditioning work on behalf of the water conditioning contractor, and cannot be employed in any capacity as a water conditioning master or water conditioning journeyman for any other water conditioning contractor. An individual must not be the responsible licensed master for more than one water conditioning contractor.

(c) All applications and renewals for water conditioning contractor licenses shall include a verified statement that the applicant or licensee has complied with paragraph (b).

(d) Each application and renewal for a water conditioning master license, water conditioning journeyman license, or a water conditioning contractor license shall be accompanied by all fees required by section 326B.092.

Subd. 3. **Commissioner.** The commissioner shall:

(1) license water conditioning contractors, water conditioning masters, and installers water conditioning journeymen; and

(2) collect an examination fee from each examinee for a license as a water conditioning contractor and an examination fee from each examinee for a license as a water conditioning installer in an amount set forth in section 326B.58 the fees required by section 326B.092.

Subd. 4. **Plumber's apprentices.** (a) A plumber's apprentice who is registered under section 326B.47 is authorized to assist in water conditioning installation and water conditioning servicing only while under the direct supervision of a master plumber, journeyman plumber, water conditioning master, or water conditioning journeyman. The master or journeyman is responsible for ensuring that all water conditioning work performed by the plumber's apprentice complies with the plumbing code and rules adopted under sections 326B.50 to 326B.59. The supervising master or journeyman must be licensed and must be employed by the same employer as the plumber's apprentice. Licensed individuals shall not permit plumber's apprentices to perform water conditioning work except under the direct supervision of an individual actually licensed to perform such work. Plumber's apprentices shall not supervise the performance of plumbing work or make assignments of plumbing work to unlicensed individuals.

(b) Water conditioning contractors employing plumber's apprentices to perform water conditioning work shall maintain records establishing compliance with this subdivision that shall identify all plumber's apprentices performing water conditioning work, and shall permit the department to examine and copy all such records.

Sec. 36. Minnesota Statutes 2008, section 326B.56, as amended by Laws 2009, chapter 78, article 5, section 18, is amended to read:

326B.56 ALTERNATIVE STATE BONDING AND INSURANCE REGULATION.

Subdivision 1. **Bonds.** ~~(a) An applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to give a bond to obtain or maintain the license, may comply with any political subdivision bonding requirement by giving~~ As a condition of licensing, each water conditioning contractor shall give and maintain a bond to the state as described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the bond under paragraph (b) shall be otherwise required to meet the bond requirements of any political subdivision.

(b) Each bond given to the state under this subdivision shall be in the total sum of \$3,000 conditioned upon the faithful and lawful performance of all water conditioning ~~contracting or installing work~~ installation or servicing done within the state. The bond shall be for the benefit of persons suffering injuries or damages due to the work. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in this state. The bond must remain in effect at all times while the application is pending and while the license is in effect.

Subd. 2. **Insurance.** ~~(a) Each applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining~~ As a condition of licensing, each water conditioning contractor shall have and maintain in effect the insurance described in paragraph (b). No applicant for a water conditioning contractor ~~or installer~~ license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner.

Subd. 3. **Bond and insurance exemption.** A water conditioning contractor or installer who is an employee of a water conditioning contractor or installer, including an employee engaged in the maintenance and repair of water conditioning equipment, apparatus, or facilities owned, leased and operated, or maintained by the employer, is not required to meet the bond and insurance requirements of subdivisions 1 and 2 or of any political subdivision.

Subd. 4. **Fee.** (a) The commissioner shall collect a \$40 bond registration fee for one year or \$80 for two years from each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the bond registration from one year to two years so that the expiration of bond registration corresponds with the expiration of the license issued under section 326B.55.

Sec. 37. Minnesota Statutes 2009 Supplement, section 326B.58, is amended to read:

326B.58 FEES; RENEWAL.

~~(a) Examination fees for both water conditioning contractors and water conditioning installers shall be \$50 for each examination. Each initial water conditioning contractor and installer master and water conditioning journeyman license shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made. The license fee for each initial water conditioning contractor's license shall be \$140, except that the license fee shall be \$105 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning contractor's license shall be \$70 for one year or \$140 for two years. The license fee for each initial water conditioning installer license shall be \$70, except that the license fee shall be \$52.50 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning installer license shall be \$35 for one year or \$70 for two years.~~

(b) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of water conditioning ~~contractor and installer master and journeyman licenses~~ from one year to two years. By June 30, 2011, all renewed water conditioning contractor and installer licenses shall be two-year licenses. The ~~commissioner~~ Plumbing Board may by rule prescribe for the expiration and renewal of licenses.

~~(c) Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A water conditioning contractor or water conditioning installer who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25. All water conditioning contractor licenses shall expire on December 31 of the year after issuance or renewal.~~

(d) For purposes of calculating license fees and renewal fees required under section 326B.092:

- (1) a water conditioning journeyman license shall be considered a journeyman license;
- (2) a water conditioning master license shall be considered a master license; and
- (3) a water conditioning contractor license shall be considered a business license.

Sec. 38. Minnesota Statutes 2008, section 326B.805, subdivision 6, is amended to read:

Subd. 6. **Exemptions.** The license requirement does not apply to:

- (1) an employee of a licensee performing work for the licensee;
- (2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;
- (3) an owner of residential real estate who builds or improves any structure on residential real estate, if the building or improving is performed by the owner's bona fide employees or by individual owners personally. This exemption does not apply to an owner who constructs or improves property for purposes of speculation if the building or improving is performed by the owner's bona fide employees or by individual owners personally. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation

if the contractor or remodeler constructs or improves more than one property within any 24-month period;

(4) an architect or professional engineer engaging in professional practice as defined by section 326.02, subdivisions 2 and 3;

(5) a person whose total gross annual receipts for performing specialty skills for which licensure would be required under this section do not exceed \$15,000;

(6) a mechanical contractor;

(7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of that licensure;

(8) specialty contractors who provide only one special skill as defined in section 326B.802;

(9) a school district, or a technical college governed under chapter 136F; and

(10) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensure from the commissioner. A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from performing services which require licensure under this section during the calendar year in which the affidavit is received. For the purposes of calculating fees under section 326B.092, a certificate of exemption is an entry level license. To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year. If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the ~~exemption~~ certificate of exemption and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for an exemption for the next calendar year.

Sec. 39. Minnesota Statutes 2009 Supplement, section 326B.815, subdivision 1, is amended to read:

Subdivision 1. **Licensing fee Fees.** (a) ~~The licensing fee for persons licensed pursuant to sections 326B.802 to 326B.885, except for manufactured home installers, is \$200 for a two-year period. The~~ For the purposes of calculating fees under section 326B.092, an initial or renewed residential contractor, residential remodeler, or residential roofer license is a business license. Notwithstanding section 326B.092, the licensing fee for manufactured home installers under section 327B.041 is \$300 for a three-year period.

(b) All initial and renewal licenses, except for manufactured home installer licenses, shall be effective for two years and shall expire on March 31 of the year after the year in which the application is made. ~~The license fee for each renewal of a residential contractor, residential remodeler, or residential roofer license shall be \$100 for one year and \$200 for two years.~~

(c) The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of residential contractor, residential

remodeler, and residential roofer licenses from one year to two years. By June 30, 2011, all renewed residential contractor, residential remodeler, and residential roofer licenses shall be two-year licenses.

Sec. 40. Minnesota Statutes 2008, section 326B.83, subdivision 1, is amended to read:

Subdivision 1. **Form.** (a) An applicant for a license under sections 326B.802 to 326B.885 must submit an application, under oath and accompanied by the ~~license fee~~ fees required by section ~~326B.815~~ 326B.092, on a form prescribed by the commissioner. ~~Within 30 business days of receiving all required information, the commissioner must act on the license request.~~

(b) If one of the categories in the application does not apply, the applicant must identify the category and state the reason the category does not apply. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

Sec. 41. Minnesota Statutes 2008, section 326B.83, subdivision 3, is amended to read:

Subd. 3. **Examination.** (a) Each qualifying person must ~~satisfactorily complete~~ pass a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

(b) Each examination must be designed for the specified type of license requested.

~~(c) An individual's passing examination results expire two years from the examination date. An individual who passes the examination but does not choose to apply to act as a qualifying person for a licensee within two years from the examination date, must, upon application provide:~~

~~(1) passing examination results within two years from the date of application; or~~

~~(2) proof that the person has fulfilled the continuing education requirements in section 326B.821 in the manner required for a qualifying person of a licensee for each license period after the expiration of the examination results.~~

Sec. 42. Minnesota Statutes 2008, section 326B.83, subdivision 6, is amended to read:

Subd. 6. **License.** A nonresident of Minnesota may be licensed as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer upon compliance with all the provisions of sections 326B.092 to 326B.098 and 326B.802 to 326B.885.

Sec. 43. Minnesota Statutes 2009 Supplement, section 326B.86, subdivision 1, is amended to read:

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed residential roofers must post a biennial surety bond in the name of the licensee with the commissioner, conditioned that

the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The biennial bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by regular mail.

(b) A licensed residential roofer must post a bond of at least \$15,000.

(c) A licensed manufactured home installer must post a bond of at least \$2,500.

Bonds issued under sections 326B.802 to 326B.885 are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Sec. 44. Minnesota Statutes 2008, section 326B.865, is amended to read:

326B.865 SIGN CONTRACTOR; BOND.

(a) A sign contractor may post a compliance bond with the commissioner, conditioned that the sign contractor shall faithfully perform duties and comply with laws, ordinances, rules, and contracts entered into for the installation of signs. The bond must be renewed ~~annually~~ biennially and maintained for so long as determined by the commissioner. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the annual amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by United States mail.

(b) The amount of the bond shall be \$8,000. The bond may be drawn upon only by a local unit of government that requires sign contractors to post a compliance bond. The bond is in lieu of any compliance bond required by a local unit of government.

(c) For purposes of this section, "sign" means a device, structure, fixture, or placard using graphics, symbols, or written copy that is erected on the premises of an establishment including the name of the establishment or identifying the merchandise, services, activities, or entertainment available on the premises.

Sec. 45. Minnesota Statutes 2008, section 326B.921, subdivision 2, is amended to read:

Subd. 2. **High pressure pipefitting business license.** Before obtaining a permit for high pressure piping work, a person must obtain or utilize a business with a high pressure piping business license.

A person must have at all times as a full-time employee at least one individual holding a contracting high pressure pipefitter competency license. Only full-time employees who hold contracting high pressure pipefitter licenses are authorized to obtain high pressure piping permits in the name of the business. The contracting high pressure pipefitter competency license holder can be the employee of only one high pressure piping business at a time. An application for a high pressure piping business license shall include a verified statement that the applicant or licensee has complied with this subdivision.

To retain its business license without reapplication, a person holding a high pressure piping business license that ceases to employ an individual holding a contracting high pressure pipefitter competency license shall have 60 days from the last day of employment of its previous contracting

pipefitter competency license holder to employ another license holder. The department must be notified no later than five days after the last day of employment of the previous license holder.

No high pressure pipefitting work may be performed during any period when the high pressure pipefitting business does not have a contracting high pressure pipefitter competency license holder on staff. If a license holder is not employed within 60 days after the last day of employment of the previous license holder, the pipefitting business license shall lapse.

The board shall prescribe by rule procedures for application for and issuance of business licenses.

Sec. 46. Minnesota Statutes 2008, section 326B.921, subdivision 4, is amended to read:

Subd. 4. **Registration with commissioner.** An unlicensed individual may register to assist in the practical construction and installation of high pressure piping and appurtenances while in the employ of a licensed high pressure piping business by completing and submitting to the commissioner a registration form provided by the commissioner, with all fees required by section 326B.092. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals.

~~An unlicensed individual applying for initial registration shall pay the department an application fee of \$50. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be valid for one calendar year beginning January 1. Applications for renewal registration must be submitted to the commissioner before December 31 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$50. There shall be no refund of fees paid.~~

Sec. 47. Minnesota Statutes 2008, section 326B.921, subdivision 7, is amended to read:

Subd. 7. **License fee, registration, and renewal fees.** ~~The department shall charge the following license fees:~~

- ~~(a) application for journeyman high pressure pipefitter competency license, \$120;~~
- ~~(b) renewal of journeyman high pressure pipefitter competency license, \$80;~~
- ~~(c) application for contracting high pressure pipefitter competency license, \$270;~~
- ~~(d) renewal of contracting high pressure pipefitter competency license, \$240;~~
- ~~(e) application for high pressure piping business license, \$450;~~
- ~~(f) application to inactivate a contracting high pressure pipefitter competency license or inactivate a journeyman high pressure pipefitter competency license, \$40; and~~
- ~~(g) renewal of an inactive contracting high pressure pipefitter competency license or inactive journeyman high pressure pipefitter competency license, \$40.~~

~~If an application for renewal of an active or inactive journeyman high pressure pipefitter competency license or active or inactive contracting high pressure pipefitter competency license is received by the department after the date of expiration of the license, a \$30 late renewal fee shall be added to the license renewal fee.~~

~~Payment must accompany the application for a license or renewal of a license. There shall be~~

~~no refund of fees paid.~~

For purposes of calculating license, registration, and renewal fees required under section 326B.092:

- (1) the registration of an unlicensed individual under subdivision 4 is an entry level license;
- (2) a journeyman high pressure pipefitter license is a journeyman license;
- (3) a contracting high pressure pipefitter license is a master license; and
- (4) a high pressure piping business license is a business license.

Sec. 48. Minnesota Statutes 2008, section 326B.922, is amended to read:

326B.922 LICENSE APPLICATION AND RENEWAL.

(a) Application for a contracting high pressure pipefitter ~~competency~~ or, a journeyman high pressure pipefitter ~~competency~~, or a high pressure piping business license shall be made to the department, with all fees required by section 326B.092.

(b) The applicant for a contracting high pressure pipefitter or a journeyman high pressure pipefitter license shall be licensed only after passing an examination developed and administered by the department in accordance with rules adopted by the board. ~~A competency license issued by the department shall expire on December 31 of each year. A renewal application must be received by the department within one year after expiration of the competency license. A license that has been expired for more than one year cannot be renewed, and can only be reissued if the applicant submits a new application for the competency license, pays a new application fee, and retakes and passes the applicable license examination.~~

(c) All initial contracting high pressure pipefitter licenses, journeyman high pressure pipefitter licenses, and high pressure piping business licenses are effective for more than one calendar year and expire on December 31 of the year after the year in which the application is made. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of contracting high pressure pipefitter, journeyman high pressure pipefitter, and high pressure piping business licenses from one year to two years. By June 30, 2012, all such licenses shall be two-year licenses.

Sec. 49. Minnesota Statutes 2009 Supplement, section 326B.94, subdivision 4, is amended to read:

Subd. 4. Examinations, licensing. Every individual that operates a boat must hold a current master's license issued by the commissioner, unless the individual holds a valid, current Charter Boat Captain's license issued by the United States Coast Guard. The commissioner shall develop and administer an examination for all masters of boats carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. All initial master's licenses shall be for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master's licenses from one year to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses. Fees for the original

issue and renewal of the license authorized under this section shall be pursuant to section ~~326B.986, subdivision 2~~ 326B.092.

Sec. 50. Minnesota Statutes 2008, section 326B.978, subdivision 2, is amended to read:

Subd. 2. **Applications.** Any individual who desires an engineer's license shall submit an application on a written or electronic form prescribed by the commissioner, ~~at least 15 days before the requested exam date. If the commissioner approves the applicant for examination, the applicant may take the examination on one occasion within one year from the date the commissioner receives the application~~ with all fees required by section 326B.092.

Sec. 51. Minnesota Statutes 2008, section 326B.978, is amended by adding a subdivision to read:

Subd. 19. **Applicability.** This section shall not apply to traction or hobby boiler engineer's licenses or provisional licenses.

Sec. 52. Minnesota Statutes 2009 Supplement, section 326B.986, subdivision 5, is amended to read:

Subd. 5. **Boiler engineer license fees.** ~~(a) For the following licenses, the nonrefundable license and application fee is:~~

- ~~(1) chief engineer's license, \$70;~~
- ~~(2) first class engineer's license, \$70;~~
- ~~(3) second class engineer's license, \$70;~~
- ~~(4) special engineer's license, \$40;~~
- ~~(5) traction or hobby boiler engineer's license, \$50; and~~
- ~~(6) provisional license, \$50.~~

~~(b) An engineer's license, except a provisional license, may be renewed upon application and payment of a renewal fee of \$20 for one year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of \$15 will be added to the renewal fee.~~

(a) For purposes of calculating license fees and renewal license fees required under section 326B.092:

- (1) the boiler special engineer license is an entry level license;
- (2) the following licenses are journeyman licenses: first class engineer, Grade A; first class engineer, Grade B; first class engineer, Grade C; second class engineer, Grade A; second class engineer, Grade B; second class engineer, Grade C; and provisional license; and
- (3) the following licenses are master licenses: boiler chief engineer, Grade A; boiler chief engineer, Grade B; boiler chief engineer, Grade C; boiler commissioner inspector; or traction or hobby boiler engineer.

(b) Notwithstanding section 326B.092, subdivision 7, paragraph (a), the license duration for steam traction and hobby engineer licenses are one year only for the purpose of calculating license fees under section 326B.092, subdivision 7, paragraph (b).

Sec. 53. Minnesota Statutes 2008, section 327B.04, subdivision 2, is amended to read:

Subd. 2. **Subagency licenses.** Any dealer who has a place of business at more than one location shall designate one location as its principal place of business, one name as its principal name, and all other established places of business as subagencies. A subagency license shall be required for each subagency. Subagency license renewal must coincide with the principal license date. No dealer shall do business as a dealer under any other name than the name on its license.

Sec. 54. Minnesota Statutes 2009 Supplement, section 327B.04, subdivision 7, is amended to read:

Subd. 7. **Licenses; when granted renewal.** In addition to the requirements of this section, each application for a license or license renewal must be accompanied by ~~a fee in an amount established by subdivision 7a~~ all applicable fees required by section 326B.092. The fees shall be set in an amount which over the fiscal biennium will produce revenues approximately equal to the expenses which the commissioner expects to incur during that fiscal biennium while administering and enforcing sections 327B.01 to 327B.12. ~~The commissioner shall grant or deny a license application or a renewal application within 60 days of its filing.~~ If the license is granted, the commissioner shall license the applicant as a dealer or manufacturer for the remainder of the licensure period. Upon application by the licensee, the commissioner shall renew the license for a two-year period, if:

- (1) the renewal application satisfies the requirements of subdivisions 3 and 4;
- (2) the renewal applicant has made all listings, registrations, notices and reports required by the commissioner during the preceding licensure period; and
- (3) the renewal applicant has paid all fees owed pursuant to sections 327B.01 to 327B.12 and all taxes, arrearages, and penalties owed to the state.

Sec. 55. Minnesota Statutes 2009 Supplement, section 327B.04, subdivision 7a, is amended to read:

Subd. 7a. **Fees.** (a) Fees for licenses issued pursuant to this section ~~are as follows:~~ shall be calculated pursuant to section 326B.092.

- ~~(1) initial dealer license for principal location, \$400. Fee is not refundable;~~
- ~~(2) initial dealer license for subagency location, \$80;~~
- ~~(3) dealer license biennial renewal, principal location, \$400; dealer subagency location biennial renewal, \$160. Subagency license renewal must coincide with the principal license date;~~
- ~~(4) initial limited dealer license, \$200;~~
- ~~(5) change of bonding company, \$10;~~
- ~~(6) reinstatement of bond after cancellation notice has been received, \$10;~~
- ~~(7) checks returned without payment, \$15; and~~
- ~~(8) change of address, \$10.~~

(b) All initial limited dealer licenses shall be effective for more than one calendar year and shall

expire on December 31 of the year after the year in which the application is made.

~~(c) The license fee for each renewed limited dealer license shall be \$100 for one year and \$200 for two years. For the purposes of calculating fees under section 326B.092, any license issued under this section is a business license, except that a subagency license is a master license. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of limited dealer licenses from one year to two years. By June 30, 2011, all renewed limited dealer licenses shall be two-year licenses.~~

~~(d) All fees are not refundable.~~

Sec. 56. Minnesota Statutes 2009 Supplement, section 327B.04, subdivision 8, is amended to read:

Subd. 8. **Limited dealer's license.** The commissioner shall issue a limited dealer's license to an owner of a manufactured home park authorizing the licensee as principal only to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park. The licensee must be the title holder of the homes and may engage in no more than ten sales during each year of the two-year licensure period. An owner may, upon payment of the applicable fee and compliance with this subdivision, obtain a separate license for each owned manufactured home park and is entitled to sell up to 20 homes per license period provided that only one limited dealer license may be issued for each park. The license shall be issued after:

(1) receipt of an application on forms provided by the commissioner containing the following information:

(i) the identity of the applicant;

(ii) the name under which the applicant will be licensed and do business in this state;

(iii) the name and address of the owned manufactured home park, including a copy of the park license, serving as the basis for the issuance of the license;

(iv) the name, home, and business address of the applicant;

(v) the name, address, and telephone number of one individual that is designated by the applicant to receive all communications and cooperate with all inspections and investigations of the commissioner pertaining to the sale of manufactured homes in the manufactured home park owned by the applicant;

(vi) whether the applicant or its designated individual has been convicted of a crime within the previous ten years that is either related directly to the business for which the license is sought or involved fraud, misrepresentation or misuse of funds, or has suffered a judgment in a civil action involving fraud, misrepresentation, or conversion within the previous five years or has had any government license or permit suspended or revoked as a result of an action brought by a federal or state governmental agency in this or any other state within the last five years; and

(vii) the applicant's qualifications and business history, including whether the applicant or its designated individual has ever been adjudged bankrupt or insolvent, or has any unsatisfied court judgments outstanding against it or them;

(2) payment of the license fee established by subdivision 7a; and

(3) provision of a surety bond in the amount of \$5,000. A separate surety bond must be provided for each limited license.

The applicant need not comply with section 327B.04, subdivision 4, paragraph (e). The holding of a limited dealer's license does not satisfy the requirement contained in section 327B.04, subdivision 4, paragraph (e), for the licensee or salespersons with respect to obtaining a dealer license. The commissioner may, upon application for a renewal of a license, require only a verification that copies of sales documents have been retained and payment of the renewal fee fees established by ~~subdivision 7a~~ section 326B.092. "Sales documents" mean only the safety feature disclosure form defined in section 327C.07, subdivision 3a, title of the home, financing agreements, and purchase agreements.

The license holder shall, upon request of the commissioner, make available for inspection during business hours sales documents required to be retained under this subdivision.

Sec. 57. Minnesota Statutes 2009 Supplement, section 327B.041, is amended to read:

327B.041 MANUFACTURED HOME INSTALLERS.

(a) Manufactured home installers are subject to all of the fees in section 326B.092 and the requirements of sections 326B.802 to 326B.885, except for the following:

(1) manufactured home installers are not subject to the continuing education requirements of section 326B.821, but are subject to the continuing education requirements established in rules adopted under section 327B.10;

(2) the examination requirement of section 326B.83, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination administered and developed specifically for the examination of manufactured home installers. The examination must be administered and developed by the commissioner. The commissioner and the state building official shall seek advice on the grading, monitoring, and updating of examinations from the Minnesota Manufactured Housing Association;

(3) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers;

(4) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326B.802 to 326B.885;

(5) the exemption under section 326B.805, subdivision 6, clause (5), does not apply; and

(6) manufactured home installers are not subject to the contractor recovery fund in section 326B.89.

(b) The commissioner may waive all or part of the requirements for licensure as a manufactured home installer for any individual who holds an unexpired license or certificate issued by any other state or other United States jurisdiction if the licensing requirements of that jurisdiction meet or exceed the corresponding licensing requirements of the department and the individual complies with section 326B.092, subdivisions 1 and 3 to 7. For the purposes of calculating fees under section 326B.092, licensure as a manufactured home installer is a business license.

Sec. 58. REVISOR'S INSTRUCTION.

In Minnesota Rules, the Revisor of Statutes shall change all references to Minnesota Rules, part 1350.8300 to Minnesota Statutes, section 327B.04.

Sec. 59. **REPEALER.**

(a) Minnesota Statutes 2008, sections 326B.133, subdivisions 9 and 10; 326B.37, subdivision 13; 326B.475, subdivisions 5 and 6; 326B.56, subdivision 3; 326B.885, subdivisions 3 and 4; and 326B.976, are repealed.

(b) Minnesota Statutes 2009 Supplement, section 326B.56, subdivision 4, is repealed.

(c) Minnesota Rules, parts 1301.0500; 1301.0900; 1301.1100, subparts 2, 3, and 4; 1350.7200, subpart 3; and 1350.8000, subpart 2, are repealed.

Sec. 60. **EFFECTIVE DATE.**

Sections 1 to 59 are effective January 1, 2012.

ARTICLE 17

TRANSPORTATION APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
General	\$ (1,733,000)	\$ (2,670,000)	\$ (4,403,000)
State Airports	(140,000)	(212,000)	(352,000)
Trunk Highway	-0-	109,000,000	109,000,000
Total	\$ (1,873,000)	\$ 106,118,000	\$ 104,245,000

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 36, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 3. DEPARTMENT OF TRANSPORTATION

<u>Subdivision 1. Total Appropriation</u>		\$	<u>(811,000)</u>	\$	<u>108,318,000</u>
	<u>Appropriations by Fund</u>				
<u>General</u>	<u>(671,000)</u>		<u>(470,000)</u>		
<u>State Airports</u>	<u>(140,000)</u>		<u>(212,000)</u>		
<u>Trunk Highway</u>	<u>-0-</u>		<u>109,000,000</u>		

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

<u>Subd. 2. State Road Construction</u>			<u>-0-</u>		<u>104,000,000</u>
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\$104,000,000 in fiscal year 2011 is appropriated to the commissioner of transportation from the trunk highway fund for state road construction. This appropriation is added to appropriations under Laws 2009, chapter 36, article 1, section 3, subdivision 3, paragraph (b), clause (2). This additional appropriation is funded by additional federal highway aid of \$104,000,000 above that specified in Laws 2009, chapter 36, article 1, section 3, subdivision 3, paragraph (b), clause (2). This is a onetime appropriation.

<u>Subd. 3. Federal Emergency Relief Account</u>			<u>-0-</u>		<u>5,000,000</u>
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\$5,000,000 in fiscal year 2011 is transferred from the trunk highway fund to the trunk highway emergency relief account and is appropriated to the commissioner of transportation for the purposes of that account.

Subd. 4. Multimodal Systems

<u>(a) Aeronautics</u>			<u>(140,000)</u>		<u>(212,000)</u>
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	<u>Appropriations by Fund</u>				
<u>Airports</u>	<u>(140,000)</u>		<u>(212,000)</u>		

Aviation Support and Services. A reduction of \$140,000 in fiscal year 2010 is made to

Aviation Support and Services, and must be transferred from the airports fund to the general fund before June 30, 2010.

A reduction of \$212,000 in fiscal year 2011 is made to Aviation Support and Services, and must be transferred from the airports fund to the general fund before June 30, 2011.

<u>(b) Transit</u>		<u>(462,000)</u>	<u>(345,000)</u>
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Appropriations by Fund

<u>General</u>	<u>(462,000)</u>	<u>(345,000)</u>	
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The base for nonmetro transit grants in 2012 is \$16,598,000.

<u>(c) Freight</u>		<u>(125,000)</u>	<u>(125,000)</u>
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Appropriations by Fund

<u>General</u>	<u>(125,000)</u>	<u>(125,000)</u>	
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This reduction is from the hazardous materials registration program.

<u>Subd. 5. Urban Partnership Reduction</u>		<u>(84,000)</u>	<u>-0-</u>
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Appropriations by Fund

<u>General</u>	<u>(84,000)</u>	<u>-0-</u>	
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This is a onetime reduction from the appropriation in Laws 2008, chapter 179, section 16, subdivision 3.

Subd. 6. Transfers

Notwithstanding any law to the contrary, by June 30, 2010, the commissioner shall transfer \$265,000 from accounts in the special revenue fund to the general fund.

After July 1, 2010, and before June 30, 2011, the commissioner shall transfer \$376,000 from accounts in the special revenue fund to the general fund.

<u>Sec. 4. DEPARTMENT OF PUBLIC SAFETY</u>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>(82,000)</u>
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Appropriations by Fund

<u>General</u>	<u>-0-</u>	<u>(82,000)</u>
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This appropriation reduction is to the information technology budget in the technical support services budget activity of the administration and related services program. This reduction is permanent.

Sec. 5. <u>METROPOLITAN COUNCIL</u>	\$	<u>(1,062,000)</u>	\$	<u>(2,118,000)</u>
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Appropriations by Fund

<u>General</u>	<u>(1,062,000)</u>	<u>(2,118,000)</u>
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These reductions are to the bus transit appropriations in Laws 2009, chapter 36, article 1, section 4, subdivision 2. To the extent possible, the council shall reduce administrative costs to achieve the reductions. This reduction is permanent.

ARTICLE 18**TRANSPORTATION POLICY**

Section 1. Minnesota Statutes 2008, section 161.04, is amended by adding a subdivision to read:

Subd. 5. **Trunk highway emergency relief account.** (a) The trunk highway emergency relief account is created in the trunk highway fund. Money in the account is appropriated to the commissioner to be used to fund relief activities related to an emergency, as defined in section 161.32, subdivision 3.

(b) Reimbursements by the Federal Highway Administration for emergency relief payments made from the trunk highway emergency relief account must be deposited into the account. Interest accrued on the account must be deposited into the account. Notwithstanding section 16A.28, money appropriated to the account for this program from any source is available until spent. If the balance of the account at the end of the fiscal year is greater than \$10,000,000, the amount above \$10,000,000 must be transferred to the trunk highway fund.

(c) By September 1, 2012, and in every subsequent even-numbered year by September 1, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over transportation policy and finance. The report must include the balance, as well as details of payments made from and deposits made to the trunk highway emergency relief account since the last report.

Sec. 2. Minnesota Statutes 2008, section 161.3426, subdivision 3, is amended to read:

Subd. 3. **Stipulated fee.** The commissioner shall award a stipulated fee not less than two-tenths of one percent of the department's estimated cost of design and construction to each unsuccessful

short-listed, responsible proposer who ~~provides a responsive but unsuccessful proposal~~ obtains the minimum technical proposal score established by the commissioner in the RFP. If the commissioner does not award a contract, all short-listed proposers must receive the stipulated fee. If the commissioner cancels the contract before reviewing the technical proposals, the commissioner shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the commissioner's estimated cost of design and construction. The commissioner shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the commissioner may use any ideas or information contained in the proposals in connection with any contract awarded for the project or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the commissioner may not use ideas and information contained in that proposer's proposal. Upon the request of the commissioner, a proposer who waived a stipulated fee may withdraw the waiver, in which case the commissioner shall pay the stipulated fee to the proposer and thereafter may use ideas and information in the proposer's proposal.

Sec. 3. Minnesota Statutes 2008, section 161.3426, is amended by adding a subdivision to read:

Subd. 6. **Reissue of RFP.** If the commissioner rejects all bids or does not execute the contract, the commissioner may reissue the RFP and allow only short-listed teams to resubmit proposals. The commissioner shall then pay a reasonable stipulated fee to each unsuccessful short-listed, responsible proposer who obtains the minimum technical proposal score established by the commissioner in the reissued RFP.

Sec. 4. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision to read:

Subd. 8. **Alternative financing and investment in transportation projects.** The commissioner may enter into agreements with governmental or nongovernmental entities, including private and nonprofit entities, to finance or invest in transportation projects, including repayment agreements subject to the availability of state money or other dedicated revenue or resources, with the approval of the commissioner of Minnesota Management and Budget.

Sec. 5. Minnesota Statutes 2008, section 174.02, is amended by adding a subdivision to read:

Subd. 9. **Federal financial program authority.** The commissioner may apply for and receive financial assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), United States Code, title 23, chapter 6, or through other federal transportation loan, grant, or credit assistance programs. The assistance may include but is not limited to loans, loan guarantees, and lines of credit. The commissioner may enter into agreements to repay the financial assistance subject to the availability of state money or other dedicated revenue or resources, with the approval of Minnesota Management and Budget.

Sec. 6. **REPEALER.**

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.

ARTICLE 19

PUBLIC SAFETY**Section 1. SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (8,715,000)	\$ (15,142,000)	\$ (23,857,000)

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 83, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 2011

Sec. 3. SUPREME COURT

<u>Subdivision 1. Total Appropriation</u>	\$	<u>(856,000)</u>	\$	<u>(1,664,000)</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Supreme Court Operations</u>		<u>(529,000)</u>		<u>(938,000)</u>
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<u>Subd. 3. Civil Legal Services</u>		<u>(327,000)</u>		<u>(726,000)</u>
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This includes a reduction of \$22,000 in fiscal year 2010 and \$53,000 in fiscal year 2011 for legal services to low-income clients in family law matters.

Sec. 4. <u>COURT OF APPEALS</u>	\$	<u>(159,000)</u>	\$	<u>(309,000)</u>
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Sec. 5. <u>TRIAL COURTS</u>	\$	<u>(4,242,000)</u>	\$	<u>(7,503,000)</u>
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77TH DAY]

MONDAY, MARCH 22, 2010

8641

Sec. 6. <u>TAX COURT</u>	\$	<u>(12,000)</u>	\$	<u>(25,000)</u>
Sec. 7. <u>UNIFORM LAWS COMMISSION</u>	\$	<u>-0-</u>	\$	<u>(2,000)</u>
Sec. 8. <u>BOARD ON JUDICIAL STANDARDS</u>	\$	<u>(10,000)</u>	\$	<u>(14,000)</u>

This includes a reduction of \$5,000 in fiscal year 2010 and \$4,000 in fiscal year 2011 from funding for special investigative and hearing costs.

Sec. 9. <u>BOARD OF PUBLIC DEFENSE</u>	\$	<u>(905,000)</u>	\$	<u>(2,384,000)</u>
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Sec. 10. DEPARTMENT OF PUBLIC SAFETY

Subdivision 1. <u>Total Appropriation</u>	\$	<u>-0-</u>	\$	<u>1,800,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Emergency Management</u>		<u>-0-</u>		<u>1,600,000</u>
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This appropriation is to provide a match for Federal Emergency Management Agency (FEMA) disaster assistance payments under Minnesota Statutes, section 12.221. This is a onetime appropriation.

Subd. 3. <u>Criminal Apprehension</u>		<u>-0-</u>		<u>200,000</u>
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\$200,000 is a onetime appropriation to the Bureau of Criminal Apprehension for enhancements to the predatory offender registry architecture, and for technical upgrades including the conversion of documents to a digital format.

Subd. 4. Fire Marshal

Transfers

By June 30, 2010, the commissioner shall transfer \$6,900,000 from the fire safety account in the special revenue fund to the general fund.

By June 30, 2011, the commissioner shall transfer \$3,000,000 from the fire safety

account in the special revenue fund to the general fund.

Sec. 11. <u>PRIVATE DETECTIVE BOARD</u>	\$	<u>(2,000)</u>	\$	<u>(3,000)</u>
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Sec. 12. <u>HUMAN RIGHTS</u>	\$	<u>(59,000)</u>	\$	<u>(103,000)</u>
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Sec. 13. CORRECTIONS

Subdivision 1. <u>Total Appropriation</u>	\$	<u>(2,459,000)</u>	\$	<u>(4,917,000)</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Correctional Institutions</u>		<u>(847,000)</u>		<u>(1,693,000)</u>
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Subd. 3. <u>Community Services</u>		<u>(1,612,000)</u>		<u>(3,224,000)</u>
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Transfers

Notwithstanding Minnesota Statutes, section 241.27, the commissioner shall transfer \$574,000 by June 30, 2010, and \$989,000 by June 30, 2011, from the Minnesota correctional industries revolving fund to the general fund. These transfers are onetime. These transfers are in addition to those in Laws 2009, chapter 83, article 1, section 14, subdivision 2, paragraph (g).

The commissioner shall transfer \$201,000 by June 30, 2010, and \$402,000 by June 30, 2011, from the special revenue fund to the general fund. These transfers are onetime.

Sec. 14. <u>SENTENCING GUIDELINES</u>	\$	<u>(11,000)</u>	\$	<u>(18,000)</u>
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ARTICLE 20

IMPLIED CONSENT; ADMINISTRATIVE REVIEW HEARINGS

Section 1. Minnesota Statutes 2008, section 169A.52, subdivision 6, is amended to read:

Subd. 6. **Notice of revocation or disqualification; review.** A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain ~~administrative and judicial~~ review by the commissioner and an administrative hearing review as provided in section

169A.53 (administrative and judicial review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 169A.53, is amended to read:

169A.53 COMMISSIONER REVIEW AND ADMINISTRATIVE AND JUDICIAL HEARING REVIEW OF LICENSE REVOCATION; APPEAL.

Subdivision 1. ~~Administrative~~ **Commissioner review.** (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of ~~judicial~~ an administrative review hearing under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

Subd. 2. ~~Petition for judicial administrative review hearing.~~ (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must be filed with the ~~district court administrator in the county where the alleged offense occurred,~~ Office of Administrative Hearings, together with proof of service of a copy on the commissioner, and accompanied by the ~~standard filing fee for civil actions provided under section 357.081.~~ Responsive pleading is not required of the commissioner, and ~~court~~ fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The ~~reviewing court~~ hearing officer may order a stay of the balance of the revocation or disqualification

if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper.

(d) ~~Judicial Reviews~~ must be conducted according to ~~the Rules of Civil Procedure, except that sections 14.57 to 14.69 and Minnesota Rules, parts 1400.5010 to 1400.8401, unless otherwise provided in this section.~~

(e) Prehearing discovery is mandatory and is limited to:

- (1) the notice of revocation;
- (2) the test record or, in the case of blood or urine tests, the certificate of analysis;
- (3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and
- (4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the ~~court~~ administrative law judge.

Subd. 3. **Judicial Administrative review hearing; issues, order, appeal.** (a) ~~A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator Office of Administrative Hearings shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator Office of Administrative Hearings may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held and receive testimony and argument by means of interactive television.~~

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's

rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The ~~court~~ hearing officer shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The ~~court~~ hearing officer shall file ~~its~~ the order within 14 days following the hearing. If the revocation or disqualification is sustained, the ~~court~~ hearing officer shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the ~~reviewing court~~ hearing officer may appeal the decision as provided in ~~the Rules of Appellate Procedure~~ chapter 14.

(g) The ~~civil~~ administrative review hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **Petition for ~~judicial~~ administrative review hearing; appeal.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative ~~and judicial~~ review of license revocation).

(b) Except as otherwise provided in this section, the ~~judicial~~ administrative review and hearing ~~are~~ is governed by section 169A.53 and must take place at the same time as any ~~judicial review~~ administrative review hearing of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The ~~reviewing court~~ hearing officer may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper. The ~~court~~ hearing officer shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The ~~court~~ hearing officer shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (~~judicial~~ administrative review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

(e) Any party aggrieved by the decision of the hearing officer may appeal the decision as provided in chapter 14.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 4. [357.081] OFFICE OF ADMINISTRATIVE HEARINGS; FEE.

The Office of Administrative Hearings shall charge and collect a filing fee of \$310 from a person filing a petition for an administrative review of a driver's license revocation under section 169A.53, vehicle impoundment under section 169A.60, or combined review. Notwithstanding section 14.54, the Office of Administrative Hearings shall transmit the fees monthly to the commissioner of management and budget for deposit in the state treasury and credit to the general fund.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. RULEMAKING AUTHORITY.

The Office of Administrative Hearings shall adopt rules under Minnesota Statutes, chapter 14, to implement sections 1 to 4. The rules must include, at a minimum, the procedure for hearings in regional offices, and the use of teleconferencing and highly qualified hearing officers. The Office of Administrative Hearings may adopt the initial set of these rules as exempt rules under Minnesota Statutes, section 14.386. These rules are permanent and effective upon publication in the state register until further amended or repealed by the Office of Administrative Hearings.

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

Sec. 6. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall prepare a bill for introduction in the 2011 regular legislative session making any technical and conforming changes to Minnesota Statutes made necessary by sections 1 to 5.

ARTICLE 21**STATE GOVERNMENT APPROPRIATIONS**Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$ (3,845,000)	\$ 244,000	\$ (3,601,000)
<u>Health Care Access</u>	\$ (16,000)	\$ (22,000)	\$ (38,000)
<u>Special Revenue</u>	\$ (70,000)	\$ (117,000)	\$ (187,000)
<u>Lottery Prize Fund</u>	\$ -0-	\$ (50,000)	\$ (50,000)
<u>Total</u>	\$ (3,931,000)	\$ 55,000	\$ (3,876,000)

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 101, article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
Sec. 3. <u>LEGISLATURE</u>	\$ (1,126,000)	\$ (2,940,000)

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(1,121,000)	(2,935,000)
<u>Health Care Access</u>	(5,000)	(5,000)

In fiscal year 2011, \$536,000 is canceled

to the general fund from the accounts established under Minnesota Statutes, section 16A.281.

Sec. 4. GOVERNOR AND LIEUTENANT GOVERNOR

\$ (64,000) \$ (146,000)

\$10,000 in fiscal year 2010 and \$32,000 in fiscal year 2011 are transferred from the interagency agreements account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 5. STATE AUDITOR

\$ (32,000) \$ (78,000)

Sec. 6. ATTORNEY GENERAL

\$ (436,000) \$ (954,000)

Sec. 7. SECRETARY OF STATE

\$ (104,000) \$ (250,000)

Sec. 8. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

\$ (28,000) \$ (8,000)

The base budget for the Campaign Finance and Public Disclosure Board is \$726,000 in fiscal year 2012 and \$726,000 in fiscal year 2013.

Sec. 9. INVESTMENT BOARD

\$ (2,000) \$ (5,000)

Sec. 10. OFFICE OF ENTERPRISE TECHNOLOGY

\$ (111,000) \$ (169,000)

These reductions are from the enterprise planning and management program.

Sec. 11. ADMINISTRATIVE HEARINGS

\$ (8,000) \$ 487,000

\$495,000 in fiscal year 2011 is for the cost of administrative reviews filed under Minnesota Statutes, sections 169A.53, subdivision 3, and 169A.60, subdivision 10. The general fund base for the Office of Administrative Hearings is \$1,037,000 in fiscal year 2012 and \$907,000 in fiscal year 2013.

Sec. 12. ADMINISTRATION

\$ -0- \$ (419,000)

(a) These reductions are from the government and citizens services program. \$8,000

of the reductions in fiscal year 2011 is from the transfer to the commissioner of human services for a grant to the Council of Developmental Disabilities. The appropriation for this grant shall be included in the base budget for the commissioner of human services for the biennium beginning July 1, 2011, and is reduced by \$8,000 each year of the biennium. The general fund base budget for the government and citizens services program is \$8,936,000 in fiscal year 2012 and \$8,936,000 in fiscal year 2013.

(b) \$209,000 in fiscal year 2010 and \$31,000 in fiscal year 2011 are transferred from the central stores fund to the general fund. These are onetime transfers.

(c) The balance in the commuter van program account in the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(d) The balance in the archaeology burial account of the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(e) \$1,492 in fiscal year 2010 is transferred from the utility rebates account in the special revenue fund to the general fund. This is a onetime transfer.

Sec. 13. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

\$ (6,000) \$ (11,000)

Sec. 14. MANAGEMENT AND BUDGET

\$ (386,000) \$ (599,000)

(a) \$300 in fiscal year 2010 and \$300 in fiscal year 2011 are transferred from the combined charities administration account in the special revenue fund to the general fund. These are onetime transfers.

(b) \$8,700 in fiscal year 2010 and \$10,700 in fiscal year 2011 are transferred from the information systems division account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 15. REVENUE

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(779,000)</u>	<u>\$</u>	<u>5,362,000</u>
<u>Appropriations by Fund</u>				
	<u>2010</u>		<u>2011</u>	
<u>General</u>	<u>(768,000)</u>		<u>5,379,000</u>	
<u>Health Care Access</u>	<u>(11,000)</u>		<u>(17,000)</u>	
<u>Subd. 2. Tax System Management</u>		<u>(779,000)</u>		<u>3,492,000</u>
<u>Appropriations by Fund</u>				
	<u>2010</u>		<u>2011</u>	
<u>General</u>	<u>(768,000)</u>		<u>3,509,000</u>	
<u>Health Care Access</u>	<u>(11,000)</u>		<u>(17,000)</u>	

(a) \$4,857,000 is for additional activities to identify and collect tax liabilities from individuals and business that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of \$13,065,000 for fiscal year 2011.

(b) The department must report to the chairs of the house of representative Ways and Means and senate Finance Committees by March 15, 2011, and January 15, 2012, 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 amount of valid tax liabilities collected.

(c) The reports must also identify base-level expenditures and staff positions related to compliance and audit activities, including

baseline information as of January 1, 2009.
The information must be provided at the
budget activity level.

Subd. 3. Debt Collection Management -0- 1,870,000

\$1,870,000 is 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 \$13,800,000 for fiscal year 2011.

Sec. 16. **GAMBLING CONTROL** \$ (51,000) \$ (88,000)

\$51,000 in fiscal year 2010 and \$88,000
in fiscal year 2011 are transferred from
the lawful gambling account in the special
revenue fund to the general fund. These are
onetime transfers.

Sec. 17. **RACING COMMISSION** \$ (19,000) \$ (29,000)

\$19,000 in fiscal year 2010 and \$29,000
in fiscal year 2011 are transferred from the
racing and card playing regulation accounts
in the special revenue fund to the general
fund. These are onetime transfers.

Sec. 18. **AMATEUR SPORTS** \$ (4,000) \$ (8,000)

Sec. 19. **COUNCIL ON BLACK MINNESOTANS** \$ (5,000) \$ (9,000)

Sec. 20. **COUNCIL ON CHICANO-LATINO**
AFFAIRS \$ (6,000) \$ (9,000)

Sec. 21. **COUNCIL ON ASIAN-PACIFIC**
MINNESOTANS \$ (5,000) \$ (8,000)

Sec. 22. **INDIAN AFFAIRS COUNCIL** \$ (9,000) \$ (14,000)

Sec. 23. **GENERAL CONTINGENT ACCOUNTS** \$ (750,000) \$ -0-

This reduction is from the appropriation for
potential state matching requirements under
the American Reinvestment and Recovery
Act of 2009.

Sec. 24. Laws 2009, chapter 101, article 1, section 31, is amended to read:

Sec. 31. PROBLEM GAMBLING APPROPRIATION.

\$225,000 in fiscal year 2010 and ~~\$225,000~~ \$175,000 in fiscal year 2011 are appropriated from the lottery prize fund to the Gambling Control Board for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research relating to problem gambling. These services must be complimentary to and not duplicative of the services provided through the problem gambling program administered by the commissioner of human services. Of this appropriation, \$50,000 in fiscal year 2010 and ~~\$50,000 in fiscal year 2011~~ are is contingent on the contribution of nonstate matching funds. Matching funds may be either cash or qualifying in-kind contributions. The commissioner of finance may disburse the state portion of the matching funds in increments of \$25,000 upon receipt of a commitment for an equal amount of matching nonstate funds. These are onetime appropriations.

Sec. 25. ADDITIONAL OPERATING BUDGET REDUCTIONS.

By July 30, 2010, the commissioner of management and budget shall allocate a reduction of \$9,000,000 per year to the operating budgets of executive branch state agencies, as defined in Minnesota Statutes, section 16A.011, subdivision 12a. To the extent possible, this reduction must be achieved through estimated savings in expenditures for technology, space, or services. If expenditure reductions are achieved in dedicated funds other than those established in the state constitution or protected by federal law, the commissioner of management and budget may transfer the amount of the savings to the general fund. Executive branch state agencies shall cooperate with the commissioner of management and budget in developing and implementing these reductions. Any amount of the reduction that cannot be achieved through savings in the expenditure types described in this section must be allocated to executive state agency operating budgets by the commissioner. Reductions in fiscal year 2011 shall cancel to the general fund and future reductions shall be reflected as reductions in agency base budgets for fiscal years 2012 and 2013. The commissioner of management and budget shall report to the chairs and ranking minority members of the senate Finance Committee and the house of representatives Ways and Means and Finance Committees regarding the amount of reductions in spending by each agency under this section.

ARTICLE 22

STATE GOVERNMENT OPERATIONS

Section 1. Minnesota Statutes 2008, section 4.51, is amended to read:

4.51 EXPENSES OF GOVERNOR-ELECT.

Subdivision 1. **Definitions.** This section applies after a state general election in which a person who is not the current governor is elected to take office as the next governor. The commissioner of administration must request a transfer from the general fund contingent account of an amount equal to 1.5 percent of the amount appropriated for operation of the Office of the Governor and Lieutenant Governor for the current fiscal year. This request is subject to the review and advice of the Legislative Advisory Commission pursuant to section 3.30. If the transfer is approved, the commissioner of administration must make this amount available to the governor-elect before he or she takes office. The commissioner must provide office space for the governor-elect and for any employees the governor-elect hires. (a) "Governor-elect" means the person who is not currently

governor and is the apparent successful candidate for the office of governor following a general election.

(b) "Commissioner" means the commissioner of the Department of Management and Budget.

Subd. 2. **Transition expenses.** In the fiscal year of a gubernatorial election and subject to availability of funds, the commissioner shall transfer up to \$162,000 from the general contingent account in the general fund to the Department of Management and Budget. This transfer is subject to the review and advice of the Legislative Advisory Commission pursuant to section 3.30. In consultation with the governor-elect, the commissioner shall use the transferred funds to pay expenses of the governor-elect associated with preparing for the assumption of official duties as governor. The commissioner may use the transferred funds for expenses necessary and prudent for establishment of a transition office prior to the election and for dissolution of the office if the incumbent governor is reelected or after the inauguration of a new governor. Expenses of the governor-elect may include suitable office space and equipment, communications and technology support, consulting services, compensation and travel costs, and other reasonable expenses. Compensation rates for temporary employees hired to support the governor-elect and rates paid for consulting services for the governor-elect shall be determined by the governor-elect.

Subd. 3. **Unused funds.** No new obligations shall be incurred for expenses of the governor-elect after the date of the inauguration. By March 31 of the year of the inauguration, the commissioner shall return to the general contingent account any funds transferred under this section that the commissioner determines are not needed to pay expenses of the governor-elect.

Sec. 2. Minnesota Statutes 2008, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **Calculation of income.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities ~~and~~, dividends on equity securities, ~~and~~ interest earned on certified monthly earnings prior to the transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following ten fiscal years.

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

Sec. 3. Minnesota Statutes 2009 Supplement, section 16A.82, is amended to read:

16A.82 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~\$3,548,000 in fiscal year 2010; \$3,546,000 in fiscal year 2011; and \$10,054,000 in each fiscal year 2012 through 2019~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81

for replacement of the state's accounting and procurement systems, provided that the state is not obligated to continue such appropriation of funds or to make lease payments in any future fiscal year.

<u>Fiscal year 2010</u>	<u>\$ 2,828,038</u>
<u>Fiscal year 2011</u>	<u>\$ 3,063,950</u>
<u>Fiscal year 2012</u>	<u>\$ 8,967,850</u>
<u>Fiscal year 2013</u>	<u>\$ 8,968,950</u>
<u>Fiscal year 2014</u>	<u>\$ 8,970,850</u>
<u>Fiscal year 2015</u>	<u>\$ 8,971,150</u>
<u>Fiscal year 2016</u>	<u>\$ 8,966,450</u>
<u>Fiscal year 2017</u>	<u>\$ 8,967,500</u>
<u>Fiscal year 2018</u>	<u>\$ 8,970,750</u>
<u>Fiscal year 2019</u>	<u>\$ 8,968,500</u>

Of these appropriations, up to \$2,000 per year may be used to pay the annual trustee fees for the lease-purchase agreements authorized in this section and section 270C.145. Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, ~~2020~~ 2019.

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

Sec. 4. Minnesota Statutes 2008, section 16B.04, subdivision 2, is amended to read:

Subd. 2. **Powers and duties, generally.** Subject to other provisions of this chapter, the commissioner is authorized to:

- (1) supervise, control, review, and approve all state contracts and purchasing;
- (2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;
- (3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;
- (4) manage and control state property, real and personal;
- (5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;
- (6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;
- (7) provide central duplicating, printing, and mail facilities;
- (8) oversee publication of official documents and provide for their sale;
- (9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;

(10) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter; ~~and~~

(11) settle state employee workers' compensation claims; and

(12) operate a state recycling center.

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

Sec. 5. Minnesota Statutes 2008, section 16B.48, subdivision 2, is amended to read:

Subd. 2. **Purpose of funds.** Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;

(3) to operate a documents service as prescribed by section 16B.51;

(4) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

(5) to operate a materials handling service, including interagency mail and product delivery, solid waste removal, courier service, equipment rental, and vehicle and equipment maintenance;

(6) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

(7) to operate a records center and provide micrographics products and services; ~~and~~

(8) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government; and

(9) to operate a state recycling center.

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

Sec. 6. Minnesota Statutes 2008, section 79.34, subdivision 1, is amended to read:

Subdivision 1. **Conditions requiring membership.** The nonprofit association known as the Workers' Compensation Reinsurance Association may be incorporated under chapter 317A with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and is bound by the

plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in chapter 60D are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved under section 176.181 and each political subdivision that self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and is bound by its plan of operation; provided that:

(1) all affiliated companies within a holding company system, as determined by the commissioner of labor and industry in a manner consistent with the standards and definitions in chapter 60D, are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association; and

(2) all group self-insurers granted authority to self-insure pursuant to section 176.181 are considered single entities for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred after December 31, 1983, the state is a member of the reinsurance association and is bound by its plan of operation. The commissioner of ~~management and budget administration~~ represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The amounts necessary to pay the state's premiums required for coverage by the Workers' Compensation Reinsurance Association are appropriated from the general fund to the commissioner of ~~management and budget administration~~. The University of Minnesota shall pay its portion of workers' compensation reinsurance premiums directly to the Workers' Compensation Reinsurance Association. For the purposes of this section, "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of management and budget may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13 and 15. All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

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

Sec. 7. Minnesota Statutes 2008, section 115A.15, subdivision 6, is amended to read:

Subd. 6. **Use of funds.** ~~All funds appropriated by the state for the resource recovery program, all revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program, and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the general fund. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities.~~ will be used by the service provider to offset the cost of the recycling.

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

Sec. 8. Minnesota Statutes 2008, section 127A.46, is amended to read:

127A.46 CHANGE IN PAYMENT OF AIDS AND CREDITS.

If the commissioner of management and budget determines that modifications in the payment schedule would reduce the need for state short-term borrowing, the commissioner ~~shall~~ may modify payments to districts according to this section. The modifications must begin no sooner than September 1 of each fiscal year, and must remain in effect until no later than May 30 of that same fiscal year. In calculating the payment to a district pursuant to section 127A.45, subdivision 3, the commissioner may subtract the sum specified in that subdivision, plus an additional amount no greater than the following:

(1) the net cash balance in each of the district's operating funds on June 30 of the preceding fiscal year; minus

(2) the product of \$150 times the number of resident pupil units in the preceding fiscal year; minus

(3) the amount of payments made by the county treasurer during the preceding fiscal year, pursuant to section 276.11, which is considered revenue for the current school year. However, no additional amount shall be subtracted if the total of the net unappropriated fund balances in the district's four operating funds on June 30 of the preceding fiscal year, is less than the product of \$350 times the number of resident pupil units in the preceding fiscal year. The net cash balance must include all cash and investments, less certificates of indebtedness outstanding, and orders not paid for want of funds.

A district may appeal the payment schedule established by this section according to the procedures established in section 127A.45, subdivision 4.

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

Sec. 9. Minnesota Statutes 2009 Supplement, section 270C.145, is amended to read:

270C.145 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~\$855,000 in fiscal year 2010; \$853,000 in fiscal year 2011; and \$2,519,000 in each fiscal year 2012 through 2019 is~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81 for completing the purchase and development of an integrated tax software package; provided that the state is not obligated to continue the appropriation of funds or to make lease payments in any future fiscal year.

<u>Fiscal year 2010</u>	<u>\$ 670,213</u>
<u>Fiscal year 2011</u>	<u>\$ 748,550</u>
<u>Fiscal year 2012</u>	<u>\$ 2,250,150</u>
<u>Fiscal year 2013</u>	<u>\$ 2,251,550</u>
<u>Fiscal year 2014</u>	<u>\$ 2,250,350</u>
<u>Fiscal year 2015</u>	<u>\$ 2,251,550</u>
<u>Fiscal year 2016</u>	<u>\$ 2,249,950</u>

<u>Fiscal year 2017</u>	<u>\$ 2,251,250</u>
<u>Fiscal year 2018</u>	<u>\$ 2,249,000</u>
<u>Fiscal year 2019</u>	<u>\$ 2,247,000</u>

Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, 2019.

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 16, is amended to read:

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (f), who ~~prepared~~ is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ~~400~~ ten Minnesota individual income tax returns for the prior calendar year must file all Minnesota individual income tax returns prepared for ~~the current~~ that calendar year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of \$5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

EFFECTIVE DATE. This section is effective for tax returns filed after December 31, 2010.

ARTICLE 23

IMPLIED CONSENT PROVISIONS

Section 1. Minnesota Statutes 2008, section 169A.52, subdivision 6, is amended to read:

Subd. 6. **Notice of revocation or disqualification; review.** A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain ~~administrative and judicial~~ review by the commissioner and an administrative hearing review as provided in section 169A.53 (administrative ~~and judicial~~ review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 169A.53, is amended to read:

169A.53 COMMISSIONER REVIEW AND ADMINISTRATIVE AND JUDICIAL HEARING REVIEW OF LICENSE REVOCATION; APPEAL.

Subdivision 1. ~~Administrative Commissioner review.~~ (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of ~~judicial~~ an administrative review hearing under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

Subd. 2. ~~Petition for judicial administrative review hearing.~~ (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the court Office of Administrative Hearings for review. The petition must be filed with the district court administrator in the county where the alleged offense occurred, Office of Administrative Hearings, together with proof of service of a copy on the commissioner, and accompanied by the standard filing fee for civil actions provided under section 357.081. Responsive pleading is not required of the commissioner, and court fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The ~~reviewing court hearing officer~~ may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court hearing officer deems proper.

(d) ~~Judicial Reviews must be conducted according to the Rules of Civil Procedure, except that sections 14.57 to 14.69 and Minnesota Rules, parts 1400.5010 to 1400.8401, unless otherwise provided in this section.~~

(e) Prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

- (2) the test record or, in the case of blood or urine tests, the certificate of analysis;
- (3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and
- (4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the ~~court~~ administrative law judge.

Subd. 3. **Judicial Administrative review hearing; issues, order, appeal.** (a) ~~A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator~~ Office of Administrative Hearings shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator Office of Administrative Hearings may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held and receive testimony and argument by means of interactive television.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite, other than

marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The ~~court~~ hearing officer shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The ~~court~~ hearing officer shall file ~~its~~ the order within 14 days following the hearing. If the revocation or disqualification is sustained, the ~~court~~ hearing officer shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the ~~reviewing court~~ hearing officer may appeal the decision as provided in ~~the Rules of Appellate Procedure~~ chapter 14.

(g) The ~~civil~~ administrative review hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **Petition for ~~judicial~~ administrative review hearing; appeal.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative ~~and judicial~~ review of license revocation).

(b) Except as otherwise provided in this section, the ~~judicial~~ administrative review ~~and~~ hearing ~~are~~ is governed by section 169A.53 and must take place at the same time as any ~~judicial review~~ administrative review hearing of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The ~~reviewing court~~ hearing officer may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper. The ~~court~~ hearing officer shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The ~~court~~ hearing officer shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (~~judicial~~ administrative review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

(e) Any party aggrieved by the decision of the hearing officer may appeal the decision as provided in chapter 14.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 4. [357.081] OFFICE OF ADMINISTRATIVE HEARINGS; FEE.

The Office of Administrative Hearings shall charge and collect a filing fee of \$310 from a person filing a petition for an administrative review of a driver's license revocation under section 169A.53, vehicle impoundment under section 169A.60, or combined review. Notwithstanding section 14.54, the Office of Administrative Hearings shall transmit the fees monthly to the commissioner of management and budget for deposit in the state treasury and credit to the general fund.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. RULEMAKING AUTHORITY.

The Office of Administrative Hearings shall adopt rules under Minnesota Statutes, chapter 14, to implement sections 1 to 4. The rules must include, at a minimum, the procedure for hearings in regional offices, and the use of teleconferencing and highly qualified hearing officers. The Office of Administrative Hearings may adopt the initial set of these rules as exempt rules under Minnesota Statutes, section 14.386. These rules are permanent and effective upon publication in the state register until further amended or repealed by the Office of Administrative Hearings.

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

Sec. 6. REVISOR'S INSTRUCTION.

The revisor of statutes shall prepare a bill for introduction in the 2011 regular legislative session making any technical and conforming changes to Minnesota Statutes made necessary by sections 1 to 5.

ARTICLE 24

HEALTH CARE SERVICES

Section 1. Minnesota Statutes 2009 Supplement, section 256.969, subdivision 2b, 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. For the first three months of the rebased period beginning January 1, 2011, rates shall not 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. 2. Minnesota Statutes 2009 Supplement, 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 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.

(h) In addition to the reductions in paragraphs (b), (c), (d), (f), and (g), the total payment for fee-for-service admissions occurring on or after July 1, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced one percent from the current

statutory rates. 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 October 1, 2009, to reflect this reduction.

(i) In addition to the reductions in paragraphs (b), (c), (d), (g), and (h), 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 three percent from the current statutory rates. 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, 2011, to reflect this reduction.

Sec. 3. Minnesota Statutes 2008, section 256.969, subdivision 27, is amended to read:

Subd. 27. Quarterly payment adjustment. (a) In addition to any other payment under this section, the commissioner shall make the following payments effective July 1, 2007:

(1) for a hospital located in Minnesota and not eligible for payments under subdivision 20, with a medical assistance inpatient utilization rate greater than 17.8 percent of total patient days as of the base year in effect on July 1, 2005, a payment equal to 13 percent of the total of the operating and property payment rates;

(2) for a hospital located in Minnesota in a specified urban area outside of the seven-county metropolitan area and not eligible for payments under subdivision 20, with a medical assistance inpatient utilization rate less than or equal to 17.8 percent of total patient days as of the base year in effect on July 1, 2005, a payment equal to ten percent of the total of the operating and property payment rates. For purposes of this clause, the following cities are specified urban areas: Detroit Lakes, Rochester, Willmar, Alexandria, Austin, Cambridge, Brainerd, Hibbing, Mankato, Duluth, St. Cloud, Grand Rapids, Wyoming, Fergus Falls, Albert Lea, Winona, Virginia, Thief River Falls, and Wadena;

(3) for a hospital located in Minnesota but not located in a specified urban area under clause (2), with a medical assistance inpatient utilization rate less than or equal to 17.8 percent of total patient days as of the base year in effect on July 1, 2005, a payment equal to four percent of the total of the operating and property payment rates. A hospital located in Woodbury and not in existence during the base year shall be reimbursed under this clause; and

(4) in addition to any payments under clauses (1) to (3), for a hospital located in Minnesota and not eligible for payments under subdivision 20 with a medical assistance inpatient utilization rate of 17.9 percent of total patient days as of the base year in effect on July 1, 2005, a payment equal to eight percent of the total of the operating and property payment rates, and for a hospital located in Minnesota and not eligible for payments under subdivision 20 with a medical assistance inpatient utilization rate of 59.6 percent of total patient days as of the base year in effect on July 1, 2005, a payment equal to nine percent of the total of the operating and property payment rates. After making any ratable adjustments required under paragraph (b), the commissioner shall proportionately reduce payments under clauses (2) and (3) by an amount needed to make payments under this clause.

(b) The state share of payments under paragraph (a) shall be equal to federal reimbursements to the commissioner to reimburse expenditures reported under section 256B.199, subdivision 1. The commissioner shall ratably reduce or increase payments under this subdivision in order to ensure that these payments equal the amount of reimbursement received by the commissioner under section

256B.199, subdivision 1, except that payments shall be ratably reduced by an amount equivalent to the state share of a four percent reduction in MinnesotaCare and medical assistance payments for inpatient hospital services. Effective July 1, 2009, the ratable reduction shall be equivalent to the state share of a three percent reduction in these payments.

(c) The payments under paragraph (a) shall be paid quarterly based on each hospital's operating and property payments from the second previous quarter, beginning on July 15, 2007, or upon federal approval of federal reimbursements under section 256B.199, subdivision 1, whichever occurs later.

(d) The commissioner shall not adjust rates paid to a prepaid health plan under contract with the commissioner to reflect payments provided in paragraph (a).

(e) The commissioner shall maximize the use of available federal money for disproportionate share hospital payments and shall maximize payments to qualifying hospitals. In order to accomplish these purposes, the commissioner may, in consultation with the nonstate entities identified in section 256B.199, subdivision 1, adjust, on a pro rata basis if feasible, the amounts reported by nonstate entities under section 256B.199, subdivision 1, when application for reimbursement is made to the federal government, and otherwise adjust the provisions of this subdivision. The commissioner shall utilize a settlement process based on finalized data to maximize revenue under section 256B.199, subdivision 1, and payments under this section.

(f) For purposes of this subdivision, medical assistance does not include general assistance medical care.

Sec. 4. Minnesota Statutes 2008, section 256B.0625, subdivision 39, is amended to read:

Subd. 39. **Childhood immunizations.** Providers who administer pediatric vaccines within the scope of their licensure, and who are enrolled as a medical assistance provider, must enroll in the pediatric vaccine administration program established by section 13631 of the Omnibus Budget Reconciliation Act of 1993. Medical assistance shall pay an \$8.50 fee per dose for administration of the vaccine and for all other vaccines supplied at no cost by the federal government, including vaccines delivered in a pandemic situation to children eligible for medical assistance. Medical assistance does not pay for vaccines that are available at no cost from the pediatric vaccine administration program.

Sec. 5. Minnesota Statutes 2009 Supplement, section 256B.0651, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of sections 256B.0651 to 256B.0656 and 256B.0659, the terms in paragraphs (b) to (g) have the meanings given.

(b) "Activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (b).

(c) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person.

(d) "Home care services" means medical assistance covered services that are home health agency services, including skilled nurse visits; home health aide visits; ~~physical therapy, occupational therapy, respiratory therapy, and language speech pathology therapy;~~ private duty nursing; and personal care assistance.

(e) "Home residence," effective January 1, 2010, means a residence owned or rented by the recipient either alone, with roommates of the recipient's choosing, or with an unpaid responsible party or legal representative; or a family foster home where the license holder lives with the recipient and is not paid to provide home care services for the recipient except as allowed under sections 256B.0652, subdivision 10, and 256B.0654, subdivision 4.

(f) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(g) "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent on a ventilator for at least 30 consecutive days.

Sec. 6. Minnesota Statutes 2009 Supplement, section 256B.0653, subdivision 2, is amended to read:

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

(a) "Assessment" means an evaluation of the recipient's medical need for home health agency services by a registered nurse or appropriate therapist that is conducted within 30 days of a request.

~~(b) "Home care therapies" means occupational, physical, and respiratory therapy and speech language pathology services provided in the home by a Medicare-certified home health agency.~~

~~(c)~~ (b) "Home health agency services" means services delivered in the recipient's home residence, except as specified in section 256B.0625, by a home health agency to a recipient with medical needs due to illness, disability, or physical conditions.

~~(d)~~ (c) "Home health aide" means an employee of a home health agency who completes medically oriented tasks written in the plan of care for a recipient.

~~(e)~~ (d) "Home health agency" means a home care provider agency that is Medicare-certified.

~~(f) "Occupational therapy services" mean the services defined in Minnesota Rules, part 9505.0390.~~

~~(g) "Physical therapy services" mean the services defined in Minnesota Rules, part 9505.0390.~~

~~(h) "Respiratory therapy services" mean the services defined in chapter 147C and Minnesota Rules, part 4668.0003, subpart 37.~~

~~(i) "Speech language pathology services" mean the services defined in Minnesota Rules, part 9505.0390.~~

~~(j)~~ (e) "Skilled nurse visit" means a professional nursing visit to complete nursing tasks required due to a recipient's medical condition that can only be safely provided by a professional nurse to restore and maintain optimal health.

~~(k)~~ (f) "Store-and-forward technology" means telehomecare services that do not occur in real time via synchronous transmissions such as diabetic and vital sign monitoring.

~~(f)~~ (g) "Telehomecare" means the use of telecommunications technology via live, two-way interactive audiovisual technology which may be augmented by store-and-forward technology.

~~(m)~~ (h) "Telehomecare skilled nurse visit" means a visit by a professional nurse to deliver a skilled nurse visit to a recipient located at a site other than the site where the nurse is located and is used in combination with face-to-face skilled nurse visits to adequately meet the recipient's needs.

Sec. 7. Minnesota Statutes 2009 Supplement, section 256B.0653, subdivision 6, is amended to read:

Subd. 6. **Noncovered home health agency services.** The following are not eligible for payment under medical assistance as a home health agency service:

(1) telehomecare skilled nurses services that is communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners;

(2) the following skilled nurse visits:

(i) for the purpose of monitoring medication compliance with an established medication program for a recipient;

(ii) administering or assisting with medication administration, including injections, prefilling syringes for injections, or oral medication setup of an adult recipient, when, as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient or a family member is physically and mentally able to self-administer or refill a medication;

(iii) services done for the sole purpose of supervision of the home health aide or personal care assistant;

(iv) services done for the sole purpose to train other home health agency workers;

(v) services done for the sole purpose of blood samples or lab draw when the recipient is able to access these services outside the home; and

(vi) Medicare evaluation or administrative nursing visits required by Medicare;

(3) home health aide visits when the following activities are the sole purpose for the visit: companionship, socialization, household tasks, transportation, and education; and

~~(4) home care therapies provided in other settings such as a clinic, day program, or as an inpatient or when the recipient can access therapy outside of the recipient's residence.~~

Sec. 8. Minnesota Statutes 2009 Supplement, section 256B.0947, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Effective November 1, ~~2010~~ 2011, and subject to federal approval, medical assistance covers medically necessary, intensive nonresidential rehabilitative mental health services as defined in subdivision 2, for recipients as defined in subdivision 3, when the services are provided by an entity meeting the standards in this section.

Sec. 9. Minnesota Statutes 2009 Supplement, section 256B.199, is amended to read:

256B.199 PAYMENTS REPORTED BY GOVERNMENTAL ENTITIES.

Subdivision 1. Federal matching funds effective July 1, 2007. (a) Effective July 1, 2007, the commissioner shall apply for federal matching funds for the expenditures in paragraphs (b) and (c). These funds are appropriated to the commissioner for the payments under section 256.969, subdivision 27.

(b) The commissioner shall apply for federal matching funds for certified public expenditures as follows:

(1) Hennepin County, Hennepin County Medical Center, Ramsey County, Regions Hospital, the University of Minnesota, and Fairview-University Medical Center shall report quarterly to the commissioner beginning June 1, 2007, payments made during the second previous quarter that may qualify for reimbursement under federal law;

(2) based on these reports, the commissioner shall apply for federal matching funds. ~~These funds are appropriated to the commissioner for the payments under section 256.969, subdivision 27;~~ and

(3) by May 1 of each year, beginning May 1, 2007, the commissioner shall inform the nonstate entities listed in paragraph (a) of the amount of federal disproportionate share hospital payment money expected to be available in the current federal fiscal year.

(c) The commissioner shall apply for federal matching funds for general assistance medical care expenditures as follows:

(1) for hospital services occurring on or after July 1, 2007, general assistance medical care expenditures for fee-for-service inpatient and outpatient hospital payments made by the department shall be used to apply for federal matching funds, except as limited below:

(i) only those general assistance medical care expenditures made to an individual hospital that would not cause the hospital to exceed its individual hospital limits under section 1923 of the Social Security Act may be considered; and

(ii) general assistance medical care expenditures may be considered only to the extent of Minnesota's aggregate allotment under section 1923 of the Social Security Act; and

(2) all hospitals must provide any necessary expenditure, cost, and revenue information required by the commissioner as necessary for purposes of obtaining federal Medicaid matching funds for general assistance medical care expenditures.

(d) For the period from April 1, 2009, to September 30, 2010, the commissioner shall apply for additional federal matching funds available as disproportionate share hospital payments under the American Recovery and Reinvestment Act of 2009. These funds shall be made available as the state share of payments under section 256.969, subdivision 28. The entities required to report certified public expenditures under paragraph (b), clause (1), shall report additional certified public expenditures as necessary under this paragraph.

Subd. 2. Federal matching funds; certain MinnesotaCare expenditures. (a) Effective July 1, 2010, the commissioner shall apply for federal matching funds for MinnesotaCare expenditures for single adults and households with no children defined in section 256L.04, subdivision 7, occurring on or after April 1, 2010. These funds shall be deposited as provided under section 16A.724,

subdivision 3.

(b) The commissioner shall apply for federal matching funds under section 1923 of the Social Security Act for the expenditures in this section in the following sequence:

- (1) general assistance medical care expenditures under subdivision 1, paragraph (c);
- (2) MinnesotaCare expenditures for childless adults under paragraph (a); and
- (3) certified public expenditures under subdivision 1, paragraph (b).

Subd. 3. **Extent of federal match.** The commissioner shall apply for federal matching funds under section 1923 of the Social Security Act for the expenditures in this section only to the extent that Minnesota's disproportionate share hospital allotment has not been exhausted by the payments for the medical assistance disproportionate population adjustments defined in section 256.969, subdivision 9, paragraph (b).

Sec. 10. Minnesota Statutes 2008, section 256B.76, subdivision 4, is amended to read:

Subd. 4. **Critical access dental providers.** Effective for dental services rendered on or after January 1, 2002, the commissioner shall increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. For dental services rendered on or after July 1, 2007, the commissioner shall increase reimbursement by 30 percent above the reimbursement rate that would otherwise be paid to the critical access dental provider. The commissioner shall pay the health plan companies in amounts sufficient to reflect increased reimbursements to critical access dental providers as approved by the commissioner. ~~In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review~~ Dentists and dental clinics that operate with a mission to serve disproportionately large numbers of uninsured and underinsured individuals regardless of their ability to pay, may be designated as critical access dental providers. These providers are limited to:

~~(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;~~ nonprofit community clinics that:

- (i) have nonprofit status as specified in chapter 317A;
 - (ii) have tax B exempt status as provided in Internal Revenue Code, section 501(c)(3);
 - (iii) are established to provide oral health services to low-income, uninsured, high risk, underserved, or other special needs populations;
 - (iv) have professional staff familiar with cultural background of clients;
 - (v) charge for services on a sliding fee scale designed to provide assistance to low-income clients based on current poverty income guidelines and family size;
 - (vi) do not restrict access or services because of a client's financial limitations or public assistance status; and
 - (vii) have free care available as needed;
- ~~(2) the level of services provided by the dentist or dental clinic to patients covered by medical~~

~~assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and federally qualified health centers, rural health centers, or public health clinics;~~

~~(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area; state-operated dental clinics; and~~

~~(4) county-owned and operated hospital based dental clinics.~~

~~In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.~~

Sec. 11. Minnesota Statutes 2009 Supplement, section 256D.03, subdivision 4, 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) (3) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;~~

~~(5) (4) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;~~

~~(6) (5) eyeglasses and eye examinations provided by a physician or optometrist;~~

~~(7) (6) hearing aids;~~

~~(8) (7) prosthetic devices;~~

~~(9) (8) laboratory and X-ray services;~~

~~(10) (9) physician's services;~~

~~(11) (10) medical transportation except special transportation;~~

~~(12) (11) chiropractic services as covered under the medical assistance program;~~

~~(13) (12) podiatric services;~~

~~(14) (13) dental services as covered under the medical assistance program;~~

~~(15) (14) mental health services covered under chapter 256B;~~

~~(16) (15) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;~~

~~(17)~~ (16) medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;

~~(18)~~ (17) 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)~~ (18) 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)~~ (19) 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)~~ (20) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b;

~~(22)~~ (21) care coordination and patient education services provided by a community health worker according to section 256B.0625, subdivision 49; and

~~(23)~~ (22) 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.

(w) Effective January 1, 2011, rehabilitative and therapeutic services described in section 256B.0625, subdivisions 8, 8a, and 8b, provided in any outpatient setting are not covered under this subdivision.

Sec. 12. Minnesota Statutes 2008, section 256L.04, subdivision 7, is amended to read:

Subd. 7. **Single adults and households with no children.** (a) The definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 200 75 percent of the federal poverty guidelines.

~~(b) Effective July 1, 2009, the definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 250 percent of the federal poverty guidelines.~~

(b) Effective October 1, 2010, the definition of eligible persons includes all individuals and households with no children who have gross family incomes that are equal to or less than 75 percent of the federal poverty guidelines.

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

Sec. 13. Minnesota Statutes 2008, section 256L.05, subdivision 5, is amended to read:

Subd. 5. **Availability of private insurance.** The commissioner, in consultation with the commissioners of health and commerce, shall provide information regarding the availability of private health insurance coverage and the possibility of disenrollment under section 256L.07, subdivision 1, paragraphs (b) and (c), to all: ~~(1) families enrolled in the MinnesotaCare program whose gross family income is equal to or more than 225 percent of the federal poverty guidelines;~~ and ~~(2) single adults and households without children enrolled in the MinnesotaCare program whose gross family income is equal to or more than 165 percent of the federal poverty guidelines.~~ This information must be provided upon initial enrollment and annually thereafter. The commissioner shall also include information regarding the availability of private health insurance coverage in the notice of ineligibility provided to persons subject to disenrollment under section 256L.07, subdivision 1, paragraphs (b) and (c).

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

Sec. 14. Minnesota Statutes 2008, section 256L.07, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines are eligible without meeting the requirements of subdivision 2 and the four-month requirement in subdivision 3, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Beginning January 1, 2008, individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 200 75 percent of the federal poverty guidelines ~~or 250 percent of the federal poverty guidelines on or after July 1, 2009,~~ are no longer eligible for the program and shall be disenrolled by the commissioner.

For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.

(b) Notwithstanding paragraph (a), children may remain enrolled in MinnesotaCare if ten percent of their gross individual or gross family income as defined in section 256L.01, subdivision 4, is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

(c) Notwithstanding paragraphs (a) and (b), parents are not eligible for MinnesotaCare if gross household income exceeds \$57,500 for the 12-month period of eligibility.

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

Sec. 15. Minnesota Statutes 2008, section 256L.12, subdivision 9, is amended to read:

Subd. 9. Rate setting; performance withholds. (a) Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates.

(b) For services rendered on or after January 1, 2003, to December 31, 2003, the commissioner shall withhold .5 percent of managed care plan payments under this section pending completion of performance targets. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year if performance targets in the contract are achieved. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(c) For services rendered on or after January 1, 2004, the commissioner shall withhold five percent of managed care plan payments under this section pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, such as characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if performance targets in the contract are achieved. ~~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) For services rendered on or after January 1, 2011, the commissioner shall withhold an

additional three percent of managed care plan payments under this section. The withheld funds must be returned no sooner than July 1, and no later than July 31 of the following calendar year. The return of the withhold under this paragraph is not subject to the requirements of paragraph (b) or (c).

(e) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section.

Sec. 16. 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~~ 2011, MinnesotaCare enrollees shall pay premiums according to the premium scale specified in paragraph ~~(d)~~ (a) 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 percent of the federal poverty guidelines or less:~~

Federal Poverty Guideline Range	Percent of Average Gross Monthly Income
0-45%	minimum
46-54%	1.1%

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%	7.2%
275-300%	8.0%

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 17. **REPEALER.**

Minnesota Statutes 2008, section 256.969, subdivision 26, is repealed.

Minnesota Statutes 2009 Supplement, section 256B.0653, subdivision 5, is repealed.

ARTICLE 25

CONTINUING CARE

Section 1. Minnesota Statutes 2009 Supplement, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. **Elderly waiver cost limits.** (a) The monthly limit for the cost of waived services to an individual elderly waiver client except for individuals described in paragraph (b) shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by ~~the greater of any legislatively adopted home and community-based services percentage rate increase or the average statewide percentage increase in nursing facility payment rates~~ adjustment.

(b) The monthly limit for the cost of waived services to an individual elderly waiver client assigned to a case mix classification A under paragraph (a) with (1) no dependencies in activities of daily living, (2) only one dependency in bathing, dressing, grooming, or walking, or (3) a dependency score of less than three if eating is the only dependency, shall be the lower of the case mix classification amount for case mix A as determined under paragraph (a) or the case mix classification amount for case mix A effective on October 1, 2008, per month for all new participants enrolled in the program on or after July 1, 2009. This monthly limit shall be applied to

all other participants who meet this criteria at reassessment.

(c) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waived services exceeds the monthly limit established in paragraph (a) or (b), the annual cost of all waived services shall be determined. In this event, the annual cost of all waived services shall not exceed 12 times the monthly limit of waived services as described in paragraph (a) or (b).

Sec. 2. Minnesota Statutes 2008, section 256B.0915, subdivision 3b, is amended to read:

Subd. 3b. Cost limits for elderly waiver applicants who reside in a nursing facility. (a) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waived services, a monthly conversion limit for the cost of elderly waived services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.438 for ~~that resident~~ residents in the nursing facility where the resident currently resides, but in effect on June 30, 2010, and adjusted annually by any legislatively adopted percentage change in the elderly waiver services rates. That per diem shall be multiplied by 365, and divided by 12, less and reduced by the recipient's maintenance needs allowance as described in subdivision 1d. The initially approved conversion rate ~~may~~ must be adjusted by ~~the greater of~~ any subsequent legislatively adopted home and community-based services percentage rate ~~increase or the average statewide percentage increase in nursing facility payment rates~~ adjustment. The limit under this subdivision only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waived services on or after July 1, 1997. For conversions from the nursing home to the elderly waiver with consumer directed community support services, the conversion rate limit is equal to the nursing facility rate reduced by a percentage equal to the percentage difference between the consumer directed services budget limit that would be assigned according to the federally approved waiver plan and the corresponding community case mix cap, but not to exceed 50 percent.

(b) The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including ~~extended medical~~ specialized supplies and equipment and environmental ~~modifications and~~ accessibility adaptations; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

Sec. 3. Minnesota Statutes 2008, section 256B.434, is amended by adding a subdivision to read:

Subd. 22. Nursing facility rate reductions effective July 1, 2010. Effective July 1, 2010, the commissioner shall decrease the operating payment rates of each nursing facility reimbursed under

this section by 2.5 percent of the operating payment rate in effect on June 30, 2010.

Sec. 4. Minnesota Statutes 2008, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. **Prohibited practices.** A nursing facility is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances:

(1) the nursing facility may :

~~(1) (i) charge private paying residents a higher rate for a private room; and~~

~~(2) (ii) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner;~~

(2) effective July 1, 2010, through September 30, 2011, nursing facilities may charge private paying residents rates up to two percent higher than the allowable payment rate determined by the commissioner for the RUG's group currently assigned to the resident;

(3) effective October 1, 2011, through September 30, 2012, nursing facilities may charge private paying residents rates up to four percent higher than the allowable payment rate determined by the commissioner for the RUG's group currently assigned to the resident; and

(4) effective October 1, 2012, through September 30, 2013, nursing facilities may charge private paying residents rates up to six percent higher than the allowable payment rate determined by the commissioner for the RUG's group currently assigned to the resident.

Nothing in this section precludes a nursing facility from charging a rate allowable under the facility's single room election option under Minnesota Rules, part 9549.0060, subpart 11. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing facility that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing facility that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing facility may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue

a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Effective October 1, 2013, paragraph (a) no longer applies, except that special services, if offered, must be available to all residents of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility.

(c)(1) Charging, soliciting, accepting, or receiving from an applicant for admission to the facility, or from anyone acting in behalf of the applicant, as a condition of admission, expediting the admission, or as a requirement for the individual's continued stay, any fee, deposit, gift, money, donation, or other consideration not otherwise required as payment under the state plan. For residents on medical assistance, medical assistance payment according to the state plan must be accepted as payment in full for continued stay, except where otherwise provided for under statute;

(2) requiring an individual, or anyone acting in behalf of the individual, to loan any money to the nursing facility;

(3) requiring an individual, or anyone acting in behalf of the individual, to promise to leave all or part of the individual's estate to the facility; or

(4) requiring a third-party guarantee of payment to the facility as a condition of admission, expedited admission, or continued stay in the facility.

Nothing in this paragraph would prohibit discharge for nonpayment of services in accordance with state and federal regulations.

~~(e)~~ (d) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility. A nursing facility may require a resident to use pharmacies that utilize unit dose packing systems approved by the Minnesota Board of Pharmacy, and may require a resident to use pharmacies that are able to meet the federal regulations for safe and timely administration of medications such as systems with specific number of doses, prompt delivery of medications, or access to medications on a 24-hour basis. Notwithstanding the provisions of this paragraph, nursing facilities shall not restrict a resident's choice of pharmacy because the pharmacy utilizes a specific system of unit dose drug packing.

~~(d)~~ (e) Providing differential treatment on the basis of status with regard to public assistance.

~~(e)~~ (f) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance ~~or refusal to purchase special services. Discrimination in admissions~~ discrimination, services offered, or room assignment shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek information or assurances regarding current or future eligibility for public assistance for payment of nursing facility care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay

privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility is utilizing that information for any purpose prohibited by this paragraph.

~~(f)~~ (g) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

~~(g)~~ (h) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

(i) For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing facility or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing facility by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing facility or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 5. Minnesota Statutes 2008, section 256B.5012, is amended by adding a subdivision to read:

Subd. 9. **ICF/MR rate decreases effective July 1, 2010.** Effective July 1, 2010, the commissioner shall decrease the operating payment rate of each facility reimbursed under this section by 2.5 percent of the operating payment rates in effect on June 30, 2010. For each facility, the commissioner shall implement the rate reduction, based on occupied beds, using the percentage specified in this subdivision multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding date. The total rate reduction

shall include the adjustment provided in section 256B.5012, subdivision 7.

Sec. 6. COLA COMPENSATION REQUIREMENTS.

Effective July 1, 2010, providers who received rate increases under Minnesota Statutes, sections 256B.431, subdivision 41; 256B.434, subdivision 19; and 256B.5012, subdivision 7; Laws 2007, chapter 147, article 7, section 71, as amended by Laws 2008, chapter 363, article 15, section 17; and Laws 2008, chapter 363, article 18, section 3, subdivision 6, paragraph (c), for state fiscal years 2008 and 2009 are no longer required to continue or retain employee compensation or wage-related increases required by those sections or by other laws or statutes enacted earlier in which compensation-related increases were required as a condition of receiving a rate increase.

Sec. 7. PROVIDER RATE AND GRANT REDUCTIONS.

(a) The commissioner of human services shall decrease grants, allocations, reimbursement rates, or rate limits, as applicable, by 2.5 percent effective July 1, 2010, for services rendered on or after that date. County or tribal contracts for services specified in this section must be amended to pass through these rate reductions within 60 days of the effective date of the decrease and must be retroactive from the effective date of the rate decrease.

(b) The rate changes described in this section must be provided to:

(1) home and community-based waived services for persons with developmental disabilities or related conditions, including consumer-directed community supports, under Minnesota Statutes, section 256B.501;

(2) home and community-based waived services for the elderly, including consumer-directed community supports, under Minnesota Statutes, section 256B.0915;

(3) waived services under community alternatives for disabled individuals, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(4) community alternative care waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(5) traumatic brain injury waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(6) nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

(7) personal care services and qualified professional supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

(8) private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7;

(9) day training and habilitation services for adults with developmental disabilities or related conditions under Minnesota Statutes, sections 252.40 to 252.46, including the additional cost of rate adjustments on day training and habilitation services, provided as a social service under Minnesota Statutes, section 256M.60;

(10) alternative care services under Minnesota Statutes, section 256B.0913;

(11) semi-independent living services (SILS) under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I;

(12) community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication under Minnesota Statutes, section 256.01, subdivision 2; and deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233, 256C.25, and 256C.261; Laws 1985, First Special Session chapter 9, article 1; Laws 1997, chapter 203, article 1, section 2, subdivision 8, as amended by Laws 1997, First Special Session chapter 5, section 20; and Laws 2007, chapter 147, article 19, section 3, subdivision 8, as amended by Laws 2008, chapter 317, section 3;

(13) consumer support grants under Minnesota Statutes, section 256.476;

(14) family support grants under Minnesota Statutes, section 252.32;

(15) aging grants under Minnesota Statutes, sections 256.975 to 256.977, 256B.0917, and 256B.0928;

(16) disability linkage line grants under Minnesota Statutes, section 256.01, subdivision 24; and

(17) housing access grants under Minnesota Statutes, section 256B.0658.

(c) To implement the rate reductions in this section and in Minnesota Statutes, section 256B.434, subdivision 22, capitation rates paid by the commissioner to managed care organizations under Minnesota Statutes, section 256B.69, must reflect a 5.0 percent reduction for the specified services for the period January 1, 2011, through June 30, 2011, and a 2.5 percent reduction for those services on and after July 1, 2011.

ARTICLE 26

CHILDREN AND FAMILY SERVICES

Section 1. Minnesota Statutes 2008, section 119B.011, subdivision 15, is amended to read:

Subd. 15. **Income.** "Income" means earned or unearned income received by all family members, including public assistance cash benefits and at-home infant child care subsidy payments, unless specifically excluded and child support and maintenance distributed to the family under section 256.741, subdivision 15. The following are excluded from income: funds used to pay for health insurance premiums for family members, ~~Supplemental Security Income~~, scholarships, work-study income, and grants that cover costs or reimbursement for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; state and federal earned income tax credits; assistance specifically excluded as income by law; in-kind income such as food support, energy assistance, foster care assistance, medical assistance, child care assistance, and housing subsidies; earned income of full-time or part-time students up to the age of 19, who have not earned a high school diploma or GED high school equivalency diploma including earnings from summer employment; grant awards under the family subsidy program; nonrecurring lump-sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.741.

EFFECTIVE DATE. This section is effective March 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning ~~July 1, 2006~~ March 1, 2011, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund shall be the rate for like-care arrangements in the county effective January 1, ~~2006~~ 2010, ~~increased~~ decreased by ~~six~~ five percent.

~~(b) Rate changes shall be implemented for services provided in September 2006 unless a participant eligibility redetermination or a new provider agreement is completed between July 1, 2006, and August 31, 2006.~~

~~As necessary, appropriate notice of adverse action must be made according to Minnesota Rules, part 3400.0185, subparts 3 and 4.~~

~~New cases approved on or after July 1, 2006, shall have the maximum rates under paragraph (a), implemented immediately.~~

~~(e) (b)~~ Every year, the commissioner shall survey rates charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in counties. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

~~(d) (c)~~ A rate which includes a special needs rate paid under subdivision 3 or under a school readiness service agreement paid under section 119B.231, may be in excess of the maximum rate allowed under this subdivision.

~~(e) (d)~~ The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and disability care.

~~(f) (e)~~ When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

~~(g) (f)~~ All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

EFFECTIVE DATE. This section is effective March 1, 2011.

Sec. 3. Minnesota Statutes 2009 Supplement, section 256D.01, subdivision 1b, is amended to read:

Subd. 1b. **Rules Personal needs allowance.** ~~The commissioner shall adopt rules to set standards of assistance and methods of calculating payment to conform with subdivision 1a. When a recipient is a resident of a licensed residential facility, except shelters for the homeless or shelters under section 611A.31, the recipient is not eligible for a full general assistance standard. The state standard of assistance for those recipients who have personal needs not otherwise provided for is the personal needs allowance authorized for medical assistance recipients under section 256B.35.~~

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

Sec. 4. Minnesota Statutes 2008, section 256D.045, is amended to read:

256D.045 SOCIAL SECURITY NUMBER REQUIRED.

To be eligible for general assistance under sections 256D.01 to 256D.21, an individual must provide the individual's Social Security number to the county agency or submit proof that an application has been made. An individual who refuses to provide a Social Security number because of a well-established religious objection as described in Code of Federal Regulations, title 42, section 435.910, may be eligible for general assistance medical care under section 256D.03. ~~The provisions of this section do not apply to the determination of eligibility for emergency general assistance under section 256D.06, subdivision 2.~~ This provision applies to eligible children under the age of 18 effective July 1, 1997.

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

Sec. 5. Minnesota Statutes 2008, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** (a) Each assistance unit with income and resources less than the standard of assistance established by the commissioner and with a member who is a resident of the state shall be eligible for and entitled to general assistance if the assistance unit is:

~~(1) a person who is suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;~~

~~(2) a person whose presence in the home on a substantially continuous basis is required because of the professionally certified illness, injury, incapacity, or the age of another member of the household;~~

~~(3) (1) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is according to a plan developed or approved by the county agency through its director or designated representative; or~~

~~(4) (2) a person who resides in a shelter facility described in subdivision 3; section 611A.31.~~

~~(5) a person not described in clause (1) or (3) who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as developmentally disabled or mentally ill, and that condition prevents the person from obtaining or retaining employment;~~

~~(6) a person who has an application pending for, or is appealing termination of benefits from, the Social Security disability program or the program of supplemental security income for the aged, blind, and disabled, provided the person has a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;~~

~~(7) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;~~

~~(8) a person who has been assessed by a vocational specialist and, in consultation with the county~~

agency, has been determined to be unemployable for purposes of this clause; a person is considered employable if there exist positions of employment in the local labor market, regardless of the current availability of openings for those positions, that the person is capable of performing. The person's eligibility under this category must be reassessed at least annually. The county agency must provide notice to the person not later than 30 days before annual eligibility under this item ends, informing the person of the date annual eligibility will end and the need for vocational assessment if the person wishes to continue eligibility under this clause. For purposes of establishing eligibility under this clause, it is the applicant's or recipient's duty to obtain any needed vocational assessment;

(9) a person who is determined by the county agency, according to permanent rules adopted by the commissioner, to be learning disabled, provided that if a rehabilitation plan for the person is developed or approved by the county agency, the person is following the plan;

(10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, and only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency. For purposes of this clause, "legally emancipated" means a person under the age of 18 years who: (i) has been married; (ii) is on active duty in the uniformed services of the United States; (iii) has been emancipated by a court of competent jurisdiction; or (iv) is otherwise considered emancipated under Minnesota law, and for whom county social services has not determined that a social services case plan is necessary, for reasons other than the child has failed or refuses to cooperate with the county agency in developing the plan;

(11) a person who is eligible for displaced homemaker services, programs, or assistance under section 116L.96, but only if that person is enrolled as a full-time student;

(12) a person who lives more than four hours round-trip traveling time from any potential suitable employment;

(13) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(14) a person over age 18 whose primary language is not English and who is attending high school at least half time; or

(15) a person whose alcohol and drug addiction is a material factor that contributes to the person's disability; applicants who assert this clause as a basis for eligibility must be assessed by the county agency to determine if they are amenable to treatment; if the applicant is determined to be not amenable to treatment, but is otherwise eligible for benefits, then general assistance must be paid in vendor form, for the individual's shelter costs up to the limit of the grant amount, with the residual, if any, paid according to section 256D.09, subdivision 2a; if the applicant is determined to be amenable to treatment, then in order to receive benefits, the applicant must be in a treatment program or on a waiting list and the benefits must be paid in vendor form, for the individual's shelter costs, up to the limit of the grant amount, with the residual, if any, paid according to section 256D.09, subdivision 2a.

(b) As a condition of eligibility under paragraph (a), elauses clause (1), (3), (5), (8), and (9), the recipient must complete an interim assistance agreement and must apply for other maintenance

benefits as specified in section 256D.06, subdivision 5, and must comply with efforts to determine the recipient's eligibility for those other maintenance benefits.

(c) The burden of providing documentation for a county agency to use to verify eligibility for general assistance or for exemption from the food stamp employment and training program is upon the applicant or recipient. The county agency shall use documents already in its possession to verify eligibility, and shall help the applicant or recipient obtain other existing verification necessary to determine eligibility which the applicant or recipient does not have and is unable to obtain.

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

Sec. 6. Minnesota Statutes 2008, section 256D.07, is amended to read:

256D.07 TIME OF PAYMENT OF ASSISTANCE.

An applicant for general assistance or general assistance medical care authorized by section 256D.03, subdivision 3, shall be deemed eligible if the application and the verification of the statement on that application demonstrate that the applicant is within the eligibility criteria established by sections 256D.01 to 256D.21 and any applicable rules of the commissioner. Any person requesting general assistance or general assistance medical care shall be permitted by the county agency to make an application for assistance as soon as administratively possible and in no event later than the fourth day following the date on which assistance is first requested, and no county agency shall require that a person requesting assistance appear at the offices of the county agency more than once prior to the date on which the person is permitted to make the application. The application shall be in writing in the manner and upon the form prescribed by the commissioner and attested to by the oath of the applicant or in lieu thereof shall contain the following declaration which shall be signed by the applicant: "I declare that this application has been examined by me and to the best of my knowledge and belief is a true and correct statement of every material point." On the date that general assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. ~~A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue for up to 30 days following the date of application.~~ A determination of an applicant's eligibility for general assistance shall be made by the county agency as soon as the required verifications are received by the county agency and in no event later than 30 days following the date that the application is made. Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. General assistance shall be granted to an eligible applicant without the necessity of first securing action by the board of the county agency. The first month's grant must be computed to cover the time period starting with the date a signed application form is received by the county agency or from the date that the applicant meets all eligibility factors, whichever occurs later.

If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3, or the amount of the applicant's general assistance grant, the county agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received, or both.

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

Sec. 7. Minnesota Statutes 2008, section 256D.10, is amended to read:

256D.10 ADMINISTRATIVE HEARING PRIOR TO ADVERSE ACTION.

No grant of general assistance except one made pursuant to section ~~256D.06, subdivision 2; or~~ 256D.08, subdivision 2, shall be reduced, terminated, or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the county agency.

Nothing herein shall deprive a recipient of the right to full administrative and judicial review of an order or determination of a county agency as provided for in section 256.045 subsequent to any action taken by a county agency after a prior hearing.

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

Sec. 8. Minnesota Statutes 2009 Supplement, 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 licensed 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,~~ (b) 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)(c)~~ (c) Notwithstanding this subdivision, to access housing and services as provided in paragraph ~~(f)~~ (b), 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.

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

Sec. 9. [256D.441] SHORT-TERM AID PROGRAM.

Subdivision 1. **Short-term aid program.** A grant of short-term aid shall, to the extent funds are available, be made to an eligible single adult, married couple, or family where the recipient requests temporary assistance not exceeding 30 days if (1) a crisis situation appears to exist under written criteria adopted by the county agency, (2) the individual or family is ineligible for MFIP or DWP and has not received a consolidated fund emergency grant within 12 months of application, and (3) the individual or family's annual net income is no greater than 200 percent of the federal poverty guidelines for the previous calendar year.

Subd. 2. **County to advise.** If an applicant or recipient relates facts to the county agency which may be sufficient to constitute a crisis situation, the county agency shall, to the extent funds are available, advise the person of the procedure for applying for aid according to this subdivision. A short-term aid grant is available to a recipient not more than once in a 12-month period.

Subd. 3. **Limited funding.** (a) Funding for the short-term aid program is limited to the appropriation. Each fiscal year the commissioner shall allocate to counties the money appropriated for short-term aid grants based on each county agency's average share of state's former emergency general assistance expenditures and any subsequent short-term aid expenditures for the immediate past three fiscal years as determined by the commissioner. The commissioner may reallocate any unspent amounts to other counties. No county shall be allocated less than \$1,000 for the fiscal year.

(b) Any short-term aid expenditures by a county above the amount of the commissioner's allocation to the county must be made from county funds.

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

Sec. 10. Minnesota Statutes 2008, section 256D.47, is amended to read:

256D.47 PAYMENT METHODS.

Minnesota supplemental aid payments must be issued to the recipient, a protective payee, or a conservator or guardian of the recipient's estate in the form of county warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution. Minnesota supplemental aid payments must be issued regularly on the first day of the month. The supplemental aid warrants must be mailed only to the address at which the recipient resides, unless another address has been approved in advance by the county agency. Vendor payments must not be issued by the county agency except for nonrecurring emergency need payments; at the request of the recipient; ~~for special needs, other than special diets;~~ or when the agency determines the need for protective payments exist.

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

Sec. 11. Minnesota Statutes 2008, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. **Individual eligibility requirements.** (a) An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in ~~paragraph (a) or (b)~~ this subdivision.

~~(a)~~ (b) The individual is aged, blind, or is over 18 years of age and disabled as determined

under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the (1) exclusions and disregards of the SSI program, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver recipient under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

~~(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.~~

(c) Each assistance unit with income and resources less than the standard of assistance for group residential housing established by the commissioner who is a resident of the state shall be eligible for and entitled to group residential housing if the assistance unit is a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is according to a plan developed or approved by the county agency through its director or designated representative.

(d) As a condition of eligibility under paragraph (c), the recipient shall complete an interim assistance agreement and must apply for other maintenance benefits for which the individual may be eligible.

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

Sec. 12. Minnesota Statutes 2008, section 256J.13, subdivision 1, is amended to read:

Subdivision 1. **Minor child or pregnant woman.** The assistance unit must include at least one minor child or a pregnant woman. ~~If a minor child is a recipient of Supplemental Security Income or Minnesota supplemental aid, the assistance unit is eligible for MFIP, but the needs of the minor child receiving Supplemental Security Income or Minnesota supplemental aid must not be taken into account when the county agency determines the amount of the assistance payment to be paid to the assistance unit.~~

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

Sec. 13. Minnesota Statutes 2008, section 256J.20, subdivision 3, is amended to read:

Subd. 3. **Other property limitations.** To be eligible for MFIP, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing participants. The value of assets in clauses (1) to ~~(19)~~ (18) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to \$15,000. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the loan value of all additional vehicles and exclude the combined loan value of less than or equal to \$7,500. The county

agency shall apply any excess loan value as if it were equity value to the asset limit described in this section, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special equipment for a disabled member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

~~(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;~~

~~(7) (6)~~ the value of corrective payments, but only for the month in which the payment is received and for the following month;

~~(8) (7)~~ a mobile home or other vehicle used by an applicant or participant as the applicant's or participant's home;

~~(9) (8)~~ money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

~~(10) (9)~~ money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

~~(11) (10)~~ monthly assistance payments for the current month's or short-term emergency needs under section 256J.626, subdivision 2;

~~(12) (11)~~ the value of school loans, grants, or scholarships for the period they are intended to cover;

~~(13)~~ (12) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

~~(14)~~ (13) income received in a budget month through the end of the payment month;

~~(15)~~ (14) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

~~(16)~~ (15) the federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates and other federal or state tax rebates in the month received and the following month;

~~(17)~~ (16) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds;

~~(18)~~ (17) the assets of children ineligible to receive MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

~~(19)~~ (18) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

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

Sec. 14. Minnesota Statutes 2008, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **Income exclusions.** The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9555.5050 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0655, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

- (8)(i) federal earned income credits;
 - (ii) Minnesota working family credits;
 - (iii) state homeowners and renters credits under chapter 290A; and
 - (iv) federal or state tax rebates;
- (9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;
- (10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;
- (11) reimbursements for medical expenses that cannot be paid by medical assistance;
- (12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;
- (13) in-kind income, including any payments directly made by a third party to a provider of goods and services;
- (14) assistance payments to correct underpayments, but only for the month in which the payment is received;
- (15) payments for short-term emergency needs under section 256J.626, subdivision 2;
- (16) funeral and cemetery payments as provided by section 256.935;
- (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;
- (18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- ~~(19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;~~
- ~~(20) Minnesota supplemental aid, including retroactive payments;~~
- ~~(21) (19) proceeds from the sale of real or personal property;~~
- ~~(22) (20) state adoption assistance payments under section 259.67, and up to an equal amount of county adoption assistance payments;~~
- ~~(23) (21) state-funded family subsidy program payments made under section 252.32 to help families care for children with developmental disabilities, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;~~
- ~~(24) (22) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;~~

~~(25)~~ (23) rent rebates;

~~(26)~~ (24) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;

~~(27)~~ (25) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;

~~(28)~~ (26) MFIP child care payments under section 119B.05;

~~(29)~~ (27) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;

~~(30)~~ (28) income a participant receives related to shared living expenses;

~~(31)~~ (29) reverse mortgages;

~~(32)~~ (30) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

~~(33)~~ (31) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

~~(34)~~ (32) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

~~(35)~~ (33) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

~~(36)~~ (34) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

~~(37)~~ (35) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

~~(38)~~ (36) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);

~~(39)~~ (37) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;

~~(40)~~ (38) security and utility deposit refunds;

~~(41)~~ (39) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

~~(42)~~ (40) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on

MFIP with other children;

~~(43)~~ (41) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

~~(44)~~ (42) payments made to children eligible for relative custody assistance under section 257.85;

~~(45)~~ (43) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash;

~~(46)~~ (44) the principal portion of a contract for deed payment; and

~~(47)~~ (45) cash payments to individuals enrolled for full-time service as a volunteer under AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps National, and AmeriCorps NCCC.

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

Sec. 15. Minnesota Statutes 2008, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **Individuals who must be excluded from an assistance unit.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

~~(1) individuals who are recipients of Supplemental Security Income or Minnesota supplemental aid;~~

~~(2)~~ (1) individuals disqualified from the food stamp or food support program or MFIP, until the disqualification ends;

~~(3)~~ (2) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and

~~(4)~~ (3) children receiving ongoing monthly adoption assistance payments under section 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

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

Sec. 16. Minnesota Statutes 2008, section 256J.24, subdivision 4, is amended to read:

Subd. 4. **Individuals who may elect to be included in the assistance unit.** (a) The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the eligible caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

(b) Any minor child not related as a sibling, stepsibling, or adopted sibling to the minor child in the unit, but for whom there is an eligible caregiver may elect to be in the unit.

(c) A foster care provider of a minor child who is receiving federal, state, or local foster care

maintenance payments may elect to receive MFIP if the provider meets the definition of caregiver under section 256J.08, subdivision 11. If the provider chooses to receive MFIP, the spouse of the provider must also be included in the assistance unit with the provider. The provider and spouse are eligible for assistance even if the only minor child living in the provider's home is receiving foster care maintenance payments.

(d) The adult caregiver or caregivers of a minor parent are eligible to be a separate assistance unit from the minor parent and the minor parent's child when:

- (1) the adult caregiver or caregivers have no other minor children in the household;
- (2) the minor parent and the minor parent's child are living together with the adult caregiver or caregivers; and
- (3) the minor parent and the minor parent's child receive MFIP, ~~or would be eligible to receive MFIP, if they were not receiving SSI benefits.~~

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

Sec. 17. Minnesota Statutes 2008, section 256J.28, is amended by adding a subdivision to read:

Subd. 6. Choice of stand-alone food support for MFIP assistance units. MFIP assistance units that receive no MFIP cash benefits may be eligible for more food support under the stand-alone food support program than they are receiving under the food portion of MFIP. County financial workers shall discuss the option of receiving stand-alone food support with participants at the time they lose their MFIP cash benefit. If requested by the participant, financial workers shall calculate the benefit the family would receive on stand-alone food support. Participants are not required to complete a food support application when MFIP is canceled but they must provide the necessary verifications to determine eligibility for the stand-alone food support program.

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

Sec. 18. Minnesota Statutes 2008, section 256J.37, subdivision 3a, is amended to read:

Subd. 3a. Rental subsidies; unearned income. (a) Effective July 1, 2003, the county agency shall count \$50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

- (1) age 60 or older;
- (2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment; or
- (3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified

by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI or Retirement, Survivors, Disability Insurance (RSDI) recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

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

Sec. 19. Minnesota Statutes 2008, section 256J.37, subdivision 9, is amended to read:

Subd. 9. **Unearned income.** (a) The county agency must apply unearned income to the MFIP standard of need. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) The county agency must convert unearned income received on a periodic basis to monthly amounts by prorating the income over the number of months represented by the frequency of the payments. The county agency must begin counting the monthly amount in the month the periodic payment is received and budget it according to the assistance unit's budget cycle.

(c) The county agency must deduct the fees paid from SSI and Retirement, Survivors, Disability Insurance (RSDI) benefits to organizational representative payees.

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

Sec. 20. Minnesota Statutes 2009 Supplement, section 256J.575, subdivision 3, 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 or receiving 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.

~~(e)~~ (b) 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)~~ (c) 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.

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

Sec. 21. Minnesota Statutes 2008, section 257.75, subdivision 7, is amended to read:

Subd. 7. **Hospital and Department of Health distribution of educational materials; recognition form.** Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents ~~and~~, shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5, shall aid new parents in properly completing the recognition of parentage form, including providing notary services, and shall timely file the completed recognition of parentage form with the office of the state registrar of vital statistics. On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

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

Sec. 22. Minnesota Statutes 2008, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. **Disposition of license fee.** (a) Of the marriage license fee collected pursuant to subdivision 1b, paragraph (a), \$25 must be retained by the county. The local registrar must pay \$85 to the commissioner of management and budget to be deposited as follows:

- (1) ~~\$50~~ \$55 in the general fund;
- (2) \$3 in the state government special revenue fund to be appropriated to the commissioner of public safety for parenting time centers under section 119A.37;
- (3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255; and
- (4) \$25 in the special revenue fund is appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96; ~~and~~
- ~~(5) \$5 in the special revenue fund is appropriated to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under section 256.742.~~

(b) Of the \$40 fee under subdivision 1b, paragraph (b), \$25 must be retained by the county. The local registrar must pay \$15 to the commissioner of management and budget to be deposited as follows:

(1) \$5 as provided in paragraph (a), clauses (2) and (3); and

(2) \$10 in the special revenue fund is appropriated to the commissioner of employment and economic development for the displaced homemaker program under section 116L.96.

~~(e) The increase in the marriage license fee under paragraph (a) provided for in Laws 2004, chapter 273, and disbursement of the increase in that fee to the special fund for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under paragraph (a), clause (5), is contingent upon the receipt of federal funding under United States Code, title 42, section 1315, for purposes of the initiative.~~

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

Sec. 23. REVISOR'S INSTRUCTION.

The revisor of statutes, with the assistance of the Department of Human Services, shall prepare legislation for the 2011 legislative session that identifies additional laws or rules that require an amendment to effectuate the repeal of the general assistance program under Minnesota Statutes, sections 256D.01 to 256D.21 with the exception of provisions necessary to implement the personal needs allowance under sections 256D.01, subdivision 1b, and 256D.05, subdivision 1, paragraph (a), clauses (1) and (2). The legislation must include any cross-reference corrections, including corrections to punctuation and grammar, that are required as a result of the repeal.

Sec. 24. REPEALER.

(a) Minnesota Statutes 2008, sections 256.742; and 256.979, subdivision 8, are repealed.

(b) Minnesota Statutes 2008, sections 256D.06, subdivision 2; and 256D.46, are repealed effective December 1, 2010.

(c) Minnesota Rules, parts 9500.1200; 9500.1202; 9500.1206, subparts 1, 1a, 2, 3, 4a, 4b, 5, 5a, 6, 6a, 6b, 7a, 7b, 8, 8a, 9, 9a, 9b, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12g, 12h, 12k, 13a, 14, 14a, 15, 15a, 15b, 15c, 15d, 16a, 17, 18, 18a, 18b, 18c, 18d, 19a, 19b, 21, 22a, 22b, 23, 23a, 24, 24a, 24b, 25, 25a, 25b, 25c, 25d, 25e, 25f, 26, 26b, 26c, 28a, 28b, 28c, 28d, 28e, 29, 29a, 29b, 30, 32, 32b, 32c, 32d, 32e, 32f, and 33; 9500.1211; 9500.1213; 9500.1215; 9500.1219, subparts 1, 2, 3, and 4; 9500.1221; 9500.1223, subparts 1, 2, 3, and 5; 9500.1225; 9500.1226, subparts 1, 5, 6, 7, 8, and 9; 9500.1231; 9500.1232, subpart 4; 9500.1233, subparts 1, 2, 3, and 5; 9500.1237, subparts 1, 2, 4, and 6; 9500.1239; 9500.1243; 9500.1245, subparts 1, 2, 3, 4, 5, 6, and 7; 9500.1248, subpart 3; 9500.1250; 9500.1254, subparts 1, 2, 4, 5, 6, and 7; 9500.1259, subparts 2, 3, and 4; 9500.1261; and 9500.1272, are repealed effective December 1, 2010.

ARTICLE 27

DEPARTMENT OF HEALTH

Section 1. Minnesota Statutes 2008, section 62J.04, subdivision 3, is amended to read:

Subd. 3. **Cost containment duties.** The commissioner shall:

(1) establish statewide and regional cost containment goals for total health care spending under this section and collect data as described in sections 62J.38 to ~~62J.41~~ 62J.40 to monitor statewide achievement of the cost containment goals;

(2) divide the state into no fewer than four regions, with one of those regions being the Minneapolis/St. Paul metropolitan statistical area but excluding Chisago, Isanti, Wright, and Sherburne Counties, for purposes of fostering the development of regional health planning and coordination of health care delivery among regional health care systems and working to achieve the cost containment goals;

(3) monitor the quality of health care throughout the state and take action as necessary to ensure an appropriate level of quality;

(4) issue recommendations regarding uniform billing forms, uniform electronic billing procedures and data interchanges, patient identification cards, and other uniform claims and administrative procedures for health care providers and private and public sector payers. In developing the recommendations, the commissioner shall review the work of the work group on electronic data interchange (WEDI) and the American National Standards Institute (ANSI) at the national level, and the work being done at the state and local level. The commissioner may adopt rules requiring the use of the Uniform Bill 82/92 form, the National Council of Prescription Drug Providers (NCPDP) 3.2 electronic version, the Centers for Medicare and Medicaid Services 1500 form, or other standardized forms or procedures;

(5) undertake health planning responsibilities;

(6) authorize, fund, or promote research and experimentation on new technologies and health care procedures;

(7) within the limits of appropriations for these purposes, administer or contract for statewide consumer education and wellness programs that will improve the health of Minnesotans and increase individual responsibility relating to personal health and the delivery of health care services, undertake prevention programs including initiatives to improve birth outcomes, expand childhood immunization efforts, and provide start-up grants for worksite wellness programs;

(8) undertake other activities to monitor and oversee the delivery of health care services in Minnesota with the goal of improving affordability, quality, and accessibility of health care for all Minnesotans; and

(9) make the cost containment goal data available to the public in a consumer-oriented manner.

Sec. 2. Minnesota Statutes 2008, section 62J.17, subdivision 4a, is amended to read:

Subd. 4a. **Expenditure reporting.** Each hospital, outpatient surgical center, and diagnostic imaging center, ~~and physician clinic~~ shall report annually to the commissioner on all major spending commitments, in the form and manner specified by the commissioner. The report shall include the following information:

(a) a description of major spending commitments made during the previous year, including the total dollar amount of major spending commitments and purpose of the expenditures;

(b) the cost of land acquisition, construction of new facilities, and renovation of existing facilities;

(c) the cost of purchased or leased medical equipment, by type of equipment;

(d) expenditures by type for specialty care and new specialized services;

(e) information on the amount and types of added capacity for diagnostic imaging services, outpatient surgical services, and new specialized services; and

(f) information on investments in electronic medical records systems.

For hospitals and outpatient surgical centers, this information shall be included in reports to the commissioner that are required under section 144.698. For diagnostic imaging centers, this information shall be included in reports to the commissioner that are required under section 144.565. ~~For physician clinics, this information shall be included in reports to the commissioner that are required under section 62J.41. For all other health care providers that are subject to this reporting requirement, reports must be submitted to the commissioner by March 1 each year for the preceding calendar year.~~

Sec. 3. Minnesota Statutes 2008, section 62J.692, subdivision 4, is amended to read:

Subd. 4. **Distribution of funds.** (a) Following the distribution described under paragraph (b), the commissioner shall annually distribute the available medical education funds to all qualifying applicants based on a distribution formula that reflects a summation of two factors:

(1) a public program volume factor, which is determined by the total volume of public program revenue received by each training site as a percentage of all public program revenue received by all training sites in the fund pool; and

(2) a supplemental public program volume factor, which is determined by providing a supplemental payment of 20 percent of each training site's grant to training sites whose public program revenue accounted for at least 0.98 percent of the total public program revenue received by all eligible training sites. Grants to training sites whose public program revenue accounted for less than 0.98 percent of the total public program revenue received by all eligible training sites shall be reduced by an amount equal to the total value of the supplemental payment.

Public program revenue for the distribution formula includes revenue from medical assistance, prepaid medical assistance, general assistance medical care, and prepaid general assistance medical care. Training sites that receive no public program revenue are ineligible for funds available under this subdivision. For purposes of determining training-site level grants to be distributed under paragraph (a), total statewide average costs per trainee for medical residents is based on audited clinical training costs per trainee in primary care clinical medical education programs for medical residents. Total statewide average costs per trainee for dental residents is based on audited clinical training costs per trainee in clinical medical education programs for dental students. Total statewide average costs per trainee for pharmacy residents is based on audited clinical training costs per trainee in clinical medical education programs for pharmacy students.

(b) \$5,350,000 of the available medical education funds shall be distributed as follows:

(1) \$1,475,000 to the University of Minnesota Medical Center-Fairview;

(2) \$2,075,000 to the University of Minnesota School of Dentistry; and

(3) \$1,800,000 to the Academic Health Center.

(c) Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

(d) Funds shall be distributed to the sponsoring institutions indicating the amount to be distributed to each of the sponsor's clinical medical education programs based on the criteria in this subdivision and in accordance with the commissioner's approval letter. Each clinical medical education program must distribute funds allocated under paragraph (a) to the training sites as specified in the commissioner's approval letter. Sponsoring institutions, which are accredited through an organization recognized by the Department of Education or the Centers for Medicare and Medicaid Services, may contract directly with training sites to provide clinical training. To ensure the quality of clinical training, those accredited sponsoring institutions must:

(1) develop contracts specifying the terms, expectations, and outcomes of the clinical training conducted at sites; and

(2) take necessary action if the contract requirements are not met. Action may include the withholding of payments under this section or the removal of students from the site.

(e) Any funds not distributed in accordance with the commissioner's approval letter must be returned to the medical education and research fund within 30 days of receiving notice from the commissioner. The commissioner shall distribute returned funds to the appropriate training sites in accordance with the commissioner's approval letter.

(f) A maximum of \$150,000 of the funds dedicated to the commissioner under section 297F.10, subdivision 1, clause (2), may be used by the commissioner for administrative expenses associated with implementing this section.

(g) Beginning in fiscal year 2011, the amounts distributed in paragraph (b) shall be reduced proportionally to achieve a state share reduction of \$1,500,000.

Sec. 4. Minnesota Statutes 2008, section 150A.22, is amended to read:

150A.22 DONATED DENTAL SERVICES.

(a) Within available appropriations, the commissioner of health ~~shall~~ may contract with the Minnesota Dental Association, or another appropriate and qualified organization to develop and operate a donated dental services program to provide dental care to public program recipients and the uninsured through dentists who volunteer their services without compensation. As part of the contract, the commissioner shall include specific performance and outcome measures that the contracting organization must meet. The donated dental services program shall:

(1) establish a network of volunteer dentists, including dental specialties, to donate dental services to eligible individuals;

(2) establish a system to refer eligible individuals to the appropriate volunteer dentists; and

(3) develop and implement a public awareness campaign to educate eligible individuals about the availability of the program.

(b) Available funding for the program may be used for administrative or technical support. The organization contracting with the commissioner shall provide an annual report that accounts for funding appropriated to the program by the state, documents the number of individuals served by the program and the number of dentists participating as program providers, and provides data on meeting the specific performance and outcome measures identified by the commissioner.

Sec. 5. Minnesota Statutes 2009 Supplement, section 157.16, subdivision 3, is amended to read:

Subd. 3. **Establishment fees; definitions.** (a) The following fees are required for food and beverage service establishments, youth camps, hotels, motels, lodging establishments, public pools, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, public pools, and resorts shall pay an annual base fee of \$150.

(c) A special event food stand shall pay a flat fee of \$50 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, public pool, and resort shall pay an additional annual fee for each fee category, additional food service, or required additional inspection specified in this paragraph:

(1) Limited food menu selection, \$60. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, \$120. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or
- (v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, \$310. "Medium establishment" means a fee category that meets one or more of the following:

(i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;

(ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or

(iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, \$540. "Large establishment" means either:

(i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or

(ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$60.

(6) Beer or wine table service, \$60. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, \$165.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$10, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$1,000. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public pool, \$325; each additional public pool, \$175. "Public pool" means a fee category that has the meaning given in section 144.1222, subdivision 4.

(10) First spa, \$175; each additional spa, \$100. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, \$150. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.

(13) Additional inspection fee, \$360. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee for review of construction plans must accompany the initial license application for restaurants, hotels, motels, lodging establishments, resorts, seasonal food stands, and mobile food units. The fee for this construction plan review is as follows:

Service Area	Type	Fee
Food	limited food menu	\$275
	small establishment	\$400
	medium establishment	\$450
	large food establishment	\$500
	additional food service	\$150
Transient food service	food cart	\$250
	seasonal permanent food stand	\$250
	seasonal temporary food stand	\$250
	mobile food unit	\$350
Alcohol	beer or wine table service	\$150
	alcohol service from bar	\$250
Lodging	less than 25 rooms	\$375
	25 to less than 100 rooms	\$400
	100 rooms or more	\$500
	less than five cabins	\$350
	five to less than ten cabins	\$400
	ten cabins or more	\$450

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, resorts, seasonal food stands, and mobile food units are extensively remodeled, a fee must be submitted with the remodeling plans. The fee for this construction plan review is as follows:

Service Area	Type	Fee
Food	limited food menu	\$250
	small establishment	\$300
	medium establishment	\$350
	large food establishment	\$400
	additional food service	\$150

8708	JOURNAL OF THE SENATE	[77TH DAY
Transient food service	food cart	\$250
	seasonal permanent food stand	\$250
	seasonal temporary food stand	\$250
	mobile food unit	\$250
Alcohol	beer or wine table service	\$150
	alcohol service from bar	\$250
Lodging	less than 25 rooms	\$250
	25 to less than 100 rooms	\$300
	100 rooms or more	\$450
	less than five cabins	\$250
	five to less than ten cabins	\$350
	ten cabins or more	\$400

(g) Special event food stands are not required to submit construction or remodeling plans for review.

(h) Youth camps shall pay an annual single fee for food and lodging as follows:

- (1) camps with up to 99 campers, \$325;
- (2) camps with 100 to 199 campers, \$550; and
- (3) camps with 200 or more campers, \$750.

(i) A youth camp which pays fees under paragraph (d) of this subdivision is not required to pay fees under paragraph (h) of this subdivision.

Sec. 6. Minnesota Statutes 2008, section 297F.10, subdivision 1, is amended to read:

Subdivision 1. **Tax and use tax on cigarettes.** Revenue received from cigarette taxes, as well as related penalties, interest, license fees, and miscellaneous sources of revenue shall be deposited by the commissioner in the state treasury and credited as follows:

(1) \$22,220,000 for fiscal year 2006 and \$22,250,000 for fiscal year 2007 and each year thereafter must be credited to the Academic Health Center special revenue fund hereby created and is annually appropriated to the Board of Regents at the University of Minnesota for Academic Health Center funding at the University of Minnesota; and

(2) \$8,553,000 for fiscal year 2006 and \$8,550,000 for fiscal year 2007 and each year thereafter
The following amounts must be credited to the medical education and research costs account hereby created in the special revenue fund and is annually appropriated to the commissioner of health for distribution under section 62J.692, subdivision 4; and:

- (i) \$8,553,000 in fiscal year 2006;
- (ii) \$8,550,000 in fiscal year 2007 through fiscal year 2009;

(iii) \$7,550,000 in fiscal year 2010; and

(iv) \$7,050,000 in fiscal year 2011 and each year thereafter; and

(3) the balance of the revenues derived from taxes, penalties, and interest (under this chapter) and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 7. Minnesota Statutes 2009 Supplement, section 327.15, subdivision 3, is amended to read:

Subd. 3. Fees, manufactured home parks and recreational camping areas. (a) The following fees are required for manufactured home parks and recreational camping areas licensed under this chapter. Recreational camping areas and manufactured home parks shall pay the highest applicable base fee under paragraph (e) (b). The license fee for new operators of a manufactured home park or recreational camping area previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All manufactured home parks and recreational camping areas shall pay the following annual base fee:

(1) a manufactured home park, \$150; and

(2) a recreational camping area with:

(i) 24 or less sites, \$50;

(ii) 25 to 99 sites, \$212; and

(iii) 100 or more sites, \$300.

In addition to the base fee, manufactured home parks and recreational camping areas shall pay \$4 for each licensed site. This paragraph does not apply to special event recreational camping areas ~~or to~~. Operators of a manufactured home park or a recreational camping area also licensed under section 157.16 for the same location shall pay only one base fee, whichever is the highest of the base fees found in this section or section 157.16.

(c) In addition to the fee in paragraph (b), each manufactured home park or recreational camping area shall pay an additional annual fee for each fee category specified in this paragraph:

(1) Manufactured home parks and recreational camping areas with public swimming pools and spas shall pay the appropriate fees specified in section 157.16.

(2) Individual private sewer or water, \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with a subsurface sewage treatment system which uses subsurface treatment and disposal.

(d) The following fees must accompany a plan review application for initial construction of a manufactured home park or recreational camping area:

(1) for initial construction of less than 25 sites, \$375;

- (2) for initial construction of 25 to 99 sites, \$400; and
- (3) for initial construction of 100 or more sites, \$500.

(e) The following fees must accompany a plan review application when an existing manufactured home park or recreational camping area is expanded:

- (1) for expansion of less than 25 sites, \$250;
- (2) for expansion of 25 to 99 sites, \$300; and
- (3) for expansion of 100 or more sites, \$450.

Sec. 8. **REPEALER.**

Minnesota Statutes 2008, sections 62J.17, subdivisions 1, 3, 5a, 6a, and 8; 62J.321, subdivision 5a; 62J.381; and 62J.41, subdivisions 1 and 2, are repealed.

ARTICLE 28

E-HEALTH TECHNOLOGY

Section 1. Minnesota Statutes 2009 Supplement, section 62J.495, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** (a) "Certified electronic health record technology" means an electronic health record that is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and implementation specifications adopted under section 3004 as applicable.

(b) "Commissioner" means the commissioner of health.

(c) "Pharmaceutical electronic data intermediary" means any entity that provides the infrastructure to connect computer systems or other electronic devices utilized by prescribing practitioners with those used by pharmacies, health plans, third-party administrators, and pharmacy benefit managers in order to facilitate the secure transmission of electronic prescriptions, refill authorization requests, communications, and other prescription-related information between such entities.

(d) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment Act of 2009, including federal regulations adopted under that act.

(e) "Interoperable electronic health record" means an electronic health record that securely exchanges health information with another electronic health record system that meets requirements specified in subdivision 3, and national requirements for certification under the HITECH Act.

(f) "Qualified electronic health record" means an electronic record of health-related information on an individual that includes patient demographic and clinical health information and has the capacity to:

- (1) provide clinical decision support;
- (2) support physician order entry;

- (3) capture and query information relevant to health care quality; and
- (4) exchange electronic health information with, and integrate such information from, other sources.

Sec. 2. Minnesota Statutes 2009 Supplement, section 62J.495, subdivision 3, is amended to read:

Subd. 3. **Interoperable electronic health record requirements.** To meet the requirements of subdivision 1, hospitals and health care providers must meet the following criteria when implementing an interoperable electronic health records system within their hospital system or clinical practice setting.

- (a) The electronic health record must be a qualified electronic health record.
- (b) The electronic health record must be certified by the Office of the National Coordinator pursuant to the HITECH Act. This criterion only applies to hospitals and health care providers ~~only~~ if a certified electronic health record product for the provider's particular practice setting is available. This criterion shall be considered met if a hospital or health care provider is using an electronic health records system that has been certified within the last three years, even if a more current version of the system has been certified within the three-year period.
- (c) The electronic health record must meet the standards established according to section 3004 of the HITECH Act as applicable.
- (d) The electronic health record must have the ability to generate information on clinical quality measures and other measures reported under sections 4101, 4102, and 4201 of the HITECH Act.
- (e) The electronic health record system must be connected to a state-certified health information organization either directly or through a connection facilitated by a state-certified health data intermediary as defined in section 62J.498.
- ~~(e)~~ (f) A health care provider who is a prescriber or dispenser of legend drugs must have an electronic health record system that meets the requirements of section 62J.497.

Sec. 3. **[62J.498] HEALTH INFORMATION EXCHANGE.**

Subdivision 1. **Definitions.** The following definitions apply to sections 62J.498 to 62J.4982:

- (a) "Clinical transaction" means any meaningful use transaction that is not covered by section 62J.536.
- (b) "Commissioner" means the commissioner of health.
- (c) "Direct health information exchange" means the electronic transmission of health-related information through a direct connection between the electronic health record systems of health care providers without the use of a health data intermediary.
- (d) "Health care provider" or "provider" means a health care provider or provider as defined in section 62J.03, subdivision 8.
- (e) "Health data intermediary" means an entity that provides the infrastructure to connect computer systems or other electronic devices used by health care providers, laboratories, pharmacies, health plans, third-party administrators, or pharmacy benefit managers to facilitate the

secure transmission of health information, including pharmaceutical electronic data intermediaries as defined in section 62J.495. This does not include health care providers engaged in direct health information exchange.

(f) "Health information exchange" means the electronic transmission of health-related information between organizations according to nationally recognized standards.

(g) "Health information exchange service provider" means a health data intermediary or health information organization that has been issued a certificate of authority by the commissioner under section 62J.4981.

(h) "Health information organization" means an organization that oversees, governs, and facilitates the exchange of health-related information among organizations according to nationally recognized standards.

(i) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act as defined in section 62J.495.

(j) "Major participating entity" means:

(1) a participating entity that receives compensation for services that is greater than 30 percent of the health information organization's gross annual revenues from the health information exchange service provider;

(2) a participating entity providing administrative, financial, or management services to the health information organization, if the total payment for all services provided by the participating entity exceeds three percent of the gross revenue of the health information organization; and

(3) a participating entity that nominates or appoints 30 percent or more of the board of directors of the health information organization.

(k) "Meaningful use" means use of certified electronic health record technology that includes e-prescribing, and is connected in a manner that provides for the electronic exchange of health information and used for the submission of clinical quality measures as established by the Center for Medicare and Medicaid Services and the Minnesota Department of Human Services pursuant to sections 4101, 4102, and 4201 of the HITECH Act.

(l) "Meaningful use transaction" means an electronic transaction that a health care provider must exchange to receive Medicare or Medicaid incentives or avoid Medicare penalties pursuant to sections 4101, 4102, and 4201 of the HITECH Act.

(m) "Participating entity" means any of the following persons, health care providers, companies, or other organizations with which a health information organization or health data intermediary has contracts or other agreements for the provision of health information exchange service providers:

(1) a health care facility licensed under sections 144.50 to 144.56, a nursing home licensed under sections 144A.02 to 144A.10, and any other health care facility otherwise licensed under the laws of this state or registered with the commissioner;

(2) a health care provider, and any other health care professional otherwise licensed under the laws of this state or registered with the commissioner;

(3) a group, professional corporation, or other organization that provides the services of individuals or entities identified in clause (2), including but not limited to a medical clinic, a medical group, a home health care agency, an urgent care center, and an emergent care center;

(4) a health plan as defined in section 62A.011, subdivision 3; and

(5) a state agency as defined in section 13.02, subdivision 17.

(n) "Reciprocal agreement" means an arrangement in which two or more health information exchange service providers agree to share in-kind services and resources to allow for the pass-through of meaningful use transactions.

(o) "State-certified health data intermediary" means a health data intermediary that:

(1) provides a subset of the meaningful use transaction capabilities necessary for hospitals and providers to achieve meaningful use of electronic health records;

(2) is not exclusively engaged in the exchange of meaningful use transactions covered by section 62J.536; and

(3) has been issued a certificate of authority to operate in Minnesota.

(p) "State-certified health information organization" means a nonprofit health information organization that provides transaction capabilities necessary to fully support clinical transactions required for meaningful use of electronic health records that has been issued a certificate of authority to operate in Minnesota.

Subd. 2. Health information exchange oversight. (a) The commissioner shall establish a Health Information Exchange Oversight Board. The board shall be charged with advising the commissioner on regulatory action necessary to protect the public interest on matters pertaining to health information exchange. The board shall:

(1) review and recommend applications from health data intermediaries and health information organizations for certificates of authority to operate in Minnesota;

(2) work in consultation with the commissioner to provide ongoing monitoring to ensure compliance with criteria established under sections 62J.498 to 62J.4982;

(3) assist the commissioner's response to public complaints related to health information exchange services;

(4) make recommendations to the commissioner on enforcement actions including the imposition of fines, suspension, or revocation of certificates of authority as outlined in section 62J.4982;

(5) provide a biannual report to the commissioner on the status of health information exchange services that includes but is not limited to:

(i) recommendations on actions necessary to ensure that health information exchange services are adequate to meet the needs of Minnesota citizens and providers statewide;

(ii) recommendations on enforcement actions to ensure that health information exchange service providers act in the public interest without causing disruption in health information

exchange services;

(iii) recommendations on updates to criteria for obtaining certificates of authority under this section; and

(iv) recommendations on standard operating procedures for health information exchange, including but not limited to the management of consumer preferences;

(6) other duties as assigned by the commissioner.

(b) The Health Information Exchange Oversight Board shall consist of seven members, including:

(1) two public members who do not have a material financial interest in health information exchange services; and

(2) five health care stakeholders who:

(i) are broadly representative of the Minnesota health care community;

(ii) reflect the geography of the state; and

(iii) have at least three years of practical experience in the use of electronic health records or health information exchange services immediately preceding appointment.

(c) Members of the Health Information Exchange Oversight Board shall not be employed by the Department of Health, but the board shall be staffed by an employee of the department who shall serve as an ex officio, nonvoting member of the board. The board shall meet at least quarterly. The commissioner may require more frequent board meetings as needed. The compensation, terms, removal of members, and filling of vacancies on the board are governed by section 15.0575.

(d) The Health Information Exchange Oversight Board shall not be subject to chapter 13D when the board is considering contracts as described in section 62J.4981, subdivision 4, paragraph (a), clause (5).

(e) When the Health Information Exchange Oversight Board is actively considering a suspension or revocation of a certificate of authority as described in section 62J.4982, subdivision 3, all investigatory data that are collected, created, or maintained related to the suspension or revocation are classified as confidential data on individuals and as protected nonpublic data in the case of data not on individuals.

(f) After the commissioner makes a final determination regarding a suspension or revocation of a certificate of authority, all Health Information Exchange Oversight Board minutes, orders for hearing, findings of fact, conclusions of law, and the specification of the final disciplinary action, are classified as public data.

(g) The Health Information Exchange Oversight Board may make any data classified as protected nonpublic or confidential under this section accessible to an appropriate person or agency if the commissioner determines that failure to make the data accessible is likely to create a clear and present danger to public health or safety.

Sec. 4. [62J.4981] CERTIFICATE OF AUTHORITY TO PROVIDE HEALTH

INFORMATION EXCHANGE SERVICES.

Subdivision 1. Authority to require organizations to apply. The commissioner shall require an entity providing health information exchange services to apply for a certificate of authority under this section. An applicant may continue to operate until the commissioner acts on the application. If the application is denied, the applicant is considered a health information organization whose certificate of authority has been revoked under section 62J.4982, subdivision 2, paragraph (d).

Subd. 2. Certificate of authority for health data intermediaries. (a) A health data intermediary that provides health information exchange services for the transmission of one or more clinical transactions necessary for hospitals, providers, or eligible professionals to achieve meaningful use must be registered with the state and comply with requirements established in this section.

(b) Notwithstanding any law to the contrary, any corporation organized to do so may apply to the commissioner for a certificate of authority to establish and operate as a health data intermediary in compliance with this section. No person shall establish or operate a health data intermediary in this state, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a health data intermediary contract unless the organization has a certificate of authority or has an application under active consideration under this section.

(c) In issuing the certificate of authority, the commissioner shall determine whether the applicant for the certificate of authority has demonstrated that the applicant meets the following minimum criteria:

- (1) interoperate with at least one state-certified health information organization;
- (2) provide an option for Minnesota entities to connect to their services through at least one state-certified health information organization;
- (3) have a record locator service as defined in section 144.291, subdivision 2, paragraph (i), that is compliant with the requirements of section 144.293, subdivision 8, when conducting meaningful use transactions; and
- (4) hold reciprocal agreements with at least one state-certified health information organization to enable access to record locator services to find patient data, and for the transmission and receipt of meaningful use transactions consistent with the format and content required by national standards established by Centers for Medicare and Medicaid Services. Reciprocal agreements must meet the requirements established in subdivision 5.

Subd. 3. Certificate of authority for health information organizations. (a) A health information organization that provides all electronic transaction capabilities necessary to support clinical transactions necessary for meaningful use of electronic health records must obtain a certificate of authority from the commissioner and demonstrate compliance with the criteria in paragraph (c).

(b) Notwithstanding any law to the contrary, a nonprofit corporation organized to do so may apply for a certificate of authority to establish and operate a health information organization under this section. No person shall establish or operate a health information organization in this state, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with a health information organization or health information contract unless the organization has a certificate of authority under this section.

(c) In issuing the certificate of authority, the commissioner shall determine whether the applicant for the certificate of authority has demonstrated that the applicant meets the following minimum criteria:

- (1) the entity is a legally established, nonprofit organization;
- (2) appropriate insurance, including liability insurance, for the operation of the health information organization is in place and sufficient to protect the interest of the public and participating entities;
- (3) strategic and operational plans clearly address how the organization will expand technical capacity of the health information organization to support providers in achieving meaningful use of electronic health records over time;
- (4) the entity addresses the parameters to be used with participating entities and other health information organizations for meaningful use transactions, compliance with Minnesota law, and interstate health information exchange in trust agreements;
- (5) the entity's board of directors is comprised of members that broadly represent the health information organization's participating entities and consumers;
- (6) the entity maintains a professional staff responsible to the board of directors with the capacity to ensure accountability to the organization's mission;
- (7) the organization is compliant with criteria established under the Health Information Exchange Accreditation Program of the Electronic Healthcare Network Accreditation Commission (EHNAC) or equivalent criteria established by the commissioner;
- (8) the entity maintains a record locator service as defined in section 144.291, subdivision 2, paragraph (i), that is compliant with the requirements of section 144.293, subdivision 8, when conducting meaningful use transactions;
- (9) the organization demonstrates interoperability with all other state-certified health information organizations using nationally recognized standards;
- (10) the organization demonstrates compliance with all privacy and security requirements required by state and federal law; and
- (11) the organization uses financial policies and procedures consistent with generally accepted accounting principles and has an independent audit of the organization's financials on an annual basis.

(d) Health information organizations that have obtained a certificate of authority must:

- (1) meet the requirements established for connecting to the Nationwide Health Information Network (NHIN) within the federally mandated timeline or within a time frame established by the commissioner and published in the State Register. If the state timeline for implementation varies from the federal timeline, the State Register notice shall include an explanation for the variation;
- (2) annually submit strategic and operational plans for review by the Health Information Exchange Oversight Board that address:

(i) increasing adoption rates to include a sufficient number of participating entities to achieve financial sustainability; and

(ii) progress in achieving objectives included in previously submitted strategic and operational plans across the following domains: business and technical operations, technical infrastructure, legal and policy issues, finance, and organizational governance;

(3) develop and maintain a business plan that addresses:

(i) plans for ensuring the necessary capacity to support meaningful use transactions;

(ii) approach for attaining financial sustainability, including public and private financing strategies, and rate structures;

(iii) rates of adoption, utilization, and transaction volume, and mechanisms to support health information exchange; and

(iv) an explanation of methods employed to address the needs of community clinics, critical access hospitals, and free clinics in accessing health information exchange services;

(4) annually submit a rate plan outlining fee structures for health information exchange services for approval by the commissioner. The commissioner shall approve the rate plan if it:

(i) distributes costs equitably among users of health information services;

(ii) provides predictable costs for participating entities;

(iii) covers all costs associated with conducting the full range of meaningful use clinical transactions, including access to health information retrieved through other state-certified health information exchange service providers; and

(iv) provides for a predictable revenue stream for the health information organization and generates sufficient resources to maintain operating costs and develop technical infrastructure necessary to serve the public interest;

(5) enter into reciprocal agreements with all other state-certified health information organizations to enable access to record locator services to find patient data, and transmission and receipt of meaningful use transactions consistent with the format and content required by national standards established by Centers for Medicare and Medicaid Services. Reciprocal agreements must meet the requirements in subdivision 5; and

(6) comply with additional requirements for the certification or recertification of health information organizations that may be established by the commissioner, in consultation with the Health Information Exchange Oversight Board.

Subd. 4. Application for certificate of authority for health information exchange service providers. (a) Each application for a certificate of authority shall be in a form prescribed by the commissioner and verified by an officer or authorized representative of the applicant. Each application shall include the following:

(1) a copy of the basic organizational document, if any, of the applicant and of each major participating entity, such as the articles of incorporation, or other applicable documents, and all

amendments to it;

(2) a list of the names, addresses, and official positions of the following:

(i) all members of the board of directors, and the principal officers and, if applicable, shareholders of the applicant organization; and

(ii) all members of the board of directors, and the principal officers of each major participating entity and, if applicable, each shareholder beneficially owning more than ten percent of any voting stock of the major participating entity;

(3) the name and address of each participating entity and the agreed-upon duration of each contract or agreement if applicable;

(4) a copy of each standard agreement or contract intended to bind the participating entities and the health information organization. Contractual provisions shall be consistent with the purposes of this section, in regard to the services to be performed under the standard agreement or contract, the manner in which payment for services is determined, the nature and extent of responsibilities to be retained by the health information organization, and contractual termination provisions;

(5) a copy of each contract intended to bind major participating entities and the health information organization. The Health Information Exchange Oversight Board shall consider contract information provided under this section in a closed session as provided for in section 62J.498, subdivision 2, paragraph (c). Contract information filed with the commissioner under this section shall be nonpublic as defined in section 13.02, subdivision 9;

(6) a statement generally describing the health information organization, its health information exchange contracts, facilities, and personnel, including a statement describing the manner in which the applicant proposes to provide participants with comprehensive health information exchange services;

(7) financial statements showing the applicant's assets, liabilities, and sources of financial support, including a copy of the applicant's most recent certified financial statement;

(8) strategic and operational plans that specifically address how the organization will expand technical capacity of the health information organization to support providers in achieving meaningful use of electronic health records over time, a description of the proposed method of marketing the services, a schedule of proposed charges, and a financial plan that includes a three-year projection of the expenses and income and other sources of future capital;

(9) a statement reasonably describing the geographic area or areas to be served and the type or types of participants to be served;

(10) a description of the complaint procedures to be used as required under this section;

(11) a description of the mechanism by which participating entities will have an opportunity to participate in matters of policy and operation;

(12) a copy of any pertinent agreements between the health information organization and insurers, including liability insurers, demonstrating coverage is in place;

(13) a copy of the conflict of interest policy that applies to all members of the board of directors

and the principal officers of the health information organization; and

(14) other information as the commissioner may reasonably require to be provided.

(b) Thirty days after the receipt of the application for a certificate of authority, the commissioner shall determine whether or not the application submitted meets the requirements for completion in paragraph (a), and notify the applicant of any further information required for the application to be processed.

(c) Ninety days after the receipt of a complete application for a certificate of authority, the commissioner shall issue a certificate of authority to the applicant if the commissioner determines that the applicant meets the minimum criteria requirements of subdivision 2 for health data intermediaries or subdivision 3 for health information organizations. If the commissioner determines that the applicant is not qualified, the commissioner shall notify the applicant and specify the reasons for disqualification.

(d) Upon being granted a certificate of authority to operate as a health information organization, the organization must operate in compliance with the provisions of this section. Noncompliance may result in the imposition of a fine or the suspension or revocation of the certificate of authority according to section 62J.4982.

Subd. 5. **Reciprocal agreements between health information exchange entities.** (a) Reciprocal agreements between two health information organizations or between a health information organization and a health data intermediary must include a fair and equitable model for charges between the entities that:

(1) does not impede the secure transmission of transactions necessary to achieve meaningful use;

(2) does not charge a fee for the exchange of meaningful use transactions transmitted according to nationally recognized standards where no additional value-added service is rendered to the sending or receiving health information organization or health data intermediary either directly or on behalf of the client;

(3) is consistent with fair market value and proportionately reflects the value-added services accessed as a result of the agreement; and

(4) prevents health care stakeholders from being charged multiple times for the same service.

(b) Reciprocal agreements are subject to review and approval by the Health Information Exchange Oversight Board.

(c) Nothing in this section precludes a state-certified health information organization or state-certified health data intermediary from entering into contractual agreements for the provision of value-added services beyond meaningful use.

Sec. 5. [62J.4982] ENFORCEMENT AUTHORITY; COMPLIANCE.

Subdivision 1. **Penalties and enforcement.** (a) The commissioner may, for any violation of statute or rule applicable to a health information exchange service provider, levy an administrative penalty in an amount up to \$25,000 for each violation. In determining the level of an administrative penalty, the commissioner shall consider the following factors:

- (1) the number of participating entities affected by the violation;
- (2) the effect of the violation on participating entities' access to health information exchange services;
- (3) if only one participating entity is affected, the effect of the violation on the patients of that entity;
- (4) whether the violation is an isolated incident or part of a pattern of violations;
- (5) the economic benefits derived by the health information organization or a health data intermediary by virtue of the violation;
- (6) whether the violation hindered or facilitated an individual's ability to obtain health care;
- (7) whether the violation was intentional;
- (8) whether the violation was beyond the direct control of the health information exchange service provider;
- (9) any history of prior compliance with the provisions of this section, including violations;
- (10) whether and to what extent the health information exchange service provider attempted to correct previous violations;
- (11) how the health information exchange service provider responded to technical assistance from the commissioner provided in the context of a compliance effort; and
- (12) the financial condition of the health information exchange service provider including, but not limited to, whether the health information exchange service provider had financial difficulties that affected its ability to comply or whether the imposition of an administrative monetary penalty would jeopardize the ability of the health information exchange service provider to continue to deliver health information exchange services.

Reasonable notice in writing to the health information exchange service provider shall be given of the intent to levy the penalty and the reasons for them. A health information exchange service provider may have 15 days within which to contest whether the finding of facts constitute a violation of sections 62J.4981 and 62J.4982, according to the contested case and judicial review provisions of sections 14.57 to 14.69.

(b) If the commissioner has reason to believe that a violation of section 62J.4981 or 62J.4982 has occurred or is likely, the commissioner may confer with the persons involved before commencing action under subdivision 2. The commissioner may notify the health information exchange service provider and the representatives, or other persons who appear to be involved in the suspected violation, to arrange a voluntary conference with the alleged violators or their authorized representatives. The purpose of the conference is to attempt to learn the facts about the suspected violation and, if it appears that a violation has occurred or is threatened, to find a way to correct or prevent it. The conference is not governed by any formal procedural requirements, and may be conducted as the commissioner considers appropriate.

(c) The commissioner may issue an order directing a health information exchange service provider or a representative of a health information exchange service provider to cease and desist

from engaging in any act or practice in violation of sections 62J.4981 and 62J.4982.

(d) Within 20 days after service of the order to cease and desist, a health information exchange service provider may contest whether the finding of facts constitutes a violation of sections 62J.4981 and 62J.4982 according to the contested case and judicial review provisions of sections 14.57 to 14.69.

(e) In the event of noncompliance with a cease and desist order issued under this subdivision, the commissioner may institute a proceeding to obtain injunctive relief or other appropriate relief in Ramsey County District Court.

Subd. 2. Suspension or revocation of certificates of authority. (a) The commissioner may suspend or revoke a certificate of authority issued to a health data intermediary or health information organization under section 62J.4981 if the commissioner finds that:

(1) the health information exchange service provider is operating significantly in contravention of its basic organizational document, or in a manner contrary to that described in and reasonably inferred from any other information submitted under section 62J.4981, unless amendments to the submissions have been filed with and approved by the commissioner;

(2) the health information exchange service provider is unable to fulfill its obligations to furnish comprehensive health information exchange services as required under its health information exchange contract;

(3) the health information exchange service provider is no longer financially solvent or may not reasonably be expected to meet its obligations to participating entities;

(4) the health information exchange service provider has failed to implement a mechanism affording the participating entities an opportunity to participate in matters of policy and operation;

(5) the health information exchange service provider has failed to implement the complaint system in a manner designed to reasonably resolve valid complaints;

(6) the health information exchange service provider, or any person acting with its sanction, has advertised or merchandised its services in an untrue, misleading, deceptive, or unfair manner;

(7) the continued operation of the health information exchange service provider would be hazardous to its participating entities or the patients served by the participating entities; or

(8) the health information exchange service provider has otherwise failed to substantially comply with section 62J.4981 or with any other statute or administrative rule applicable to health information organizations, or has submitted false information in any report required under sections 62J.498 to 62J.4982.

(b) A certificate of authority shall be suspended or revoked only after meeting the requirements of subdivision 3.

(c) If the certificate of authority of a health information exchange service provider is suspended, the health information exchange service provider shall not, during the period of suspension, enroll any additional participating entities, and shall not engage in any advertising or solicitation.

(d) If the certificate of authority of a health information exchange service provider is

revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as necessary to the orderly conclusion of the affairs of the organization. The organization shall engage in no further advertising or solicitation. The commissioner may, by written order, permit further operation of the organization as the commissioner finds to be in the best interest of participating entities, to the end that participating entities will be given the greatest practical opportunity to access continuing health information exchange services.

Subd. 3. **Denial, suspension, and revocation; administrative procedures.** (a) When the commissioner has cause to believe that grounds for the denial, suspension, or revocation of a certificate of authority exists, the commissioner shall notify the health information exchange service provider in writing stating the grounds for denial, suspension, or revocation and setting a time within 20 days for a hearing on the matter.

(b) After a hearing before the Health Information Exchange Oversight Board, or upon the failure of the health information exchange service provider to appear at the hearing, the commissioner shall consider the recommendations of the Health Information Exchange Oversight Board and take action as deemed necessary and shall issue written findings that shall be mailed to the health information exchange service provider.

(c) If suspension or revocation is proposed according to this section, the commissioner must deliver, or send by certified mail with return receipt requested, to the health information exchange service provider written notice of the commissioner's intent to impose a penalty. This notice of proposed determination must include:

- (1) a reference to the statutory basis for the penalty;
- (2) a description of the findings of fact regarding the violations with respect to which the penalty is proposed;
- (3) the amount of the proposed penalty;
- (4) any circumstances described in subdivision 1, paragraph (a), that were considered in determining the amount of the proposed penalty;
- (5) instructions for responding to the notice, including a statement of the health information exchange service provider's right to a contested case proceeding and a statement that failure to request a contested case proceeding within 30 calendar days permits the imposition of the proposed penalty; and
- (6) the address to which the contested case proceeding request must be sent.

Subd. 4. **Coordination.** (a) The commissioner shall, to the extent possible, seek the advice of the Minnesota e-Health Advisory Committee, in the review and update of criteria for the certification and recertification of health information exchange service providers when implementing sections 62J.498 to 62J.4982.

(b) By January 1, 2011, the commissioner shall report to the governor and the legislature on the status of health information exchange in Minnesota, and provide recommendations on further action necessary to facilitate the secure electronic movement of health information among health providers that will enable Minnesota providers and hospitals to meet meaningful use exchange requirements.

Subd. 5. **Expedited rulemaking.** The commissioner may use the expedited rulemaking process under section 14.389 to carry out the duties of sections 62J.498 to 62J.4982. The commissioner shall be exempt from section 14.125 for purposes of this section.

Subd. 6. **Fees and monetary penalties.** (a) Every health information exchange service provider subject to sections 62J.4981 and 62J.4982 shall be assessed fees as follows:

(1) filing an application for certificate of authority to operate as a health information organization, \$15,000;

(2) filing an application for certificate of authority to operate as a health data intermediary, \$10,000;

(3) annual health information organization certificate fee, \$20,000;

(4) annual health data intermediary certificate fee, \$10,000; and

(5) fees for other filings, as specified by rule.

(b) Administrative monetary penalties imposed under this subdivision shall be deposited into a revolving fund and are appropriated to the commissioner for the purposes of sections 62J.498 to 62J.4982.

ARTICLE 29

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Section 1. SUMMARY OF APPROPRIATIONS.

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

	<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>General</u>	\$ (15,895,000)	\$	(142,886,000)	\$	(158,781,000)
<u>State Government Special Revenue</u>	(1,609,000)		(1,040,000)		(2,649,000)
<u>Health Care Access</u>	(1,525,000)		(156,840,000)		(158,365,000)
<u>Federal TANF</u>	-0-		28,000		28,000
<u>Total</u>	\$ (19,029,000)	\$	(272,766,000)	\$	(291,795,000)

Sec. 2. HEALTH AND HUMAN SERVICES APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 79, article 13, as amended by Laws 2009, chapter 173, article 2, to the agencies and for the purposes specified in this article. The appropriations are from the general fund and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment unless a

different effective date is explicit.

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

Sec. 3. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation **(14,921,000)** **(259,768,000)**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(13,819,000)	(142,253,000)
<u>State Government</u>		
<u>Special Revenue</u>	(8,000)	(16,000)
<u>Health Care Access</u>	(1,094,000)	(145,499,000)
<u>Federal TANF</u>	-0-	28,000,000

Working Family Credit Expenditures to be Claimed for TANF/MOE. The commissioner may count the following amounts of working family credit expenditures as TANF/MOE:

- (1) fiscal year 2011,;
- (2) fiscal year 2012,; and
- (3) fiscal year 2013,;

Notwithstanding any provision to the contrary, this rider expires June 30, 2013.

TANF Financing and Maintenance of Effort. The commissioner of human services, with the approval of the commissioner of management and budget, and after notification of the chairs of the relevant senate budget division and house of representatives finance division, may adjust the amount of TANF transfers between the MFIP transition year child care assistance program and MFIP grant programs within the fiscal year, and within the current biennium and the biennium ending June 30, 2013, to ensure that state

and federal match and maintenance of effort requirements are met. These transfers and amounts shall be reported to the chairs of the senate and house of representatives Finance Committees, the senate Health and Human Services Budget Division, the house of representatives Health Care and Human Services Finance Division, and Early Childhood Finance and Policy Division by December 1 of each fiscal year. Notwithstanding any provision to the contrary, this provision expires June 30, 2013.

Special Revenue Fund Transfers.

(1) Notwithstanding any law to the contrary, the commissioner shall transfer \$1,023,000 of the special revenue fund account balances to the general fund by June 30, 2010.

(2) The commissioner shall transfer \$905,000 of the special revenue fund earnings in fiscal years 2012 and 2013 to the general fund by June 30, 2013. Notwithstanding any contrary provision, this provision shall not expire.

(3) The actual transfers made under this rider must be separately identified and reported as part of the quarterly reporting of transfers to the chairs of the relevant senate budget division and house of representatives finance division.

The appropriation reductions for each purpose are shown in the following subdivisions.

Subd. 2. Agency Management; Financial Operations

(8,000) (16,000)

This appropriation reduction is from the state government special revenue fund.

Subd. 3. Revenue and Pass-Through Revenue Expenditures

172,000 49,580,000

TANF Funding for the Working Family Tax Credit. In addition to the amounts specified in Minnesota Statutes, section 290.0671, subdivision 6, \$172,000 of TANF

funds in fiscal year 2010 and \$49,580,000 of TANF funds in fiscal year 2011 are appropriated to the commissioner of human services to reimburse the cost of the working family tax credit for eligible families. Beginning January 1, 2011, the commissioner shall reimburse the general fund on a monthly basis according to a schedule based on the pattern of working family credit expenditures through June 20, 2011.

TANF Transfer to Federal Child Care and Development Fund. The following additional 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 2012, \$5,000,000; and

(2) fiscal year 2013, \$5,000,000.

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

<u>(a) MFIP and Diversionary Work Program Grants</u>	<u>-0-</u>	<u>(21,348,000)</u>
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This appropriation reduction is from the federal TANF fund.

<u>(b) Support Services Grants</u>	<u>-0-</u>	<u>-0-</u>
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<u>(c) MFIP Child Care Assistance Grants</u>	<u>-0-</u>	<u>(814,000)</u>
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<u>(d) Basic Sliding Fee Child Care Assistance Grants</u>	<u>(5,000,000)</u>	<u>(5,876,000)</u>
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Basic Sliding Fee Allocation. For calendar year 2011, a county may terminate child care assistance for families already receiving assistance if the county basic sliding fee allocation is reduced below the county's

allocation for calendar year 2010 by an amount that the county demonstrates cannot be absorbed without terminating assistance. The county must consult with and obtain approval from the commissioner before terminating assistance to families under this provision. If approved, the county must follow procedures outlined in Minnesota Rules, part 3400.0183, subpart 1, item B.

Base Adjustment. The general fund base is decreased by \$3,302,000 in fiscal year 2012 and decreased by \$3,553,000 in fiscal year 2013.

<u>(e) Child Support Enforcement Grants</u>	<u>-0-</u>	<u>(300,000)</u>
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Minnesota Healthy Marriage and Responsible Fatherhood Initiative Fee. Notwithstanding Minnesota Statutes, section 517.08, the balance and the fee revenue available to the commissioner of human services for the healthy marriage and responsible fatherhood initiative in the state government special revenue fund must be transferred to and deposited into the general fund by June 30 of each fiscal year.

<u>(f) General Assistance Grants</u>	<u>-0-</u>	<u>(21,294,000)</u>
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<u>(g) Minnesota Supplemental Aid Grants</u>	<u>-0-</u>	<u>(452,000)</u>
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<u>(h) Group Residential Housing Grants</u>	<u>-0-</u>	<u>(882,000)</u>
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<u>(i) Children's Mental Health Grants</u>	<u>(200,000)</u>	<u>(1,410,000)</u>
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<u>(j) Other Children and Economic Assistance Grants</u>	<u>-0-</u>	<u>5,592,000</u>
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Short-Term Aid Grants to Counties. Of the general fund appropriation, \$6,000,000 in fiscal year 2011 is for short-term aid grants under Minnesota Statutes, section 256D.441. The base for this program is \$11,000,000 in fiscal year 2012 and \$11,000,000 in fiscal year 2013.

Subd. 5. Children and Economic Assistance Management

(a) Children and Economic Assistance Administration

(172,000)

(232,000)

This appropriation reduction is from the federal TANF fund.

(b) Children and Economic Assistance Operations

(1,408,000)

(1,491,000)

Suspension of Food Support Retailer Fees.

Under the legislative approval requirement in Laws 1998, chapter 407, article 6, section 116, the commissioner may eliminate the transaction payment to retailers for electronic benefits transfer (EBT) costs. By January 15, 2011, the commissioner shall make a report and recommendation to the house of representatives and senate finance committees with jurisdiction over the supplemental nutrition assistance program on whether to reinstitute the fee effective July 1, 2011. The report must include information on EBT usage trends and retailer fee costs.

Subd. 6. Basic Health Care Grants

(a) MinnesotaCare Grants

-0-

(140,979,000)

This appropriation reduction is from the health care access fund.

(b) Medical Assistance Basic Health Care Grants - Families and Children

-0-

(27,635,000)

Medical Education Research Costs (MERC). In fiscal year 2011, the commissioner shall reduce the amount transferred to the medical education research fund under Minnesota Statutes, section 256B.69, subdivision 5c, paragraph (a), by \$18,802,463, so as to provide no amount for general distribution under Minnesota Statutes, section 62J.692, subdivision 7, clause (5). This is a onetime reduction.

(c) Medical Assistance Basic Health Care Grants - Elderly and Disabled

-0-

(16,221,000)

(d) Other Health Care Grants

Minnesota COBRA Premium Subsidy.

Unexpended funds appropriated in fiscal year 2010 for COBRA grants under Laws 2009, chapter 79, article 5, section 78, do not cancel and are available to the commissioner for fiscal year 2011 COBRA grant expenditures.

Subd. 7. Health Care Management**(a) Health Care Administration**(2,998,000)(5,320,000)**Minnesota Senior Health Options**

Reimbursement. Effective July 1, 2011, federal administrative reimbursement resulting from the Minnesota senior health options project is appropriated to the commissioner for this activity. Notwithstanding any contrary provision, this provision expires June 30, 2013.

Utilization Review. Effective July 1, 2011, federal administrative reimbursement resulting from prior authorization and inpatient admission certification by a professional review organization shall be dedicated to, and is appropriated to, the commissioner for these activities. A portion of these funds must be used for activities to decrease unnecessary pharmaceutical costs in medical assistance. Notwithstanding any contrary provision, this provision expires June 30, 2013.

(b) Health Care OperationsAppropriations by Fund

<u>General</u>	<u>-0-</u>	<u>2,000</u>
<u>Health Care Access</u>	<u>(1,094,000)</u>	<u>(4,520,000)</u>

Base Adjustment. The health care access fund base for health care operations is reduced by \$1,451,000 in fiscal year 2012 and \$1,581,000 in fiscal year 2013.

Subd. 8. Continuing Care Grants**(a) Aging and Adult Services Grants**-0-(272,000)

Base Adjustment. The general fund base for aging and adult services grants is reduced by \$268,000 in fiscal year 2012 and \$291,000 in fiscal year 2013.

(b) Alternative Care Grants

-0- (701,000)

Base Adjustment. The base for alternative care grants is reduced by \$164,000 in fiscal year 2012 and \$255,000 in fiscal year 2013.

(c) Medical Assistance Long-Term Care Facilities Grants

-0- (9,911,000)

(d) Medical Assistance Long-Term Care Waivers and Home Care Grants

-0- (23,636,000)

Manage Growth in Traumatic Brain Injury and Community Alternatives for Disabled Individuals Waivers. During the fiscal year beginning 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 six allocations per month and the CADI waiver to 60 allocations per month. The 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 the Developmental Disability (DD) Waiver. The commissioner shall manage the growth in the DD waiver by limiting the allocations included in the November 2010 forecast to six additional

diversion allocations each month for the calendar year that begins on January 1, 2011. Additional allocations must be made available for transfers authorized by the commissioner from the personal care assistance program of individuals having a home care rating of CS, MT, or HL. This provision is effective through December 31, 2011.

(e) Adult Mental Health Grants (3,700,000) (200,000)

Compulsive Gambling Special Revenue Account. \$149,000 for fiscal year 2010 and \$27,000 for fiscal year 2011 from the compulsive gambling special revenue account established under Minnesota Statutes, section 245.982, must be transferred and deposited into the general fund by June 30 of each respective fiscal year.

Compulsive Gambling Lottery Prize Fund Appropriation. Of the lottery prize fund appropriation for compulsive gambling, \$48,000 for fiscal year 2010 and \$47,000 for fiscal year 2011 must be transferred and deposited into the general fund by June 30 of each respective fiscal year.

(f) Deaf and Hard-of-Hearing Grants -0- (37,000)

Base Adjustment. The general fund base for deaf and hard-of-hearing grants is reduced by \$12,000 in fiscal year 2012 and \$9,000 in fiscal year 2013.

(g) Chemical Dependency Entitlement Grants -0- (5,300,000)

Consolidated Chemical Dependency Treatment Fund Balance. \$4,800,000 must be transferred from the consolidated chemical dependency treatment fund and deposited into the general fund by June 30, 2010.

(h) Chemical Dependency Nonentitlement Grants (389,000) -0-

(i) Other Continuing Care Grants -0- (2,646,000)

HIV Grants. The general fund appropriation

for the HIV drug and insurance grant program shall be reduced by \$2,037,000 in fiscal year 2011 and increased by \$2,037,000 in fiscal year 2013. These adjustments are onetime and must not be applied to the base. Notwithstanding any contrary provision, this provision expires June 30, 2013.

Base Adjustment. The general fund base is increased by \$1,819,000 in fiscal year 2012 and is increased by \$3,813,000 in fiscal year 2013.

Subd. 9. Continuing Care Management

-0-

341,000

Provider Rate Reduction Evaluation. \$341,000 is appropriated to the commissioner in fiscal year 2011 to monitor and report on changes in recipient access to continuing care services funded under Minnesota's Medicaid program resulting from rate reductions. The commissioner shall provide preliminary results of the monitoring to the house of representatives and senate committees and divisions with jurisdiction over continuing care by February 15, 2011, and shall report updated results by December 31, 2012.

Base Adjustment. The general fund base for continuing care management is decreased by \$79,000 in fiscal year 2012 and \$79,000 in fiscal year 2013.

Compulsive Gambling Special Revenue Administration. \$6,000 for fiscal year 2010 and \$4,000 for fiscal year 2011 must be transferred from the lottery prize fund appropriation for compulsive gambling administration to the general fund by June 30 of each respective fiscal year.

Subd. 10. State-Operated Services

Obsolete Laundry Depreciation Account. \$669,000, or the balance, whichever is greater, must be transferred from the state-operated services laundry depreciation account in the special revenue fund and deposited into the general fund by June 30,

2010.

<u>Adult Mental Health Services</u>	<u>48,000</u>	<u>(2,210,000)</u>
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Subd. 11. Contingent Appropriations Reductions.

Upon enactment of the extension of the enhanced federal medical assistance percentage (FMAP) under Public Law 111-5 to June 30, 2011, that is contained in the president's budget for federal fiscal year 2011 or contained in House Resolution 2847, the federal "Jobs for Main Street Act, 2010," or subsequent federal legislation, the reductions identified in each clause shall be made to the specified general fund appropriations for fiscal year 2011. These contingent reductions, if implemented, are in addition to the reductions specified in subdivision 6, paragraphs (a), (b), and (c), and subdivision 8, paragraphs (c) and (d), respectively.

<u>(1) MinnesotaCare Grants</u>	<u>-0-</u>	<u>(9,200,000)</u>
<u>(2) Medical Assistance Basic Health Care Grants - Families and Children</u>	<u>-0-</u>	<u>(109,662,500)</u>
<u>(3) Medical Assistance Basic Health Care Grants - Elderly and Disabled</u>	<u>-0-</u>	<u>(110,437,500)</u>
<u>(4) Medical Assistance Long-Term Care Facilities Grants</u>	<u>-0-</u>	<u>(51,925,000)</u>
<u>(5) Medical Assistance Long-Term Care Waivers and Home Care Grants</u>	<u>-0-</u>	<u>(115,475,000)</u>

Sec. 4. COMMISSIONER OF HEALTH

		<u>APPROPRIATIONS</u>	
		<u>Available for the Year</u>	
		<u>Ending June 30</u>	
		<u>2010</u>	<u>2011</u>
<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(4,123,000)</u>	<u>\$ (12,349,000)</u>

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(2,392,000)	(426,000)
<u>State Government</u>		
<u>Special Revenue</u>	(1,300,000)	(582,000)
<u>Health Care Access</u>	(431,000)	(11,341,000)

Subd. 2. Community and Family Health

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(221,000)	(121,000)
<u>Health Care Access</u>	(45,000)	(10,040,000)

Statewide Health Improvement Program.

Of the health care access fund reductions, \$10,000,000 in fiscal year 2011 is for reductions to the statewide health improvement program. This reduction is onetime.

Base Level Adjustment. The general fund base is reduced by \$33,000 in fiscal year 2012 and by \$33,000 in fiscal year 2013.

Subd. 3. Policy, Quality and Compliance

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	(1,797,000)	<u>-0-</u>
<u>State Government</u>		
<u>Special Revenue</u>	(600,000)	(232,000)
<u>Health Care Access</u>	(386,000)	(1,301,000)

Health Care Reform. Funds appropriated in Laws 2008, chapter 358, article 5, section 4, subdivision 3, for health reform activities to implement Laws 2008, chapter 358, article 4, are available until expended. Notwithstanding any contrary provision in this article, this provision shall not expire.

Rural Hospital Capital Improvement Grants. Of the general fund reductions in fiscal year 2010, \$1,755,000 is for the rural

hospital capital improvement grant program.

Federally Qualified Health Centers. Of the health care access fund reductions, \$1,000,000 in fiscal year 2011 is for the reduction of grants to federally qualified health centers. This is a onetime reduction.

Donated Dental Program Grants. Of the health care access fund reduction, \$63,000 in fiscal year 2011 is for the elimination of grant funding to the donated dental service program.

Health Information Exchange Oversight. Of the state government special revenue fund appropriations, \$140,000 in fiscal year 2011 is for administrative support of the Health Information Exchange Oversight Board established in Minnesota Statutes, section 62J.498, subdivision 2.

Base Level Adjustment. The general fund base is decreased by \$133,000 in fiscal year 2012 and \$133,000 in fiscal year 2013. The health care access fund base is increased by \$959,000 in fiscal year 2012 and \$1,079,000 in fiscal year 2013. The state government special revenue fund base is increased by \$367,000 in fiscal year 2012 and \$362,000 in fiscal year 2013.

Subd. 4. Health Protection

	<u>Appropriations by Fund</u>	
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>(374,000)</u>	<u>(205,000)</u>
<u>State Government Special Revenue</u>	<u>(700,000)</u>	<u>(350,000)</u>

Lead Base Grant Program. Of the general fund reduction, \$25,000 in fiscal year 2010 and fiscal year 2011 is for the elimination of state funding for the temporary lead-safe housing base grant program.

Base Adjustment. The general fund base is decreased by \$100,000 in fiscal year 2012

and \$100,000 in fiscal year 2013. The state government special revenue fund is increased by \$350,000 in fiscal year 2012 and \$350,000 in fiscal year 2013.

<u>Subd. 5. Administrative Support Services</u>	<u>-0-</u>	<u>(100,000)</u>
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Sec. 5. HEALTH-RELATED BOARDS

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>(290,000)</u>	<u>\$</u>	<u>(421,000)</u>
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The appropriations and reductions in this section are from the state government special revenue fund.

In fiscal year 2010, \$301,000 shall be transferred from the state government special revenue fund to the general fund. In fiscal year 2011, \$441,000 shall be transferred from the state government special revenue fund to the general fund. These transfers are in addition to those made in Laws 2009, chapter 79, article 13, section 5, as amended by Laws 2009, chapter 173, article 2, section 3.

The reductions and transfers in this section are onetime in the fiscal year 2010-2011 biennium.

The appropriations and reductions for each purpose are shown in the following subdivisions.

<u>Subd. 2. Board of Chiropractic Examiners</u>	<u>(9,000)</u>	<u>(14,000)</u>
<u>Subd. 3. Board of Dentistry</u>	<u>(21,000)</u>	<u>(31,000)</u>
<u>Subd. 4. Board of Dietetic and Nutrition Practice</u>	<u>(2,000)</u>	<u>(3,000)</u>
<u>Subd. 5. Board of Marriage and Family Therapy</u>	<u>(2,000)</u>	<u>(4,000)</u>
<u>Subd. 6. Board of Medical Practice</u>	<u>(73,000)</u>	<u>(112,000)</u>
<u>Subd. 7. Board of Nursing</u>	<u>(62,000)</u>	<u>(100,000)</u>
<u>Subd. 8. Board of Nursing Home Administrators</u>	<u>(36,000)</u>	<u>(31,000)</u>
<u>(a) Administrative Services</u>		
<u>Unit-Operating Costs</u>	<u>(11,000)</u>	<u>(16,000)</u>

<u>(b) Administrative Services</u> <u>Unit-Retirement Costs</u>	<u>(5,000)</u>	<u>-0-</u>
<u>(c) Administrative Services</u> <u>Unit-Volunteer Health Care</u> <u>Provider Program</u>	<u>(1,000)</u>	<u>(3,000)</u>
<u>(d) Administrative Services</u> <u>Unit-Contested Cases and</u> <u>Other Legal Proceedings</u>	<u>(15,000)</u>	<u>(6,000)</u>
<u>Subd. 9. Board of Optometry</u>	<u>(2,000)</u>	<u>(3,000)</u>
<u>Subd. 10. Board of Pharmacy</u>	<u>(28,000)</u>	<u>(42,000)</u>
<u>Subd. 11. Board of Physical Therapy</u>	<u>(6,000)</u>	<u>(9,000)</u>
<u>Subd. 12. Board of Podiatry</u>	<u>(1,000)</u>	<u>(2,000)</u>
<u>Subd. 13. Board of Psychology</u>	<u>(16,000)</u>	<u>(24,000)</u>
<u>Subd. 14. Board of Social Work</u>	<u>(18,000)</u>	<u>(28,000)</u>
<u>Subd. 15. Board of Veterinary Medicine</u>	<u>(4,000)</u>	<u>(6,000)</u>
<u>Subd. 16. Board of Behavioral Health and Therapy</u>	<u>(8,000)</u>	<u>(12,000)</u>
<u>Sec. 6. EMERGENCY MEDICAL SERVICES</u> <u>BOARD</u>	<u>432,000</u>	<u>(154,000)</u>

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>445,000</u>	<u>(133,000)</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>(13,000)</u>	<u>(21,000)</u>
<u>(a) Longevity Award and Incentive Program</u>		
	<u>(19,000)</u>	<u>(19,000)</u>
<u>(b) Health Professional Services Program</u>		
	<u>(13,000)</u>	<u>(21,000)</u>

This reduction is from the state government special revenue fund and is onetime in the 2010-2011 biennium.

\$10,000 in fiscal year 2010 and \$24,000 in fiscal year 2011 shall be transferred to the general fund from the portion of the

emergency medical services relief account in the special revenue fund otherwise designated for distribution by the Emergency Medical Services Board under Minnesota Statutes, section 169.686, subdivision 3. These transfers are onetime in the 2010-2011 biennium.

Sec. 7. <u>COUNCIL ON DISABILITY</u>	\$	<u>(10,000)</u>	\$	<u>(16,000)</u>
Sec. 8. <u>OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES</u>	\$	<u>(31,000)</u>	\$	<u>(50,000)</u>
Sec. 9. <u>OMBUDSPERSON FOR FAMILIES</u>	\$	<u>(4,000)</u>	\$	<u>(8,000)</u>

Sec. 10. Minnesota Statutes 2008, section 214.40, subdivision 7, is amended to read:

Subd. 7. **Medical professional liability insurance.** (a) Within the limit of funds appropriated for this program, the administrative services unit must purchase medical professional liability insurance, if available, for a health care provider who is registered in accordance with subdivision 4 and who is not otherwise covered by a medical professional liability insurance policy or self-insured plan either personally or through another facility or employer. The administrative services unit is authorized to prorate payments or otherwise limit the number of participants in the program if the costs of the insurance for eligible providers exceed the funds appropriated for the program.

(b) Coverage purchased under this subdivision must be limited to the provision of health care services performed by the provider for which the provider does not receive direct monetary compensation.

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

Sec. 11. Minnesota Statutes 2009 Supplement, section 252.025, subdivision 7, is amended to read:

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety. This program is statewide and must provide specialized residential services in Cambridge and an array of community-based services with sufficient levels of care and a sufficient number of specialists to ensure that individuals referred to the program receive the appropriate care. The individuals working in the community-based services under this section are state employees supervised by the commissioner of human services. ~~No layoffs shall occur as a result of restructuring under this section.~~

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

Sec. 12. Laws 2009, chapter 79, article 3, section 18, is amended to read:

Sec. 18. **REQUIRING THE DEVELOPMENT OF COMMUNITY-BASED MENTAL HEALTH SERVICES FOR PATIENTS COMMITTED TO THE ANOKA-METRO**

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-; and

(7) qualifying Minnesota education credit expenditures under Minnesota Statutes, section 290.0674.

(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, \$50,973,000
\$50,897,000;

(2) fiscal year 2011, \$53,793,000
\$54,243,000;

(3) fiscal year 2012, \$23,516,000
\$23,345,000; and

(4) fiscal year 2013, \$16,808,000
\$16,585,000.

Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

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.

Sec. 14. Laws 2009, chapter 79, article 13, section 3, subdivision 3, as amended by Laws 2009,

chapter 173, article 2, section 1, subdivision 3, is amended to read:

Subd. 3. Revenue and Pass-Through Revenue Expenditures	68,337,000	70,505,000
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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~~ \$862,000;
- (2) fiscal year 2011, ~~\$10,241,000~~ \$978,000;
- (3) fiscal year 2012, ~~\$10,826,000~~ \$0; and
- (4) fiscal year 2013, ~~\$4,046,000~~ \$0.

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.

Sec. 15. Laws 2009, chapter 79, article 13, section 3, subdivision 4, as amended by Laws 2009, chapter 173, article 2, section 1, subdivision 4, is amended to read:

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
Federal TANF	100,818,000	84,538,000

(b) Support Services Grants

	Appropriations by Fund	
General	8,715,000	12,498,000

Federal TANF	116,557,000	107,457,000
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MFIP Consolidated Fund. The MFIP consolidated fund TANF appropriation is reduced by \$1,854,000 in fiscal year 2010 and fiscal year 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, \$4,700,000 in fiscal year 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 \$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 \$0 in fiscal year 2011 and the base for fiscal years 2012 and 2013 is \$0.

TANF Emergency Fund; Nonrecurrent Short-Term Benefits. (1) 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.

(2) To the extent that the commissioner can claim eligible tax credit growth as nonrecurrent short-term benefits, the commissioner shall use those funds to leverage the increased expenditures in clause (1).

(3) TANF emergency funds for nonrecurrent short-term benefits received in excess of the amounts necessary for clauses (1) and (2) shall be used to reimburse the general fund for the costs of eligible tax credits in fiscal year 2011. The amount of such funds shall not exceed \$28,000,000.

(c) MFIP Child Care Assistance Grants

61,171,000

65,214,000

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.

(d) Basic Sliding Fee Child Care Assistance Grants	40,100,000	45,092,000
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School Readiness Service Agreements. \$257,000 in fiscal year 2010 and \$257,000 in fiscal year 2011 are from the 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. \$4,000,000 in fiscal year 2010 and \$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 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 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
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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
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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
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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
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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
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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
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Fraud Prevention Grants. Of this appropriation, \$228,000 in fiscal year 2010 and ~~\$228,000~~ \$379,000 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.

Community Action Grants. Community action grants are reduced one time by \$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~~ \$903,000 in fiscal year 2012 and ~~\$773,000~~ \$413,000 in fiscal year 2013.

Federal ARRA Funds for Existing Programs. ~~(a)~~ (1) 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)~~ (2) 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)~~ (3) 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)~~ (4) 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)~~ (5) 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.

Sec. 16. Laws 2009, chapter 79, article 13, section 3, subdivision 8, as amended by Laws 2009, chapter 173, article 2, section 1, subdivision 8, is amended to read:

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	13,499,000	15,805,000
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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 \$260,000 for fiscal year 2010; \$284,000 in fiscal year 2011; \$43,000 in fiscal year 2012; and \$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
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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
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(d) Medical Assistance Long-Term Care Waivers and Home Care Grants	853,567,000	1,039,517,000
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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 the lesser of: (1) rates charged for these services on January 1, 2009; or (2) 160 percent of the average rate on January 1, 2009, for each group of vendors with similar attributes. For services provided in fiscal years 2012 and 2013, the statewide average rates aggregate payment 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 projected aggregate payment under the rates in effect for fiscal year 2010 minus 1.25 percent. 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 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
(i) Other Continuing Care Grants	19,201,000	17,528,000

Base Adjustment. The general fund base is increased by \$2,639,000 in fiscal year 2012 and increased by \$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.

Sec. 17. Laws 2009, chapter 79, article 13, section 5, subdivision 8, as amended by Laws 2009, chapter 173, article 2, section 3, subdivision 8, is amended to read:

Subd. 8. Board of Nursing Home Administrators	1,211,000	1,023,000
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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 and for unforeseen expenditures of an urgent nature. 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. The boards receiving funds under this section shall include these amounts when setting fees to cover their costs.

OF ENHANCED FMAP.

Upon federal enactment of an extension of the enhanced federal medical assistance percentage (FMAP) originally provided under Public Law 111-5 to June 30, 2011, effective from January 1, 2011, through June 30, 2011, 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 medical assistance percentage (FMAP) originally provided under Public Law 111-5. Upon enactment of this extension of the enhanced FMAP, notwithstanding the requirements of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (d), for the period beginning January 1, 2011, through June 30, 2011, Hennepin County's monthly payment under that provision is reduced to \$434,688.

EFFECTIVE DATE. This section is effective upon federal enactment of an extension of enhanced FMAP from January 1, 2011, through June 30, 2011.

Sec. 19. CAPITATION PAYMENTS.

Upon federal enactment of an extension of the enhanced federal medical assistance percentage (FMAP) originally provided under Public Law 111-5 to June 30, 2011, effective from January 1, 2011, through June 30, 2011, the commissioner of human services shall increase capitation payments made to the Metropolitan Health Plan under Minnesota Statutes, section 256B.19, subdivision 1c, paragraph (c), by \$6,800,000. The increased amount includes federal matching funds.

EFFECTIVE DATE. This section is effective upon federal enactment of an extension of enhanced FMAP from January 1, 2011, through June 30, 2011.

Sec. 20. COUNTY CHEMICAL DEPENDENCY SHARE OF MEDICAL ASSISTANCE COSTS REQUIRED FOR EXTENSION OF ENHANCED FMAP.

Upon federal enactment of an extension of the enhanced federal medical assistance percentage (FMAP) originally provided under Public Law 111-5 to June 30, 2011, and notwithstanding the provisions of Minnesota Statutes, chapter 254B, for chemical dependency services provided during the period January 1, 2011, through June 20, 2011, and reimbursed by medical assistance at the enhanced FMAP rate, the county share is 30 percent of the nonfederal share.

EFFECTIVE DATE. This section is effective upon federal enactment of an extension of enhanced FMAP from January 1, 2011, through June 30, 2011.

Sec. 21. EXPIRATION OF UNCODIFIED LANGUAGE.

All uncodified language contained in this article expires on June 30, 2011, unless a different expiration date is explicit.

Sec. 22. EFFECTIVE DATE.

The provisions in this article are effective July 1, 2010, unless a different effective date is explicit.

ARTICLE 30**INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAXES**

Section 1. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended

to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify

for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section

172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; ~~and~~

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16);

(19) to the extent included in federal taxable income, the amount of gain on the sale or exchange of small business stock. "Small business stock" means an equity interest, held directly or indirectly, in a corporation or partnership when that interest is:

(i) purchased for money or property, not including stock or payment for services;

(ii) purchased after June 30, 2010;

(iii) less than 100 percent in a corporation or less than 50 percent by vote or value in a partnership;
and

(iv) in a corporation or partnership that:

(A) is a single legal entity and not part of any unitary business of the taxpayer;

(B) has fewer than 100 employees, or in the case of a corporation or partnership that is part of a unitary business, the unitary business has fewer than 100 employees;

(C) has not issued stock listed on the New York Stock Exchange, American Stock Exchange, or National Association of Securities Dealers automated quotation system;

(D) in the year of purchase, had more than 50 percent of its property and payroll, as determined under section 290.191, within this state;

(E) in the year of purchase, derived less than \$25,000 in gross receipts from rents, interest, dividends, and the sale of intangible investment assets;

(F) is not in a trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;

(G) is not in a trade or business involving banking, insurance, financing, leasing, investing, or similar business;

(H) is not a regulated investment company, real estate investment trust, or real estate mortgage investment conduit;

(I) is not a cooperative; and

(J) did not liquidate its assets in whole or in part for the purpose of fulfilling the requirements of this clause.

The small business stock must be held for more than five years to qualify for this subtraction;

(20) an amount not less than zero and not to exceed the applicable percent multiplied by the distributive share of income or loss, as defined in sections 703(a) and 1366(a)(2) of the Internal Revenue Code, combined from all partnerships or S corporations in which the taxpayer materially participates, as defined in section 469(h) of the Internal Revenue Code, and that have employees or tangible property located in this state. As used in this clause, the "applicable percent" for taxable years beginning in 2011 is five percent; for taxable years beginning in 2012 is ten percent; for taxable years beginning in 2013 is 15 percent; and for taxable years beginning after December 31, 2013, is 20 percent.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 2. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19d, is amended to read:

Subd. 19d. **Corporations; modifications decreasing federal taxable income.** For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the amount of salary expense not allowed for federal income tax purposes due to claiming the work opportunity credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (9), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation, unless the income resulting from such payments or accruals is income from sources within the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(11) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

(12) the amount of disability access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

(13) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

(14) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

(15) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(16) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

(17) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

(18) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (15). The resulting delayed depreciation cannot be less than zero;

(19) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the amount of the addition; and

(20) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19c, clause (25).

(21) to the extent included in federal taxable income, the amount of gain on the sale or exchange of small business stock assigned or apportioned to this state. "Small business stock" means an equity interest, held directly or indirectly, in a corporation or partnership when that interest is:

(i) purchased for money or property, not including stock or payment for services;

(ii) purchased after June 30, 2010;

(iii) less than 100 percent in a corporation or less than 50 percent by vote or value in a partnership;
and

(iv) in a corporation or partnership that:

(A) is a single legal entity and not part of any unitary business of the taxpayer;

(B) has fewer than 100 employees, or in the case of a corporation or partnership that is part of a unitary business, the unitary business has fewer than 100 employees;

(C) has not issued stock listed on the New York Stock Exchange, American Stock Exchange, or National Association of Securities Dealers automated quotation system;

(D) in the year of purchase, had more than 50 percent of its property and payroll, as determined under section 290.191, within this state;

(E) in the year of purchase, derived less than \$25,000 in gross receipts from rents, interest, dividends, and the sale of intangible investment assets;

(F) is not in a trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;

(G) is not in a trade or business involving banking, insurance, financing, leasing, investing, or similar business;

(H) is not a regulated investment company, real estate investment trust, or real estate mortgage investment conduit;

(I) is not a cooperative; and

(J) did not liquidate its assets in whole or in part for the purpose of fulfilling the requirements of this clause.

The small business stock must be held for more than five years to qualify for this subtraction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 3. Minnesota Statutes 2008, section 290.06, subdivision 1, is amended to read:

Subdivision 1. **Computation, corporations.** The franchise tax imposed upon corporations shall be computed by applying to their taxable income the rate of ~~9.8 percent~~:

(1) 9.8 percent in taxable year 2010;

(2) 9.3 percent in taxable year 2011;

(3) 8.8 percent in taxable year 2012;

(4) 8.3 percent in taxable year 2013; and

(5) 7.8 percent in taxable years 2014 and thereafter.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 4. Minnesota Statutes 2009 Supplement, 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, 5.35 percent;
- (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- (3) On all over \$102,030, 7.85 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, 5.35 percent;
- (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- (3) On all over \$57,710, 7.85 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, 5.35 percent;
- (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- (3) On all over \$86,910, 7.85 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), (13), (16), and (17), 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), (16), and (18) to (20), 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), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), (16), and (18) to (20).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 5. Minnesota Statutes 2008, section 290.068, is amended to read:

290.068 CREDIT FOR INCREASING RESEARCH ACTIVITIES.

Subdivision 1. **Credit allowed.** A corporation, ~~other than~~ partners in a partnership, or shareholders in a corporation treated as an "S" corporation under section 290.9725, is allowed a credit against ~~the portion of the franchise tax computed under section 290.06, subdivision 1,~~ for the taxable year equal to:

~~(a) 5 percent of the first \$2,000,000 of the excess (if any) of:~~

~~(1) the qualified research expenses for the taxable year, over~~

~~(2) the base amount; and.~~

~~(b) 2.5 percent on all of such excess expenses over \$2,000,000.~~

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

(a) "Qualified research expenses" means (i) qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code, except it does not include expenses incurred for qualified research or basic research conducted outside the state of Minnesota pursuant to section 41(d) and (e) of the Internal Revenue Code; and (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317A for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the state of Minnesota.

(c) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in clauses (a) and (b) shall apply. If a taxpayer does not have records to substantiate the aggregate qualified research expenses for the taxable years beginning after December 31, 1983, and before January 1, 1989, to compute the base amount, and is not a start-up company to which Internal Revenue Code, section 41(c)(3)(B) applies, the corporation is permitted to use a fixed-base percentage of 16 percent.

Subd. 3. **Limitation; carryover.** (a)(1) The credit for ~~the~~ a taxable year beginning before January

1, 2012, shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under section 290.06, subdivision 1, for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable year exceeds the limitation under clause (a), the excess shall be a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

Subd. 4. **Partnerships and S corporations.** In the case of partnerships the credit shall be allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

In the case of shareholders in S corporations the credit shall be allocated in the same manner as provided by section 1366(a) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

Subd. 6. **Credit to be refundable.** If the amount of credit allowed in this section for qualified research expenses incurred in taxable years beginning after December 31, 2011, exceeds the taxpayer's tax liability under section 290.02 or 290.03, the commissioner shall refund the excess amount. This credit must be used before any other credit allowed under this chapter.

Subd. 7. **Appropriation.** An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290.091, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

- (i) the charitable contribution deduction under section 170 of the Internal Revenue Code;
- (ii) the medical expense deduction;
- (iii) the casualty, theft, and disaster loss deduction; and
- (iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), (13), (16), and (17);

less the sum of the amounts determined under the following:

- (1) interest income as defined in section 290.01, subdivision 19b, clause (1);
- (2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;
- (3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and
- (4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (6), (9) to (16), and (18) to (20).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Net minimum tax" means the minimum tax imposed by this section.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after

subtracting the exemption amount determined under subdivision 3.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 7. Minnesota Statutes 2008, section 290.0921, subdivision 1, is amended to read:

Subdivision 1. **Tax imposed.** In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:

- (1) (i) 5.8 percent of Minnesota alternative minimum taxable income in taxable year 2010;
- (ii) 5.5 percent of Minnesota alternative minimum taxable income in taxable year 2011;
- (iii) 5.2 percent of Minnesota alternative minimum taxable income in taxable year 2012;
- (iv) 4.9 percent of Minnesota alternative minimum taxable income in taxable year 2013, and
- (v) 4.6 percent of Minnesota alternative minimum taxable income in taxable year 2014 and thereafter;

over

- (2) the tax imposed under section 290.06, subdivision 1, for the taxable year without regard to this section.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 8. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

- (1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

- (2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (15), is disallowed in determining alternative minimum taxable income.

(3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (18), is allowed as a depreciation deduction in determining alternative minimum taxable income.

(4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).

(9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (10).

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

(15) Alternative minimum taxable income excludes the income from operating in a

biotechnology and health sciences industry zone as provided under section 469.337.

(16) Alternative minimum taxable income excludes the income from operating in an international economic development zone as provided under section 469.326.

(17) Alternative minimum taxable income includes the subtraction for small business stock as provided under section 290.01, subdivision 19d, clause (21).

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

ARTICLE 31

FEDERAL UPDATE

Section 1. Minnesota Statutes 2009 Supplement, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

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

Sec. 2. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19, is amended to read:

Subd. 19. **Net income.** The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined

in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010, shall be in effect for taxable years beginning after December 31, 1996.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19 to 19f mean the code in effect for purposes of determining net income for the applicable year.

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

Sec. 3. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of

property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1 and Public Law 111-126;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical

procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; and

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16).

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law.

EFFECTIVE DATE. This section is effective the day following final enactment except that the changes incorporated by federal changes are effective at the same time as the changes were effective for federal purposes.

Sec. 5. Minnesota Statutes 2008, section 290.095, subdivision 11, is amended to read:

Subd. 11. **Carryback or carryover adjustments.** (a) Except as provided in paragraph (c), for individuals, estates, and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income, provided that, notwithstanding any other provision, estates and trusts must apply the following

adjustments to the amount of the net operating loss that may be carried back or carried over:

- (1) Nonassignable income or losses as required by section 290.17.
- (2) Deductions not allocable to Minnesota under section 290.17.

(b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal taxable income provided that trusts and estates must apply the following modifications:

(1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

(2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (b) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. However, if a net operating loss carryback or carryover was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(c)(1) A net operating loss of an individual, estate, or trust that is allowed under this subdivision and for which the taxpayer elects to carry back for more than two years under section 172(b)(1)(H) of the Internal Revenue Code is a net operating loss carryback to each of the two taxable years preceding the loss, and unused portions may be carried forward for 20 taxable years after the loss.

(2) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which is carried to each of the other taxable years is the excess, if any, of the amount of the loss over the taxable net income for each of the taxable years to which the loss may be carried.

This paragraph does not apply to eligible small businesses that make a valid election to carry back their losses for federal purposes under section 172(b)(1)(H) of the Internal Revenue Code, as amended through March 31, 2009.

EFFECTIVE DATE. This section is effective for net operating losses generated in taxable years beginning after December 31, 2007.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

EFFECTIVE DATE. This section is effective for property tax refunds based on property taxes payable after December 31, 2009, and rent paid after December 31, 2008.

Sec. 7. Minnesota Statutes 2009 Supplement, section 291.005, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:

(1) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.

(2) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

(4) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

(5) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota, and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

(6) "Nonresident decedent" means an individual whose domicile at the time of death was not in Minnesota.

(7) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

(8) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

(9) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

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

ARTICLE 32

ANGEL INVESTMENT TAX CREDIT

Section 1. **[116J.8737] ANGEL INVESTMENT TAX CREDIT.**

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

(b) "Qualified small business" 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, innovation in Minnesota in one of the following:

(i) using proprietary technology to add value to a product, process, or service in a qualified high-technology field;

(ii) researching or developing a proprietary product, process, or service in a qualified high-technology field;

(iii) researching, developing, or producing a new proprietary technology for use in the fields of tourism, forestry, mining, or transportation; or

(iv) qualified green manufacturing;

(4) other than the activities specifically listed in clause (3), 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;

(6) if the business has five or more employees as measured on a full-time equivalent basis, the business must pay its employees in excess of the first five annual wages at least 175 percent of the federal poverty guideline for the year for a family of four;

(7) the business has not been in operation for more than ten consecutive years;

(8) the business has not received more than \$4,000,000 in qualifying investments that have qualified for and received tax credits under this section;

(9) the business is not a member of a unitary group that employs more than 100 employees; 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, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, and veterinary science.

(d) "Proprietary technology" means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted.

(e) "Qualified green manufacturing" means a business whose primary business activity is production of products, processes, methods, technologies, or services, excluding consulting, 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-producing infrastructure system or to increase energy conservation related to electricity or other utility use, as provided in sections 216B.2401 and 216B.241;

(3) monitor, protect, restore, and preserve the quality of surface waters; and

(4) 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 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), who:

(1) does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualified small business in which the eligible investment is proposed; or

(2) does not receive more than 50 percent of the taxpayer's gross annual income from the qualified small business in which the eligible investment is proposed.

A member of the family of a taxpayer disqualified by this subdivision is not eligible for a credit under this section.

(g)(1) "Qualified angel investment network fund" means a pooled investment fund that:

(i) invests in qualified small businesses;

(ii) is organized as a pass-through entity; and

(iii) has at least three separate investors, all of whom are qualified taxpayers as defined in paragraph (f), and that own no more than 50 percent of the outstanding ownership interests in the fund; and

(2) for purposes of determining the number of investors and the ownership interest of an investor under this paragraph, the ownership interests of an investor include those of the investor's family, and any corporation, limited liability company, partnership, or trust in which the investor or the investor's family has a controlling equity interest or exercises management control. Investments in the fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both.

(h) "Qualified investment" means either a cash investment of a minimum of:

(1) \$10,000 in a calendar year by a qualified taxpayer; or

(2) \$50,000 in a calendar year by a qualified angel investment network fund.

The qualified investment in a qualified small business must be in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or

an equivalent ownership interest as determined by the commissioner.

(i) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

Subd. 2. **Certification of small businesses.** (a) Businesses may apply to the commissioner for certification as a qualified small business. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$150. The application for certification must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

(b) A business seeking certification must submit an application for each taxable year for which the business desires certification. If a qualified small business receives a qualified investment for which tax credits are allocated, the business must annually submit a certified small business report in the form required by the commissioner with the required fee no later than February 1 for the two years subsequent to the last qualified investment. Failure to file an annual report as required under this subdivision results in a fine of \$500 and revocation of certification.

(c) The commissioner must maintain a list of businesses certified under this subdivision and make the list accessible to the public on the department's Web site.

Subd. 3. **Certification of qualified taxpayers.** (a) Taxpayers may apply to the commissioner for certification as a qualified taxpayer. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$350. The application for certification of qualified taxpayers must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year. Application fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) A qualified taxpayer seeking certification must submit an application for each taxable year in which the qualified taxpayer seeks certification. If a qualified taxpayer receives tax credits under this section, a qualified taxpayer must submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of tax credits. Failure to file an angel investor annual report as required under this subdivision results in the revocation of tax credits. Once a qualified taxpayer has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 4. **Certification of qualified angel investment network funds.** (a) Angel investment network funds may apply to the commissioner of employment and economic development for certification as a qualified angel investment network fund. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$1,000. The application for certification of qualified angel investor network funds must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative

expenses related to administering the program.

(b) A qualified angel investment network fund seeking certification must submit an application for each taxable year for which the angel investment network fund seeks certification. If any member of a qualified angel investment network fund receives tax credits under this section for qualified investments made by the fund, the qualified angel investment network fund must annually submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of credits. Failure to file an angel investor annual report as required under this subdivision results in revocation of tax credits. Once a qualified angel investment network fund has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 5. **Credit allowed.** (a) A qualified taxpayer or angel investor network fund is allowed a credit for investment in a qualified small business in the amount determined by the certification allocated by the commissioner against the tax imposed by chapter 290. The commissioner must not allocate more than \$5,000,000 in credits to qualified taxpayers or angel investment network funds in calendar year 2010, and must not allocate more than \$10,000,000 in credits in calendar year 2011 and in each calendar year thereafter. Any portion of a year's credits that is not allocated by the commissioner does not cancel and may be carried forward to the subsequent year until all credits have been allocated. Applications for tax investment credits must be made available on the department's Web site by September 1, 2010, and the department must begin accepting applications by September 1, 2010. Applications for subsequent years must be made available by November 1 of the preceding year.

(b) Tax investment credits must be allocated to qualified taxpayers or angel investor network funds in the order that the tax credit request applications are filed with the department. The investment specified in the application must be made within 60 days of the allocation of the credits. If the investment is not made within 60 days, the credits are deemed revoked. A qualified taxpayer or angel investor network fund that fails to invest as specified in the application, within 60 days from allocation of the credits, must notify the department of the failure to invest within five business days of the expiration of the 60-day investment period.

(c) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. In the event that two or more qualified taxpayers or angel investment network funds file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credit under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified taxpayers or angel investment network funds who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified taxpayer or angel investment network fund is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified taxpayer and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the fiscal year.

(d) The commissioner must notify the commissioner of revenue of every credit allocated and every credit revoked under this section.

Subd. 6. **Annual reports.** (a) By February 1 of each year for two years subsequent to the last

allocation of credits, qualified small businesses, qualified taxpayers, and qualified angel investment network funds must submit an annual report and a filing fee of \$100. All report fees collected are appropriated to the commissioner for personnel and administrative expense related to administering the program.

(b) Qualified small businesses must certify to the department in the form required by the commissioner that it satisfies the following requirements:

(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) that the business is engaged in, or is committed to engage in, innovation in Minnesota as defined under subdivision 1; and

(4) that the business meets the payroll requirements in subdivision 1, paragraph (b), clause (6).

(c) Qualified taxpayers must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

(1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (f); and

(2) that the taxpayer continues to remain invested in the qualified small business as required by section 290.0692, subdivision 3.

(d) Qualified angel investment network funds must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

(1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (g); and

(2) that the angel investment network fund continues to remain invested in the qualified small business as required by section 290.0692, subdivision 3.

Subd. 7. **Rulemaking exception.** 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 Procedure Act contained in chapter 14, and are not subject to section 14.386.

Subd. 8. **Report.** Beginning in 2011, the commissioner must annually report by March 15 to the chairs of the legislative committees and divisions having jurisdiction over taxes and economic development in the senate and the house of representatives on the tax credits issued under this section. The report must include:

(1) the number and amount of the credits issued;

(2) the recipients of the credits;

(3) the number and type of each business certified as a qualified small business;

(4) to the extent determinable, the total amount of investment generated by these credits; and

(5) any other information relevant to evaluating the effect of these credits.

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

Sec. 2. [290.0692] ANGEL INVESTMENT CREDIT; CREDIT ALLOWED; LIMITATIONS; HOLDING PERIOD; AND CARRYOVER.

Subdivision 1. Credit allowed. A qualified taxpayer is allowed a credit against the tax imposed under this chapter for investments made in the year in a qualified small business as defined under section 116J.8737. 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 this chapter, 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 section 116J.8737.

Subd. 2. Limitations. No taxpayer may receive more than \$125,000 in credits under this section in any one year.

Subd. 3. Holding periods. The credit is allowed only for investments for which a credit has been allocated by the commissioner of employment and economic development under section 116J.8737. Any credit taken by a taxpayer must be repaid, and any unused credits must be canceled, if the investment in the qualified small business is not held for at least three years. The three-year holding period does not apply if:

(1) the investment by the qualified taxpayer becomes worthless before the end of the three-year period;

(2) 80 percent or more of the assets of the qualified small business is sold before the end of the three-year period;

(3) the qualified small business is sold before the end of the three-year period; or

(4) the qualified small business's common stock begins trading on a public exchange before the end of the three-year period.

Subd. 4. Proportional credits. Each pass-through entity must provide each investor a statement indicating the investor's share of the credit amount certified to the pass-through entity based on its share of the pass-through entity's assets at the time of the qualified investment.

Subd. 5. Carryover. If the amount of the credit under this subdivision for any taxable year exceeds the liability for tax, 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 subdivision may not exceed the taxpayer's liability for tax less the credit for the taxable year.

Subd. 6. Transfer of credits. Any taxpayer who has not had liability under this chapter for the immediate past three taxable years and does not have anticipated liability for the current taxable year may transfer the entirety of the credit to any natural person of net worth, as defined in the Code of Federal Regulations, title 17, section 230.501(a). No person is entitled to a refund for the interest created under this subdivision. Only the full credit for any one taxpayer may be transferred and the interest may be transferred only one time. A credit acquired by transfer is subject to the limitations

prescribed in this section. Documentation of any credit acquired by transfer must be provided by the taxpayer in the form required by the commissioner.

Subd. 7. **Audit powers.** Notwithstanding the certification eligibility issued by the commissioner 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 for investments made after July 1, 2010, for taxable years beginning after December 31, 2009, and only applies to investments for which a credit has been allocated by the commissioner of employment and economic development.

ARTICLE 33

MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT

Section 1. [116J.665] MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT.

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

(b) "Affiliate" means:

(1) any person who, directly or indirectly, beneficially owns, controls, or holds power to vote 15 percent or more of the outstanding voting securities or other voting ownership interest of a Minnesota business investment company or insurance company; or

(2) any person, 15 percent or more of whose outstanding voting securities or other voting ownership interests are directly or indirectly beneficially owned, controlled, or held with power to vote by a Minnesota business investment company or insurance company.

Notwithstanding this subdivision, an investment by a participating investor in a Minnesota business investment company pursuant to an allocation of premium tax credits under this section does not cause that Minnesota business investment company to become an affiliate of that participating investor.

(c) "Allocation date" means the date on which credits under section 297I.23 are allocated to the participating investors of a Minnesota business investment company under this section.

(d) "Designated capital" means an amount of money that:

(1) is invested by a participating investor in a Minnesota business investment company; and

(2) fully funds the purchase price of either or both participating investor's equity interest in a Minnesota business investment company or a qualified debt instrument issued by a Minnesota business investment company.

(e) "Minnesota business investment company" means a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that:

(1) has its principal office located or is headquartered in Minnesota;

(2) has as its primary business activity the investment of cash in qualified businesses; and

(3) is certified by the Department of Employment and Economic Development as meeting the criteria in this section.

(f) "Participating investor" means any insurance company as defined in section 60A.02, subdivision 4, excluding health maintenance organizations, that contributes designated capital pursuant to this section.

(g) "Person" means any natural person or entity, including, but not limited to, a corporation, general or limited partnership, trust, or limited liability company.

(h)(1) "Qualified business" means a business that is independently owned and operated and meets all of the following requirements:

(i) it is headquartered in Minnesota, its principal business operations are located in this state, and at least 80 percent of its employees are located in Minnesota;

(ii) it has no more than 100 employees;

(iii) it is not engaged in:

(A) professional services provided by accountants, doctors, or lawyers;

(B) banking or lending;

(C) real estate development;

(D) insurance;

(E) oil and gas exploration;

(F) direct gambling activities;

(G) retail sales; or

(H) making loans to or investments in a Minnesota business investment company or an affiliate;
and

(iv) it is not a franchise of and has no financial relationship with a Minnesota business investment company or any affiliate of a Minnesota business investment company prior to a Minnesota business investment company's first qualified investment in the business;

(2) a business classified as a qualified business at the time of the first qualified investment in the business remains classified as a qualified business and may receive continuing qualified investments from any Minnesota business investment company. Continuing investments constitute qualified investments even though the business may not meet the definition of a qualified business at the time of the continuing investments.

(i) "Qualified debt instrument" means a debt instrument issued by a Minnesota business investment company which meets all of the following criteria:

(1) it is issued at par value or a premium; and

(2) it has an original maturity date of at least four years from the date of issuance, and a repayment schedule which is not faster than a level principal amortization over four years.

(j) "Qualified distribution" means any distribution or payment made by a Minnesota business investment company in connection with any of the following:

(1) costs and expenses of forming, syndicating, and organizing the Minnesota business investment company, including fees paid for professional services, and the costs of financing and insuring the obligations of a Minnesota business investment company, provided no payment is made to a participating investor;

(2) an annual management fee not to exceed one percent of designated capital on an annual basis to offset the costs and expenses of managing and operating a Minnesota business investment company;

(3) reasonable and necessary fees in accordance with industry custom for ongoing professional services, including, but not limited to, legal and accounting services related to the operation of a Minnesota business investment company, not including lobbying or governmental relations;

(4) any increase or projected increase in federal or state taxes, including penalties and related interest of the equity owners of a Minnesota business investment company resulting from the earnings or other tax liability of a Minnesota business investment company to the extent that the increase is related to the ownership, management, or operation of a Minnesota business investment company.

(5) Payments of principal and interest to holders of qualified debt instruments issued by a Minnesota business investment company may be made without restriction whatsoever.

(k) "Qualified investment" means the investment of money by a Minnesota business investment company in a qualified business for the purchase of any debt, debt participation, equity, or hybrid security of any nature and description whatsoever, including a debt instrument or security that has the characteristics of debt but that provides for conversion into equity or equity participation instruments such as options or warrants. Any repayment of a qualified investment prior to one year from the date of issuance shall result in the amount of the qualified investment being reduced by 50 percent for purposes of the cumulative investment requirement in subdivision 8, paragraph (d).

(l) "State premium tax liability" means any liability incurred by an insurance company under chapter 297I or in the case of a repeal or a rate reduction by the state of the liability imposed by chapter 297I, any other tax liability imposed upon an insurance company by the state, other than the tax imposed on taxpayers under section 290.05.

Subd. 2. **Certification.** (a) The department must provide a standardized format for applying for the business investment credit under section 297I.23, and for certification as a Minnesota business investment company.

(b) An applicant for certification as a Minnesota business investment company is required to:

(1) file an application with the department that includes, without limitation, a statement that the applicant has read and understands the requirements of this chapter;

(2) pay a nonrefundable application fee of \$7,500 at the time of filing the application;

(3) submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than 35 days before the application date that states that the applicant has an equity capitalization of \$500,000 or more in the form of unencumbered cash, marketable securities, or other liquid assets; and

(4) have at least two principals or persons, at least one of which is primarily located in Minnesota, employed or engaged to manage the funds who each have a minimum of five years of money management experience in the venture capital or business industry.

(c) The department may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Minnesota business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Minnesota, has as its primary business activity the investment of cash in qualified businesses, and meets the other criteria in this section.

(d) The department must review the organizational documents of each applicant for certification and the business history of each applicant and determine whether the applicant has satisfied the requirements of this section.

(e) Within 45 days after the receipt of an application, the department must issue the certification or refuse the certification and communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of such grounds.

(f) The department must begin accepting applications to become a Minnesota business investment company as defined under section 297I.23 by August 1, 2010.

(g) All certification fees collected by the department under this chapter are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

Subd. 3. **Requirements.** (a) A participating investor or affiliate of a participating investor must not, directly or indirectly:

(1) beneficially own, whether through rights, options, convertible interest, or otherwise, 15 percent or more of the voting securities or other voting ownership interest of a Minnesota business investment company;

(2) manage a Minnesota business investment company; or

(3) control the direction of investments for a Minnesota business investment company.

(b) A Minnesota business investment company may obtain one or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its participating investors from any entity, except that in no case can more than one participating investor of a Minnesota business investment company on an aggregate basis with all affiliates of the participating investor be entitled to provide the guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the participating investors of a Minnesota business investment company and its affiliates in this state.

(c) This subdivision does not preclude a participating investor or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Minnesota

business investment company, in the event that a Minnesota business investment company is in default of its statutory obligations or its contractual obligations to the participating investor or other party, or from monitoring a Minnesota business investment company to ensure its compliance with this section or disallowing any investments that have not been approved by the department.

(d) The department may contract with an independent third party to review, investigate, and certify that the applications comply with this section.

Subd. 4. **Aggregate limitations on investment tax credits; allocation.** (a) The aggregate amount of investment tax credits to be allocated to all participating investors of Minnesota business investment companies under this section shall not exceed \$100,000,000. No Minnesota business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed \$100,000,000.

(b) Credits must be allocated to participating investors in the order that the credit allocation claims are filed with the department, provided that all credit allocation claims filed with the department on the same day must be treated as having been filed contemporaneously. Any credit allocation claims filed with the department prior to the initial credit allocation claim filing date are deemed to have been filed on the initial credit allocation claim filing date. The department must set the initial credit allocation claim filing date not less than 120 days and not greater than 150 days after the department begins accepting applications for certification.

(c) In the event that two or more Minnesota business investment companies file credit allocation claims with the department on behalf of their respective participating investors on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of investment tax credits under this section or the lesser amount of credits that remain unallocated on that day, then the department must allocate the credits among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day.

(d) Within ten business days after the department receives a credit allocation claim filed by a Minnesota business investment company on behalf of one or more of its participating investors, the department must notify the Minnesota business investment company of the amount of credits allocated to each of the participating investors of that Minnesota business investment company. In the event a Minnesota business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to the participating investor within ten business days of the Minnesota business investment company's receipt of notice of allocation, then it shall notify the department on or before the next business day, and the credits allocated to the participating investor of the Minnesota business investment company are forfeited. The department must then reallocate those forfeited credits among the participating investors of the other Minnesota business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors. The commissioner is authorized, but not required, to levy a fine of not more than \$50,000 on any participating investor that does not invest the full amount of designated capital required to fund the credits allocated to it by the department in accordance with the credit allocation claim filed on

its behalf.

(e) No participating investor, on an aggregate basis with its affiliates, may file an allocation claim for more than 25 percent of the maximum amount of investment tax credits authorized under this subdivision, regardless of whether the claim is made in connection with one or more Minnesota business investment companies.

Subd. 5. Requirements for continuance of certification. (a) To maintain its certification, a Minnesota business investment company must make qualified investments as follows:

(1) within two years after the allocation date, a Minnesota business investment company must invest an amount equal to at least 35 percent of its designated capital in qualified investments; and

(2) within three years after the allocation date, a Minnesota business investment company must invest an amount equal to at least 50 percent of its designated capital in qualified investments.

(b) Prior to making a proposed qualified investment in a specific business, a Minnesota business investment company must request from the department a written determination that the proposed investment qualifies as a qualified investment in a qualified business. The department must notify a Minnesota business investment company within ten business days from the receipt of a request of its determination and an explanation thereof. If the department fails to notify the Minnesota business investment company of its determination within the ten-business-day period, the proposed investment is deemed a qualified investment in a qualified business. If the department determines that the proposed investment does not meet the definition of a qualified investment or qualified business, or both, the department may nevertheless consider the proposed investment a qualified investment and, if necessary, the business a qualified business, if the department determines that the proposed investment furthers state economic development.

(c) All designated capital not invested in qualified investments by a Minnesota business investment company shall be held or invested in such manner as the Minnesota business investment company, in its discretion, deems appropriate. Designated capital and proceeds of designated capital returned to a Minnesota business investment company after being originally invested in qualified investments may be invested again in qualified investments and the investment shall count toward the requirements of paragraph (a) with respect to making investments of designated capital in qualified investments.

(d) If, within four years after its allocation date, a Minnesota business investment company has not invested at least 60 percent of its designated capital in qualified investments, the Minnesota business investment company must not be permitted to pay management fees.

(e) If, within six years after its allocation date, a Minnesota business investment company has not invested at least 100 percent of its designated capital in qualified investments, the Minnesota business investment company must not be permitted to pay management fees.

(f) A Minnesota business investment company may not invest more than 15 percent of its designated capital in any one qualified business without the specific approval of the department.

(g) For purposes of calculating the investment percentage thresholds of paragraph (a), the cumulative amount of all qualified investments made by a Minnesota business investment company from the allocation date must be considered.

Subd. 6. **Minnesota business investment company reporting requirements.** (a) Each Minnesota business investment company must report the following to the department in the form designated by the commissioner:

(1) as soon as practicable after the receipt of designated capital:

(i) the name of each participating investor from which the designated capital was received, including such participating investor's insurance tax identification number;

(ii) the amount of each participating investor's investment of designated capital; and

(iii) the date on which the designated capital was received;

(2) on an annual basis, on or before January 31 of each year:

(i) the amount of the Minnesota business investment company's designated capital that remains to be invested in qualified investments at the end of the immediately preceding taxable year;

(ii) whether or not the Minnesota business investment company has invested more than 15 percent of its total designated capital in any one business;

(iii) all qualified investments that the Minnesota business investment company has made in the previous taxable year, including the number of employees of each qualified business in which it has made investments at the time of such investment, and as of December 1 of the preceding taxable year; and

(iv) for any qualified business where the Minnesota business investment company no longer has an investment, the Minnesota business investment company must provide employment figures for that company as of the last day before the investment was terminated;

(3) other information that the department may reasonably request that helps the department ascertain the impact of the Minnesota business investment company program both directly and indirectly on the economy of the state including, but not limited to, the number of jobs created by qualified businesses that have received qualified investments;

(4) within 90 days of the close of its fiscal year, annual audited financial statements of the Minnesota business investment company, which must include the opinion of an independent certified public accountant; and

(5) an agreed upon procedures report or equivalent regarding the operations of the Minnesota business investment company.

(b) A Minnesota business investment company must pay to the department an annual, nonrefundable certification fee of \$5,000 on or before April 1, or \$10,000 if later. No annual certification fee is required if the payment date for the fee is within six months of the date a Minnesota business investment company is first certified by the department.

(c) Upon satisfying the requirements of subdivision 5, paragraph (a), clause (2), a Minnesota business investment company must provide the notice to the department and the department shall, within 60 days of receipt of the notice, either confirm that the Minnesota business investment company has satisfied the requirements of subdivision 5, paragraph (a), clause (2), as of such date or provide notice of noncompliance and an explanation of any existing deficiencies. If the

department does not provide notification within 60 days, the Minnesota business investment company is deemed to have met the requirements of subdivision 5, paragraph (a), clause (2).

Subd. 7. **Distributions.** (a) A Minnesota business investment company may make qualified distributions at any time. In order for a Minnesota business investment company to make a distribution other than a qualified distribution to its equity holders, the cumulative amount of all qualified investments of the Minnesota business investment company must equal or exceed 100 percent of its designated capital.

(b) The state shall receive ten percent of the net profits on qualified investments. For purposes of this paragraph, "net profits on qualified investments" means the amount of money returned to the Minnesota business investment company in exchange for or repayment of its qualified investments in qualified businesses in excess of the amount invested by the Minnesota business investment company in qualified investments. The net profits on qualified investments are the aggregate of all of the Minnesota business investment company's qualified investments where gains on qualified investments are netted against losses on qualified investments.

Subd. 8. **Decertification.** (a) The department shall conduct an annual review of each Minnesota business investment company to determine if a Minnesota business investment company is abiding by the requirements of certification and to ensure that no investment has been made in violation of this section. The cost of the annual review must be paid by each Minnesota business investment company according to a reasonable fee schedule adopted by the department.

(b) Any material violation of this section, including any material misrepresentation made to the department in connection with the application process, is grounds for decertification of a Minnesota business investment company and the disallowance of credits under section 297I.23, provided that in all instances the department shall provide notice to the Minnesota business investment company of the grounds of the proposed decertification and the opportunity to cure the violation before any decertification becomes effective.

(c) The department shall send written notice of decertification to the commissioner of revenue and to the address of each participating investor whose tax credit is subject to recapture or forfeiture, using the address shown on the last filing submitted to the department.

(d) Once a Minnesota business investment company has invested an amount cumulatively equal to 100 percent of its designated capital in qualified investments, provided that the Minnesota business investment company has met all other requirements under this section as of such date, the Minnesota business investment company is no longer subject to regulation by the department or the reporting requirements under subdivision 6. Upon receiving certification by a Minnesota business investment company that it has invested an amount equal to 100 percent of its designated capital, the department shall notify a Minnesota business investment company within 60 days that it has or has not met the requirements, with a reason for the determination if it has not. If the department does not provide notification of deregulation within 60 days, the Minnesota business investment company is deemed to have met the requirements and is deemed to no longer be subject to regulation by the department.

Subd. 9. **Registration requirements.** All investments by participating investors for which tax credits are awarded under this section must be registered or specifically exempt from registration.

Subd. 10. **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 Procedure Act contained in chapter 14, and are not subject to section 14.386.

Subd. 11. **Reports to governor and legislature.** The department shall make an annual report by March 15 of each year to the governor and the chairs and ranking minority members of the legislative committees and divisions having jurisdiction over taxes and economic development. The report must include:

- (1) the number of Minnesota business investment companies holding designated capital;
- (2) the amount of designated capital invested in each Minnesota business investment company;
- (3) the cumulative amount that each Minnesota business investment company has invested as of January 1, 2011, and the cumulative total each year thereafter;
- (4) the cumulative amount of follow-on capital that the investments of each Minnesota business investment company have created in terms of capital invested in qualified businesses at the same time or subsequent to investments made by a Minnesota business investment company in such businesses by sources other than Minnesota business investment companies;
- (5) the total amount of investment tax credits applied under this section for each year;
- (6) the performance of each Minnesota business investment company with regard to the requirements for continued certification;
- (7) the classification of the companies in which each Minnesota business investment company has invested according to industrial sector and size of company;
- (8) the gross number of jobs created by investments made by each Minnesota business investment company and the number of jobs retained;
- (9) the location of the companies in which each Minnesota business investment company has invested;
- (10) those Minnesota business investment companies that have been decertified, including the reasons for decertification; and
- (11) other related information as necessary to evaluate the effect of this section on economic development.

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

Sec. 2. [297L.23] MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT.

Subdivision 1. **Credit allowed.** (a) A participating investor as defined under section 116J.665, subdivision 1, is allowed a credit against the tax imposed in this chapter equal to 80 percent of the participating investor's investment of designated capital in a Minnesota business investment company. Beginning March 1, 2015, and ending with the tax return due March 1, 2018, a participating investor may claim yearly an amount equal to 20 percent of the participating investor's investment of designated capital against the tax liability under this chapter for the preceding calendar year.

(b) The credit for any calendar year must not exceed the liability for tax. If the amount of the credit determined under this section for any calendar year exceeds the liability for tax, the excess is an investment tax credit carryover to each of the succeeding calendar years and must be carried forward to each succeeding calendar year until the entire carryforward has been credited against the participating investor's liability for tax under this chapter. Credits may be used only on an annual premium tax return filed by a participating investor.

(c) A participating investor claiming a credit under this section is not required to pay any additional retaliatory tax levied by Minnesota as a result of claiming the credit.

(d) A participating investor is not required to reduce the amount of tax passed to the insured pursuant to the state premium tax liability included by the participating investor in connection with ratemaking for any insurance contract written in this state because of a reduction in the participating investor's tax liability based on the tax credit allowed under this section.

(e) Decertification of a Minnesota business investment company under section 116J.665 may result in the disallowance and the recapture of the credit allowed under this section. The amount disallowed and recaptured must be assessed as follows:

(1) decertification of a Minnesota business investment company within two years of the allocation date of tax credits and prior to meeting the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), shall result in the disallowance of all of the credits allowed under this section;

(2) decertification of a Minnesota business investment company after two years of the allocation date of tax credits, but prior to meeting the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), results in the disallowance of one-half of all the credits allowed under this section; and

(3) decertification of Minnesota business investment company that has already met the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), does not cause the disallowance of any credits allowed under this section nor the recapture of any portion of the credits that was previously taken.

Subd. 2. **Transfers.** A participating investor must not transfer, agree to transfer, sell, or agree to sell the credit under this section until 180 days from the date on which the participating investor invested designated capital. After 180 days from the date of investment, a participating investor, or subsequent transferee, may transfer credits to another person who is subject to tax and must notify the department in the form prescribed by the commissioner within 30 days of the transfer. A person must not transfer a credit more than once in a 12-month period. No person is entitled to a refund for the interest created under this subdivision. A credit acquired by transfer is subject to the limitations prescribed in this section. Any transfer or sale of the credits does not affect the time schedule for claiming the credit. Any tax credits recaptured under this section remain the liability of the participating investor that actually applied the credit towards its tax liability.

Subd. 3. **Repayment of tax benefits received.** (a) Decertification of a Minnesota business investment company or revocation of credits under section 116J.665, results in the disallowance to certified investors of any credits for that calendar year or future calendar years and the participating investor is required to repay any credits claimed for the previous year. Repayment must be made within 60 days of the decertification or the revocation of the certification.

(b) The provisions of chapters 270C and 297I relating to audit, assessment, refund, collection, and appeals are applicable to the credits claimed and repayment required under this section. The commissioner may impose civil penalties as provided in section 297I.85, and additional tax and penalties are subject to interest at the rate provided in section 270C.40, from the date payment was due.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

ARTICLE 34

TECHZ

Section 1. Minnesota Statutes 2008, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;
- (3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
- (4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;
- (5) human rights agencies within Minnesota that have enforcement powers;
- (6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;
- (7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
- (8) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;
- (9) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or 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;

(10) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(11) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(12) the United States Citizenship and Immigration Services has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(13) the Department of Health for the purposes of epidemiologic investigations;

(14) the Department of Corrections for the purpose of preconfinement and postconfinement employment tracking of committed offenders for the purpose of case planning; ~~and~~

(15) the state auditor to the extent necessary to conduct audits of job opportunity building zones and TECHZ businesses as required under ~~section~~ sections 469.3201- and 469.3701; and

(16) any agency responsible for monitoring compliance with job opportunity building zones or TECHZ business subsidy agreements.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

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

Sec. 2. Minnesota Statutes 2008, section 270B.14, subdivision 3, is amended to read:

Subd. 3. **Administration of enterprise, job opportunity, ~~and~~ biotechnology and health sciences industry zone, and TECHZ programs.** The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the Department of Employment and Economic Development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7, or to the Department of Employment and Economic Development and appropriate officials from the local government units in which a qualified business is located but only as necessary to enforce the job opportunity building zone benefits under section 469.315, ~~or~~ biotechnology and health sciences industry zone benefits under section 469.336, or the TECHZ benefits under section 469.365.

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

Sec. 3. Minnesota Statutes 2008, section 270B.15, is amended to read:

270B.15 DISCLOSURE TO LEGISLATIVE AUDITOR AND STATE AUDITOR.

(a) Returns and return information must be disclosed to the legislative auditor to the extent necessary for the legislative auditor to carry out sections 3.97 to 3.979.

(b) The commissioner must disclose return information, including the report required under section 289A.12, subdivision 15, to the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201 and audits of TECHZ businesses and business subsidy agreements under section 469.3701.

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

Sec. 4. Minnesota Statutes 2008, section 272.02, is amended by adding a subdivision to read:

Subd. 95. **TECHZ property.** (a) Improvements to real property and personal property classified under section 273.13, subdivision 24, by a qualified TECHZ business at a TECHZ location are exempt from ad valorem taxes levied under chapter 275. The exemption applies only to improvements to the property made within two years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362, or to any improvements if the property was not owned or occupied by the business or by a related party prior to the signing of the business subsidy agreement.

(b) For property to qualify for the exemption under paragraph (a), the occupant must be a qualified TECHZ business, as defined in section 469.360, subdivision 7.

(c) For property located outside the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to property taxes payable in the year after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362 and for the taxes payable in the ten following years. For property located within the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to property taxes payable in the year after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362 and for the taxes payable in the five following years.

To be exempt, the property must be occupied by July 1 of the assessment year by a qualified TECHZ business that has signed the business subsidy agreement by July 1 of the assessment year.

A qualified TECHZ business must notify the county assessor in writing of eligibility under this subdivision by July 1 in order to begin receiving the exemption under this subdivision for taxes payable in the following year. The business need not annually notify the county assessor of its continued exemption under this subdivision, but must notify the county assessor immediately if the exemption no longer applies.

EFFECTIVE DATE. This section is effective beginning for property taxes assessed in 2011 and payable in 2012.

Sec. 5. Minnesota Statutes 2008, section 289A.12, is amended by adding a subdivision to read:

Subd. 17. **Report of TECHZ benefits; penalty for failure to file report.** (a) By October 15 of each year, every qualified TECHZ business, as defined under section 469.360, subdivision 7, must file with the commissioner, on a form prescribed by the commissioner, a report listing the tax

benefits under section 469.365 received by the business for the previous year.

(b) The commissioner shall send notice to each business that fails to timely submit the report required under paragraph (a). The notice shall demand that the business submit the report within 60 days. Where good cause exists, the commissioner may extend the period for submitting the report as long as a request for extension is filed by the business before the expiration of the 60-day period. The commissioner shall notify the commissioner of employment and economic development and the appropriate local government unit whenever notice is sent to a business under this paragraph.

(c) A business that fails to submit the report as required under paragraph (b) is no longer a qualified business under section 469.360, subdivision 7, and is subject to the repayment provisions of section 469.369.

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

Sec. 6. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over \$500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed \$10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human

organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; ~~and~~

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16); and

(19) TECHZ income as provided under section 469.366.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 7. Minnesota Statutes 2008, section 290.01, subdivision 29, is amended to read:

Subd. 29. **Taxable income.** The term "taxable income" means:

- (1) for individuals, estates, and trusts, the same as taxable net income;
- (2) for corporations, the taxable net income less
 - (i) the net operating loss deduction under section 290.095;
 - (ii) the dividends received deduction under section 290.21, subdivision 4;
 - (iii) the exemption for operating in a job opportunity building zone under section 469.317;

(iv) the exemption for operating in a biotechnology and health sciences industry zone under section 469.337; ~~and~~

(v) the exemption for operating in an international economic development zone under section 469.326; and

(vi) the exemption for TECHZ income under section 469.367.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 8. Minnesota Statutes 2009 Supplement, 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, 5.35 percent;
- (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- (3) On all over \$102,030, 7.85 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, 5.35 percent;
- (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- (3) On all over \$57,710, 7.85 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, 5.35 percent;
- (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- (3) On all over \$86,910, 7.85 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), (13), (16), and (17), 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), (16), ~~and (18), and (19)~~, 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), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), (16), ~~and (18), and (19)~~.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 9. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **TECHZ new job creation credit.** A taxpayer that is a qualified TECHZ business, as defined in section 469.360, subdivision 7, is allowed a credit as determined under section 469.368 against the tax imposed by this chapter.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 10. Minnesota Statutes 2009 Supplement, section 290.091, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), (13), (16), and (17);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (6), (9) to (16), ~~and (18), and (19).~~

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Net minimum tax" means the minimum tax imposed by this section.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 11. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is

Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

(2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (15), is disallowed in determining alternative minimum taxable income.

(3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (18), is allowed as a depreciation deduction in determining alternative minimum taxable income.

(4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).

(9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification

made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (10).

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

(15) Alternative minimum taxable income excludes the income from operating in a biotechnology and health sciences industry zone as provided under section 469.337.

(16) Alternative minimum taxable income excludes the income from operating in an international economic development zone as provided under section 469.326.

(17) Alternative minimum taxable income excludes the income from operating a TECHZ business as provided under section 469.367.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 12. Minnesota Statutes 2008, section 297A.68, is amended by adding a subdivision to read:

Subd. 42. **TECHZ businesses.** (a) Purchases of tangible personal property or taxable services by a qualified TECHZ business, as defined in section 469.360, subdivision 7, are exempt if the property or services are primarily used or consumed by the business in furtherance of activities described in section 469.360, subdivision 7, paragraph (d), at a location which has been approved for benefits in section 469.362. This exemption applies if the purchase was made and delivery was received within two years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property at a location which has been approved for benefits under section 469.362 are exempt if the improvements after completion of construction are to be used by a qualified TECHZ business, in furtherance of activities described in section 469.360, subdivision 7, paragraph (d). This exemption applies regardless of whether the

purchases are made by the business or a contractor. This exemption applies to items purchased and delivered to the location within three years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

(c) The exemptions under this subdivision apply to a local sales and use tax regardless of whether the local sales and use tax is imposed on the sales taxable as defined under this chapter.

(d) For purposes of this subdivision, the tax must be imposed and collected as if the applicable rate under section 297A.62 applied and then refunded in the manner provided in section 297A.75. The taxpayer must attach to the claim for refund information sufficient for the commissioner to be able to determine that the improvements are being occupied by a business that has signed a business subsidy agreement. The commissioner shall not pay any refunds on taxes collected under this subdivision until after June 30, 2011.

EFFECTIVE DATE. This section is effective for purchases made after December 31, 2010.

Sec. 13. Minnesota Statutes 2009 Supplement, section 297A.75, subdivision 1, 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) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (4) building materials for correctional facilities under section 297A.71, subdivision 3;
- (5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;
- (6) elevators and building materials exempt under section 297A.71, subdivision 12;
- (7) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17;
- (8) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23;
- (9) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;
- (10) 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) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 41;

(12) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, clause (11);

(13) materials, supplies, and equipment for construction or improvement of projects and facilities under section 297A.71, subdivision 40; ~~and~~

(14) materials, supplies, and equipment for construction or improvement of a meat processing facility exempt under section 297A.71, subdivision 41-; and

(15) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 42.

EFFECTIVE DATE. This section is effective for goods or services purchased after December 31, 2010.

Sec. 14. Minnesota Statutes 2009 Supplement, section 297A.75, subdivision 2, 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 (15), the applicant must be the purchaser;

(2) for subdivision 1, clauses (4) and (7), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

(4) for subdivision 1, clause (6), the applicant must be the owner of the homestead property;

(5) for subdivision 1, clause (8), the owner of the qualified low-income housing project;

(6) for subdivision 1, clause (9), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities;

(7) for subdivision 1, clauses (10), (11), and (14), the owner of the qualifying business; and

(8) for subdivision 1, clauses (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 goods or services purchased after December 31, 2010.

Sec. 15. **[469.360] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 469.360 to 469.3693, the following terms have the meanings given.

Subd. 2. **Payroll growth percentage.** "Payroll growth percentage" means payroll attributable to new employees divided by Minnesota payroll as defined in section 290.191, subdivision 12.

Subd. 3. **New employee.** A new employee is an individual who:

(1) is an employee as defined in section 290.92, subdivision 3, who works for the entire tax year

at the TECHZ location of a qualified business;

(2) performs services that are primarily in furtherance of an activity included in subdivision 7, paragraph (d);

(3) was not employed in this state by the qualified TECHZ business or a related business on the later of the date of the signing of the business subsidy agreement required under subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362, unless the employee's former position was filled by another person; and

(4) did not replace an individual who was an employee of the qualified business at the TECHZ business location on the later of the signing of the business subsidy agreement required under subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, Iron Range resources and rehabilitation agency, regional development commission, or a federally designated economic development district.

Subd. 6. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity with its primary headquarters in this state.

Subd. 7. **Qualified TECHZ business.** (a) A person carrying on a trade or business is a qualified TECHZ business for purposes of sections 469.360 to 469.3701 if the criteria in paragraphs (b) to (h) are met.

(b) A person is a qualified TECHZ business only at the TECHZ business location for which it has been approved by the commissioner of employment and economic development.

(c) Prior to execution of the business subsidy agreement, the local government unit must consider the following factors:

(1) how wages compare to the regional industry average;

(2) the number of jobs that will be provided relative to overall employment in the community;

(3) the economic outlook for the industry the business will engage in;

(4) sales that will be generated from outside Minnesota;

(5) how the business will build on existing regional strengths or diversify the regional economy;
and

(6) any other criteria the commissioner deems necessary.

(d) A person must be:

(1) predominantly engaged in one or more of the following industry sectors:

(i) manufacturing;

(ii) software or Internet publishing, computer systems design and related services, architectural, engineering, and related services, or scientific research and development; or

(iii) a global, national, divisional, or regional headquarters operation that manages business operations for a minimum of a multistate territory; and

(2) a business conducting expanded business operations in at least one of the industry sectors in clause (1), by the later of the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362, in a business facility that is:

(i) a new expansion to a business facility owned by the business prior to the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362;

(ii) not owned by the business prior to the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362; or

(iii) newly constructed for the business's expansion of operations.

(e) A person must increase full-time employment in the first full year of operation at the TECHZ business location by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the business operations prior to the expansion and maintain the required level of employment for each year the business is designated as a TECHZ business.

(f) A person must pay each employee compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

(g) A person must pay the prevailing wage for construction, installation, remodeling, and repair as required by section 116J.871.

(h) A person must enter a binding written business subsidy agreement with the commissioner that:

(1) pledges the business will meet the requirements of paragraphs (b) and (d) to (g);

(2) provides for repayment of all tax benefits enumerated under section 469.365 to the business under the procedures in section 469.369, if the requirements of this subdivision are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and

(3) contains any other terms the commissioner determines appropriate.

Subd. 8. **TECHZ location.** "TECHZ location" means the property described in a business subsidy agreement that is approved by the commissioner under section 469.362 and that is occupied by the qualified TECHZ business that is a party to the agreement.

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

Sec. 16. **[469.361] TECHZ; LIMITATIONS.**

Subdivision 1. **Duration limit.** (a) The maximum duration that a qualified TECHZ business

may receive a tax benefit is determined under the section that authorizes the tax benefit. The local government unit may request a shorter duration than is authorized. The commissioner may specify a shorter duration, regardless of the authorized duration, in order to ensure that benefits to the state outweigh the costs.

(b) The commissioner may not approve any business subsidy agreements after December 31, 2015.

Subd 2. **Border city development zones.** (a) A qualified TECHZ business may not operate in a TECHZ location if it is receiving benefits under sections 469.3171 to 469.1735 for being located at that location in a border city development zone.

(b) A city must not provide tax incentives under sections 469.1731 to 469.1735 to a qualified TECHZ business operating in a TECHZ location in the city.

Subd. 3. **Job opportunity building zones.** A TECHZ location cannot be located in a job opportunity building zone.

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

Sec. 17. **[469.362] APPLICATION FOR DESIGNATION.**

Subdivision 1. **Eligibility.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply to the commissioner for a business to be designated as a qualified TECHZ business.

Subd. 2. **Application.** In order for a business to receive designation as a qualified TECHZ business, a local government unit must submit an application to the commissioner. In the application, the local government unit and the qualified TECHZ business must provide the commissioner with the information that the commissioner needs to review a business subsidy agreement under section 469.360, subdivision 7, paragraph (c). The application must be in the form and manner required by the commissioner.

Subd. 3. **State review criteria.** (a) The commissioner may only approve an application after considering:

(1) whether the business has local or Minnesota competitors that will be significantly and adversely affected by the business subsidy agreement;

(2) whether the proposed job creation, job retention, and capital investment is commensurate with the estimated tax benefits provided to the business by participating as a qualified TECHZ business; and

(3) whether other financial assistance is available.

(b) Additionally, the commissioner may only approve a business subsidy agreement after considering if, without the estimated tax benefits, the business:

(1) would not have expanded operations within Minnesota;

(2) would not have relocated from outside the state to Minnesota;

(3) would have moved to another state or expanded in another state rather than remaining or

expanding in Minnesota; or

(4) would not have opened a new facility in Minnesota.

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

Sec. 18. [469.363] BUSINESS SUBSIDY AGREEMENTS; REPORTS.

Subdivision 1. **TECHZ business subsidy agreement.** A business subsidy agreement required under section 469.360, subdivision 7, paragraph (h), must comply with this section.

Subd. 2. **Business subsidy agreement requirements.** A business subsidy agreement is not effective until the commissioner has approved the agreement in writing. The commissioner may not approve an agreement that violates sections 116J.993 to 116J.995 or 469.360 to 469.3701. The commissioner may not approve an agreement unless:

(1) the qualified TECHZ business is required to create or retain a minimum number of jobs;

(2) the agreement defines "jobs" for purposes of determining compliance with wage and job goals as all jobs that constitute "employment" for purposes of state unemployment insurance;

(3) the qualified TECHZ business is required to report all jobs created or retained because of the separate business location, if any, for purposes of section 268.044; and

(4) the qualified TECHZ business agrees to provide the appropriate data practices release so that the commissioner of revenue and the commissioner of employment and economic development can monitor compliance with the terms of the agreement.

Subd. 3. **Standard agreement.** The commissioner must develop and require the use of a standard business subsidy agreement that imposes definitive and enforceable obligations on the qualified TECHZ business.

Subd. 4. **Business subsidy reports.** (a) A local government unit must report to the commissioner on the two-year anniversary date of the business subsidy agreement on the progress of the qualified TECHZ business in meeting the goals listed in the business subsidy agreement.

(b) A local government unit must annually report to the commissioner on the progress of the qualified TECHZ business in meeting the goals listed in the business subsidy agreement as required under section 116J.994, subdivisions 7 and 8.

(c) The commissioner must hold a qualified TECHZ business out of compliance or remove the business from the program if the qualified TECHZ business fails to provide the information requested by the local government unit for the report under paragraph (a) within 30 days of written notice that the information is overdue.

Subd. 5. **Public notice and hearing.** A local government unit must provide public notice and hearing as required under section 116J.994, subdivision 5, before approving a business subsidy agreement. Public notice of a proposed business subsidy agreement must be published in a local newspaper of general circulation. The public hearing must be held in a location specified by the local government unit. Notwithstanding the requirements of section 116J.994, subdivision 5, the commissioner is not required to provide an additional public notice and hearing when entering into a business subsidy agreement with a local government unit and a qualified business.

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

Sec. 19. [469.365] TAX INCENTIVES AVAILABLE TO TECHZ BUSINESS.

A qualified TECHZ business, and certain property used by a qualified TECHZ business, qualifies for:

- (1) exemption from individual income taxes as provided under section 469.366;
- (2) exemption from corporate franchise taxes as provided under section 469.367;
- (3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 42;
- (4) exemption from the property tax as provided in section 272.02, subdivision 95; and
- (5) the new job creation credit allowed under section 469.368.

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

Sec. 20. [469.366] TECHZ INCOME TAX EXEMPTION.

(a) An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified TECHZ business. This exemption is determined by multiplying its net income for the operation of the qualified TECHZ business by its payroll growth percentage and subtracting the result in determining taxable income. For a resident of Minnesota, the payroll growth percentage is calculated by using total payroll under section 290.191 rather than Minnesota payroll.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the Minnesota payroll and Minnesota property of the qualified business.

(c) For a qualified TECHZ business located outside the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to income earned in the year that the business enters into the business subsidy agreement as required under section 469.360, subdivision 7, and the ten following taxable years. For a business located within the metropolitan area, this exemption applies to income earned in the year that the business enters into the business subsidy agreement required under section 469.360, subdivision 7, and the five following taxable years.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 21. [469.367] CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified TECHZ business is exempt from taxation under section 290.02 and from the alternative minimum tax under section 290.0921 for the portion of its income attributable to operations conducted at the TECHZ business location approved by the commissioner. This exemption is determined as follows:

- (1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its payroll growth percentage and subtracting the result from taxable net income in determining taxable income; and

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable net income by its payroll growth factor and subtracting the result from alternative minimum taxable net income.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of Minnesota payroll and Minnesota property of the corporation.

(c) For a qualified TECHZ business located outside the metropolitan area as defined in section 273.121, subdivision 2, this exemption applies to income earned in the year that the business enters into the business subsidy agreement as required under section 469.360, subdivision 7, and the ten following taxable years for a business located within the metropolitan area this exemption applies to income earned in the year that the business enters into the business subsidy agreement required under section 469.360, subdivision 7, and the five following taxable years.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 22. **[469.368] NEW JOB CREATION CREDIT.**

Subdivision 1. **Credit allowed.** A qualified TECHZ business is allowed a credit against the taxes imposed under chapter 290. The credit equals \$1,500 times the number of new employees employed by the qualified TECHZ business at the TECHZ business location.

Subd. 2. **Duration.** The credit is available for the first five full taxable years that begin after the day the business enters into the business subsidy agreement as required under section 469.360, subdivision 7.

Subd. 3. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 4. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 23. **[469.369] REPAYMENT OF TAX BENEFITS.**

Subdivision 1. **Repayment obligation.** A business must repay the total tax benefits listed in section 469.365 received during the two years immediately before it ceased to be a qualified TECHZ business. The commissioner of employment and economic development may extend for up to one year the period for meeting any goals provided in the business subsidy agreement.

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

(b) "Business" means any person that received tax benefits enumerated in section 469.365.

(c) "Commissioner" means the commissioner of revenue.

Subd. 3. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax

reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the taxing authorities with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the commissioner for distribution to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay an taxes required to be repaid within 30 days after becoming subject to repayment under this section. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.365.

(b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business and to the taxpayer of record. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The business or the taxpayer of record may appeal the valuation and determination of the property tax to the tax court within 30 days after receipt of the tax statement.

(c) The provisions of chapters 270C and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270C.40, from 30 days after becoming subject to repayment under this section until the date the tax is paid.

(d) If a property tax is not repaid under paragraph (b), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the auditor provided the statement under paragraph (b).

(e) For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, including the credit payable under section 469.368, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business was subject to repayment under this section and for the taxes payable in the prior year.

(f) The commissioner may assess the repayment of taxes under paragraph (c) any time within two years after the business becomes subject to repayment under subdivision 1, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later. The county auditor may send the statement under paragraph (b) any time within three years after the business becomes subject to repayment under subdivision 1.

(g) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 95, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax

benefits beginning with goods or services purchases or first put to a taxable use on the day that the business becomes subject to repayment under this section.

Subd. 5. **Waiver authority.** The commissioner may waive all or part of a repayment required under subdivision 1, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the qualified TECHZ business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a qualified TECHZ business as a result of circumstances beyond its control including, but not limited to:

- (1) a natural disaster;
- (2) unforeseen industry trends; or
- (3) loss of a major supplier or customer.

Subd. 6. **Reconciliation.** Where this section is inconsistent with section 116J.994, subdivision 3, paragraph (e), or 6, or any other provisions of sections 116J.993 to 116J.995, this section prevails.

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

Sec. 24. **[469.3692] PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.**

Under no circumstance shall terms of any agreement required as a condition for eligibility for benefits listed under section 469.365 be amended to change job creation, job retention, or wage goals included in the agreement.

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

Sec. 25. **[469.3693] CERTIFICATION OF CONTINUING ELIGIBILITY FOR TECHZ BENEFITS.**

(a) By October 15 of each year, every qualified TECHZ business must certify to the commissioner of revenue, on a form prescribed by the commissioner of revenue, whether it is in compliance with any agreement required as a condition for eligibility for benefits listed under section 469.365. A qualified TECHZ business that fails to submit the certification, or any qualified TECHZ business that submits a certification that the commissioner of revenue later determines materially misrepresents the business's compliance with the agreement, is subject to the repayment provisions under section 469.369 from January 1 of the year in which the report is due or the date that the business became subject to section 469.369, whichever is earlier. Any such business is permanently barred from obtaining benefits under section 469.365. For purposes of this section, the bar applies to an entity and also applies to any individuals or entities that have an ownership interest of at least 20 percent of the entity.

(b) Before the sanctions under paragraph (a) apply to a qualified TECHZ business that fails to submit the certification, the commissioner of revenue shall send notice to the business, demanding that the certification be submitted within 30 days and advising the business of the consequences for failing to do so. The commissioner of revenue shall notify the commissioner of employment and economic development and the appropriate local government unit whenever notice is sent to a business under this paragraph.

(c) The certification required under this section is public.

(d) The commissioner of revenue shall promptly notify the commissioner of employment and economic development of all qualified TECHZ businesses that certify that they are not in compliance with the terms of their business subsidy agreement and all qualified TECHZ businesses that fail to file the certification.

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

Sec. 26. **[469.3701] STATE AUDITOR; AUDITS OF TECHZ BUSINESSES AND BUSINESS SUBSIDY AGREEMENTS.**

The Office of the State Auditor may annually audit the creation and operation of all TECHZ businesses and business subsidy agreements entered into under sections 469.360 to 469.3693. To the extent necessary to perform this audit, the state auditor may request from the commissioner of revenue tax return information of taxpayers who are eligible to receive tax benefits authorized under section 469.365. To the extent necessary to perform this audit, the state auditor may request from the commissioner of employment and economic development wage detail report information required under section 268.044 of taxpayers eligible to receive tax benefits authorized under section 469.365.

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

ARTICLE 35

PROPERTY TAXES, AIDS, AND PAYMENTS

Section 1. Minnesota Statutes 2008, section 97A.061, is amended by adding a subdivision to read:

Subd. 6. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivisions 1 to 5, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 2. Minnesota Statutes 2008, section 272.02, subdivision 42, is amended to read:

Subd. 42. **Property leased to school districts schools.** (a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

- (1) the lease must be for a period of at least 12 consecutive months;
- (2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;
- (3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and
- (4) the lease must provide that the school district has the exclusive use of the property during the lease period.

(b) Property that is leased or rented to a charter school formed and operated under section 124D.10 is exempt from taxation if it meets all of the following requirements:

(1) the lease is for a period of at least 12 consecutive months;

(2) the charter school must use the property to provide direct instruction in any grade from kindergarten through grade 12, to provide special education for disabled children, or to provide administrative services directly related to the educational program at that site; and

(3) except for lease provisions that allow for the shared use of the property by the charter school and another public or private school, by the charter school and a church, or by the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 3. Minnesota Statutes 2008, section 273.1384, is amended by adding a subdivision to read:

Subd. 6. **Credit reduction.** In 2011 and thereafter, the annual market value credit reimbursement amount for each taxing jurisdiction determined under subdivisions 1 to 5 is reduced by the dollar amount of the reduction in market value credit reimbursements for that taxing jurisdiction in 2010 due to allotment reductions under section 16A.152 and the reductions under section 477A.0133. No taxing jurisdiction's market value credit reimbursements are reduced to less than zero under this subdivision. The commissioner of revenue shall pay the annual market value credit reimbursement amounts, after reduction under this subdivision, to the affected taxing jurisdictions as provided in this section.

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 275.70, subdivision 5, is amended to read:

Subd. 5. **Special levies.** "Special levies" means those portions of ad valorem taxes levied by a local governmental unit for the following purposes or in the following manner:

(1) to pay the costs of the principal and interest on bonded indebtedness or to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the year preceding the year for which the levy limit is calculated;

(2) to pay the costs of principal and interest on certificates of indebtedness issued for any corporate purpose except for the following:

(i) tax anticipation or aid anticipation certificates of indebtedness;

(ii) certificates of indebtedness issued under sections 298.28 and 298.282;

(iii) certificates of indebtedness used to fund current expenses or to pay the costs of extraordinary expenditures that result from a public emergency; or

(iv) certificates of indebtedness used to fund an insufficiency in tax receipts or an insufficiency in other revenue sources;

(3) to provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(4) to fund payments made to the Minnesota State Armory Building Commission under section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(5) property taxes approved by voters which are levied against the referendum market value as provided under section 275.61;

(6) to fund matching requirements needed to qualify for federal or state grants or programs to the extent that either (i) the matching requirement exceeds the matching requirement in calendar year 2001, or (ii) it is a new matching requirement that did not exist prior to 2002;

(7) to pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes, in accordance with standards formulated by the Emergency Services Division of the state Department of Public Safety, as allowed by the commissioner of revenue under section 275.74, subdivision 2;

(8) pay amounts required to correct an error in the levy certified to the county auditor by a city or county in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.70 to 275.74 in the preceding levy year;

(9) to pay an abatement under section 469.1815;

(10) to pay any costs attributable to increases in the employer contribution rates under chapter 353, or locally administered pension plans, that are effective after June 30, 2001;

(11) to pay the operating or maintenance costs of a county jail as authorized in section 641.01 or 641.262, or of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), to the extent that the county can demonstrate to the commissioner of revenue that the amount has been included in the county budget as a direct result of a rule, minimum requirement, minimum standard, or directive of the Department of Corrections, or to pay the operating or maintenance costs of a regional jail as authorized in section 641.262. For purposes of this clause, a district court order is not a rule, minimum requirement, minimum standard, or directive of the Department of Corrections. If the county utilizes this special levy, except to pay operating or maintenance costs of a new regional jail facility under sections 641.262 to 641.264 which will not replace an existing jail facility, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71, shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(12) to pay for operation of a lake improvement district, as authorized under section 103B.555. If the county utilizes this special levy, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71 shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(13) to repay a state or federal loan used to fund the direct or indirect required spending by the local government due to a state or federal transportation project or other state or federal capital

project. This authority may only be used if the project is not a local government initiative;

(14) to pay for court administration costs as required under section 273.1398, subdivision 4b, less the (i) county's share of transferred fines and fees collected by the district courts in the county for calendar year 2001 and (ii) the aid amount certified to be paid to the county in 2004 under section 273.1398, subdivision 4c; however, for taxes levied to pay for these costs in the year in which the court financing is transferred to the state, the amount under this clause is limited to the amount of aid the county is certified to receive under section 273.1398, subdivision 4a;

(15) to fund a police or firefighters relief association as required under section 69.77 to the extent that the required amount exceeds the amount levied for this purpose in 2001;

(16) for purposes of a storm sewer improvement district under section 444.20;

(17) to pay for the maintenance and support of a city or county society for the prevention of cruelty to animals under section 343.11, but not to exceed in any year \$4,800 or the sum of \$1 per capita based on the county's or city's population as of the most recent federal census, whichever is greater. If the city or county uses this special levy, any amount levied by the city or county in the previous levy year for the purposes specified in this clause and included in the city's or county's previous year's levy limit computed under section 275.71, must be deducted from the levy limit base under section 275.71, subdivision 2, in determining the city's or county's current year levy limit;

(18) for counties, to pay for the increase in their share of health and human service costs caused by reductions in federal health and human services grants effective after September 30, 2007;

(19) for a city, for the costs reasonably and necessarily incurred for securing, maintaining, or demolishing foreclosed or abandoned residential properties, as allowed by the commissioner of revenue under section 275.74, subdivision 2. A city must have either (i) a foreclosure rate of at least 1.4 percent in 2007, or (ii) a foreclosure rate in 2007 in the city or in a zip code area of the city that is at least 50 percent higher than the average foreclosure rate in the metropolitan area, as defined in section 473.121, subdivision 2, to use this special levy. For purposes of this paragraph, "foreclosure rate" means the number of foreclosures, as indicated by sheriff sales records, divided by the number of households in the city in 2007;

(20) for a city, for the unreimbursed costs of redeployed traffic-control agents and lost traffic citation revenue due to the collapse of the Interstate 35W bridge, as certified to the Federal Highway Administration;

(21) to pay costs attributable to wages and benefits for sheriff, police, and fire personnel. If a local governmental unit did not use this special levy in the previous year its levy limit base under section 275.71 shall be reduced by the amount equal to the amount it levied for the purposes specified in this clause in the previous year;

(22) an amount equal to 50 percent of any reductions in the certified aids or credits payable under sections 477A.011 to 477A.014, and section 273.1384, due to unallotment under section 16A.152 or 477A.0133. In the case of an unallotment, the amount of the levy allowed under this clause is equal to the amount unallotted or reduced in the calendar year in which the tax is levied unless the unallotment amount is not known by September 1 of the levy year, and the local government has not adjusted its levy under section 275.065, subdivision 6, or 275.07, subdivision 6, in which case the unallotment amount may be levied in the following year;

(23) to pay for the difference between one-half of the costs of confining sex offenders undergoing the civil commitment process and any state payments for this purpose pursuant to section 253B.185, subdivision 5;

(24) for a county to pay the costs of the first year of maintaining and operating a new facility or new expansion, either of which contains courts, corrections, dispatch, criminal investigation labs, or other public safety facilities and for which all or a portion of the funding for the site acquisition, building design, site preparation, construction, and related equipment was issued or authorized prior to the imposition of levy limits in 2008. The levy limit base shall then be increased by an amount equal to the new facility's first full year's operating costs as described in this clause; and

(25) for 50 percent of the estimated amount of reduction to credits under section 273.1384 for credits payable in the year in which the levy is payable.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 5. Minnesota Statutes 2008, section 275.71, subdivision 5, is amended to read:

Subd. 5. **Property tax levy limit.** ~~For taxes levied in 2008 through 2010,~~ (a) The property tax levy limit for a local governmental unit is equal to its adjusted levy limit base determined under subdivision 4 plus any additional levy authorized under section 275.73, which is levied against net tax capacity, reduced by the sum of (i) the total amount of aids and reimbursements that the local governmental unit is certified to receive under sections 477A.011 to 477A.014, (ii) taconite aids under sections 298.28 and 298.282 including any aid which was required to be placed in a special fund for expenditure in the next succeeding year, (iii) estimated payments to the local governmental unit under section 272.029, adjusted for any error in estimation in the preceding year, and (iv) aids under section 477A.16.

(b) If an aid, payment, or other amount used in paragraph (a) to reduce a local government unit's levy limit is reduced by allotment reduction under section 16A.152, the amount of the aid, payment, or other amount prior to unallotment is used in the computations in paragraph (a). In order for a local government unit to levy outside of its limit to offset a reduction attributable to unallotment, it must do so under, and to the extent authorized by, a special levy authority. If any amount in paragraph (a), items (i) to (iv), has decreased from the corresponding amount for the prior year other than because of an allotment reduction under section 16A.152, an amount equal to one-half of that decrease must be subtracted from the result obtained under paragraph (a).

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290C.07, is amended to read:

290C.07 CALCULATION OF INCENTIVE PAYMENT.

An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. The payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the land using the previous year's statewide average total township tax rate and a class rate of one percent, if the land were valued at (i) the average statewide managed forest land market value per acre calculated under section 290C.06, and (ii) the average statewide managed forest land current use value per acre calculated under section 290C.02, subdivision 5; or

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and a class rate of one percent, provided that the payment shall be no less than \$7 per acre for each acre enrolled in the sustainable forest incentive program and the maximum payment per each Social Security Number or state or federal business tax identification number shall not exceed \$100,000.

EFFECTIVE DATE. This section is effective for payments made after June 30, 2011, based on certifications due in 2011 and thereafter.

Sec. 7. Minnesota Statutes 2008, section 477A.013, subdivision 9, is amended to read:

Subd. 9. **City aid distribution.** (a) ~~In calendar year 2009 and thereafter,~~ Each city shall receive an aid distribution equal to the sum of (1) the city formula aid under subdivision 8, and (2) its city aid base.

(b) For aids payable in ~~2009~~ 2011 only, the total aid for any city shall not exceed the sum of (1) 35 percent of the city's net levy for the year prior to the aid distribution, plus (2) its total aid in the previous year. For aid payable in 2011 only, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of \$125 multiplied by its population, or 50 percent of its net levy in the year prior to the aid distribution. The total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of \$125 multiplied by its population, or 40 percent of its 2003 certified aid amount.

(c) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for any city shall not exceed the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution plus (2) its total aid in the previous year. For aids payable in ~~2009~~ 2012 and thereafter, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of \$10 multiplied by its population, or ten percent of its net levy in the year prior to the aid distribution.

(d) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of \$10 multiplied by its population, or five percent of its 2003 certified aid amount. ~~For aids payable in 2009 only, the total aid for a city with a population less than 2,500 must not be less than what it received under this section in the previous year unless its total aid in calendar year 2008 was aid under section 477A.011, subdivision 36, paragraph (s), in which case its minimum aid is zero.~~

(e) For aid payable in 2012 and thereafter, a city's aid loss under this section may not exceed \$300,000 in any year in which the total city aid appropriation under section 477A.03, subdivision 2a, is equal or greater than the appropriation under that subdivision in the previous year, unless the city has an adjustment in its city net tax capacity under the process described in section 469.174, subdivision 28.

(f) If a city's net tax capacity used in calculating aid under this section has decreased in any year by more than 25 percent from its net tax capacity in the previous year due to property becoming tax-exempt Indian land, the city's maximum allowed aid increase under paragraph (c) shall be increased by an amount equal to (1) the city's tax rate in the year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease resulting from the property becoming tax exempt.

EFFECTIVE DATE. This section is effective for aid payable in 2011 and thereafter.

Sec. 8. [477A.0133] ADDITIONAL 2010 AID AND REDUCTIONS.

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

(b) The "2010 revenue base" for a county is the sum of the county's certified property tax levy for taxes payable in 2010, plus the amount of county program aid under section 477A.0124 that the county was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the county was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2010 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2010, plus the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the city was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

Subd. 2. 2010 reductions; counties, cities, and towns. After implementing any reduction of county program aid under section 477A.0124, local government aid under section 477A.013, or market value credit reimbursements under section 273.1384, for amounts payable in 2010 to reflect the reduction of allotments under section 16A.152, the commissioner of revenue must compute the additional aid reduction amounts for each county and city provided under this section.

The additional reduction amounts under this section are limited to the sum of the amount of county program aid under section 477A.0124, local government aid under section 477A.013, and market value credit reimbursements under section 273.1384 payable to the county or city in 2010 before the reductions in this section, but after the reductions for unallotments.

The reduction amount under this section is applied first to reduce the amount payable as either county program aid under section 477A.0124, in the case of a county, or local government aid under section 477A.013, in the case of a city, and then, if necessary, to reduce the amount payable to the county or city in 2010 as market value credit reimbursements under section 273.1384.

No aid or reimbursement amount is reduced to less than zero under this section.

The additional 2010 aid reduction amount for a county is equal to 4.354 percent of the county's 2010 revenue base. The additional 2010 aid reduction amount for a city is equal to 8.158 percent of the city's 2010 revenue base.

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

Sec. 9. Minnesota Statutes 2008, section 477A.03, subdivision 2a, is amended to read:

Subd. 2a. **Cities.** For aids payable in 2009 2011 and thereafter, the total aid paid under section 477A.013, subdivision 9, is \$526,148,487, subject to adjustment in subdivision 5 \$337,640,792.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 10. Minnesota Statutes 2008, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. **Counties.** (a) For aids payable in 2009 2011 and thereafter, the total aid payable under section 477A.0124, subdivision 3, is ~~\$111,500,000 minus one half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ \$33,059,086. Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of management and budget for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in 2009 2011 and thereafter, the total aid under section 477A.0124, subdivision 4, is ~~\$116,132,923 minus one half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ \$34,082,538. The commissioner of management and budget shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of management and budget and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 11. Minnesota Statutes 2008, section 477A.12, is amended by adding a subdivision to read:

Subd. 4. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivision 1 to 3, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 12. Minnesota Statutes 2008, section 477A.14, is amended by adding a subdivision to read:

Subd. 3. **Reduction.** Beginning in 2010, the monetary amounts per acre specified in subdivisions 1 and 2, are reduced by six percent.

EFFECTIVE DATE. This section is effective for payment and distributions made in 2010 and thereafter.

Sec. 13. Laws 2008, chapter 366, article 3, section 3, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in calendar years 2008 through 2010, payable in 2009 through 2011, and thereafter.

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

Sec. 14. Laws 2008, chapter 366, article 3, section 4, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in 2008 ~~through 2010~~, payable in 2009 ~~through 2011~~, and thereafter.

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

Sec. 15. **REPEALER.**

Minnesota Statutes 2008, section 477A.03, subdivision 5, is repealed.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

ARTICLE 36

REFUNDS

Section 1. Minnesota Statutes 2008, section 270A.03, subdivision 7, is amended to read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 2. Minnesota Statutes 2008, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return,

or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 3. Minnesota Statutes 2008, section 290.01, subdivision 6, is amended to read:

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. ~~For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.~~

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 4. Minnesota Statutes 2008, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~19~~ 15 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective for property tax refunds based on rent paid after December 31, 2009.

Sec. 5. Minnesota Statutes 2008, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include ~~49~~ 15 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

EFFECTIVE DATE. This section is effective for property tax refunds based upon rent paid after December 31, 2009, and upon property taxes payable in 2011 and thereafter.

Sec. 6. **REPEALER.**

(a) Minnesota Statutes 2008, sections 10A.322, subdivision 4; and 13.4967, subdivision 2, are repealed.

(b) Minnesota Statutes 2008, section 290.06, subdivision 23, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective for refund claims based on contributions made after June 30, 2011.

ARTICLE 37

MISCELLANEOUS

Section 1. **[270C.311] FAILURE TO PRODUCE RECORDS.**

(a) A taxpayer who fails to produce records or documents that support items on a return is subject to a penalty equal to the greater of \$500 or 25 percent of the amount of the additional tax on any

assessment made by the commissioner that results from the failure to produce the documents or records.

(b) The penalty cannot be imposed unless the commissioner:

(1) makes a preliminary written request for the records or documents that gives the taxpayer at least 30 days to comply; and

(2) makes a final written request, after the deadline provided in the preliminary written request, for records or documents that gives the taxpayer at least 30 days to comply. This request must notify the taxpayer of the consequences for failing to provide the records or documents.

(c) The penalty may not be imposed, and if imposed, may be abated, if the taxpayer shows that the response, or failure to respond, was due to reasonable cause.

(d) Records or documents submitted after the deadline provided in the request made under paragraph (b) may be used to determine the correct tax. However, the late records or documents must not reduce any penalty assessed under this section unless the penalty is abated under paragraph (c).

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

Sec. 2. Minnesota Statutes 2008, section 270C.52, subdivision 2, is amended to read:

Subd. 2. **Payment agreements.** (a) When any portion of any tax payable to the commissioner together with interest and penalty thereon, if any, has not been paid, the commissioner may extend the time for payment for a further period. When the authority of this section is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of the tax with penalty and interest, if any, and providing for the payment of the amount in installments.

(b) The agreement may contain a confession of judgment for the amount and for any unpaid portion thereof. If the agreement contains a confession of judgment, the confession of judgment must provide that the commissioner may enter judgment against the taxpayer in the district court of the county of residence as shown upon the taxpayer's tax return for the unpaid portion of the amount specified in the extension agreement.

(c) The agreement shall provide that it can be terminated, after notice by the commissioner, if information provided by the taxpayer prior to the agreement was inaccurate or incomplete, collection of the tax covered by the agreement is in jeopardy, there is a subsequent change in the taxpayer's financial condition, the taxpayer has failed to make a payment due under the agreement, or the taxpayer has failed to pay any other tax or file a tax return coming due after the agreement.

(d) The notice must be given at least 14 calendar days prior to termination, and shall advise the taxpayer of the right to request a reconsideration from the commissioner of whether termination is reasonable and appropriate under the circumstances. A request for reconsideration does not stay collection action beyond the 14-day notice period. If the commissioner has reason to believe that collection of the tax covered by the agreement is in jeopardy, the commissioner may proceed under section 270C.36 and terminate the agreement without regard to the 14-day period.

(e) The commissioner may accept other collateral the commissioner considers appropriate to

secure satisfaction of the tax liability. The principal sum specified in the agreement shall bear interest at the rate specified in section 270C.40 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment. The judgment shall bear interest at the rate specified in section 270C.40.

(f) If it appears to the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be corrected. If after making the extension agreement or entering judgment with respect thereto, the commissioner determines that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess a further tax in accordance with the provisions of law applicable to the tax.

(g) The authority granted to the commissioner by this section is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

(h) The commissioner shall charge a fee for entering into payment agreements that reflects the commissioner's costs for entering into payment agreements. The fee is initially set at \$25 and is adjusted annually as necessary. The fee is charged for entering into a payment agreement, for entering into a new payment agreement after the taxpayer has defaulted on a prior agreement, and for entering into a new payment agreement as a result of renegotiation of the terms of an existing agreement. The fee is paid to the commissioner before the payment agreement becomes effective and does not reduce the amount of the liability.

By June 1 of each year, the commissioner shall determine the cost to the commissioner for entering into payment agreements during the fiscal year and adjust the payment agreement fee as necessary to most nearly equal those costs. Determination of the fee for payment agreements under this section is not subject to the fee setting requirements of section 16A.1283.

EFFECTIVE DATE. This section is effective for payment agreements entered into or renegotiated after June 30, 2010.

Sec. 3. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 16, is amended to read:

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (f), who ~~prepared~~ is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ~~400~~ ten Minnesota individual income tax returns for the ~~prior~~ calendar year must file all Minnesota individual income tax returns prepared for ~~the current~~ that calendar year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of \$5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

EFFECTIVE DATE. This section is effective for tax returns filed after December 31, 2010.

Sec. 4. **REPEALER.**

Laws 2009, chapter 88, article 12, section 21, is repealed.

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

Amend the title accordingly

Senator Ingebrigtsen moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 141, line 4, delete "\$30,000,000" and insert "\$39,900,000"

Page 193, delete subdivision 4

Correct the section totals and the appropriation summary

The question was taken on the adoption of the Ingebrigtsen amendment to the Senjem amendment.

The roll was called, and there were yeas 49 and nays 17, as follows:

Those who voted in the affirmative were:

Berglin	Fischbach	Kelash	Olson, M.	Scheid
Betzold	Fobbe	Koch	Ortman	Senjem
Bonoff	Foley	Koering	Pariseau	Sheran
Carlson	Frederickson	Latz	Parry	Sieben
Chaudhary	Gerlach	Limmer	Pogemiller	Skogen
Clark	Gimse	Lynch	Rest	Sparks
Dahle	Hann	Metzen	Robling	Torres Ray
Dille	Ingebrigtsen	Michel	Rosen	Vandevveer
Doll	Johnson	Moua	Rummel	Wiger
Erickson Ropes	Jungbauer	Olson, G.	Saltzman	

Those who voted in the negative were:

Anderson	Higgins	Marty	Prettner Solon	Tomassoni
Bakk	Kubly	Murphy	Saxhaug	
Cohen	Langseth	Olseen	Skoe	
Dibble	Lourey	Pappas	Stumpf	

The motion prevailed. So the amendment to the amendment was adopted.

Senator Limmer moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 141, line 4, delete "\$30,000,000" and insert "\$41,745,000"

Page 192, delete section 5

Renumber the sections in sequence and correct the internal references

Correct the subdivision and section totals and the appropriations by fund accordingly

Amend the title accordingly

The question was taken on the adoption of the Limmer amendment to the Senjem amendment.

The roll was called, and there were yeas 41 and nays 24, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Pappas	Sheran
Betzold	Fischbach	Koering	Pariseau	Stumpf
Bonoff	Frederickson	Latz	Pogemiller	Torres Ray
Carlson	Gerlach	Limmer	Rest	Vandever
Chaudhary	Gimse	Michel	Robling	Wiger
Clark	Hann	Moua	Rosen	
Dahle	Ingebrigtsen	Olson, G.	Rummel	
Dille	Johnson	Olson, M.	Saltzman	
Doll	Jungbauer	Ortman	Senjem	

Those who voted in the negative were:

Bakk	Foley	Lourey	Parry	Skoe
Berglin	Higgins	Lynch	Prettner Solon	Skogen
Cohen	Kelash	Metzen	Saxhaug	Sparks
Dibble	Kubly	Murphy	Scheid	Tomassoni
Fobbe	Langseth	Olseen	Sieben	

The motion prevailed. So the amendment to the amendment was adopted.

Senator Rosen moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 193, after line 26, insert:

"No portion of this reduction may come from sentencing-to-service programs."

The question was taken on the adoption of the Rosen amendment to the Senjem amendment.

The roll was called, and there were yeas 60 and nays 6, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson	Dibble	Moua
Berglin	Latz	Murphy

The motion prevailed. So the amendment to the amendment was adopted.

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.

The Senate resumed consideration of S.F. No. 3223.

Senator Limmer moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 141, line 4, delete "\$30,000,000" and insert "\$39,542,000"

Page 193, delete section 13

Renumber the sections in sequence and correct the internal references

Correct the subdivision and section totals and the appropriations by fund accordingly

Amend the title accordingly

The question was taken on the adoption of the second Limmer amendment to the Senjem amendment.

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 25, as follows:

Those who voted in the affirmative were:

Betzold	Frederickson	Koering	Pogemiller	Sheran
Bonoff	Gerlach	Limmer	Rest	Stumpf
Carlson	Gimse	Metzen	Robling	Vandev eer
Dahle	Hann	Michel	Rosen	Wiger
Dille	Ingebrigtsen	Olseen	Rummel	
Doll	Johnson	Ortman	Saltzman	
Erickson Ropes	Jungbauer	Pariseau	Scheid	
Fischbach	Koch	Parry	Senjem	

Those who voted in the negative were:

Anderson	Dibble	Kubly	Moua	Sieben
Berglin	Fobbe	Latz	Murphy	Skogen
Chaudhary	Foley	Lourey	Olson, M.	Sparks
Clark	Higgins	Lynch	Prettner Solon	Tomassoni
Cohen	Kelash	Marty	Saxhaug	Torres Ray

The motion prevailed. So the amendment to the amendment was adopted.

Senator Ortman moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 237, after line 25, insert:

"Sec. 17. **STATE LAWSUIT ON FEDERAL HEALTHCARE REFORM LEGISLATION.**

If federal healthcare reform is enacted into law, the Minnesota Attorney General shall file a lawsuit in federal district court challenging the federal government's authority under the United States Constitution to regulate interstate commerce to force individuals to buy health insurance. The Attorney General shall explore all legal challenges to federal healthcare reform legislation."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Higgins questioned whether the amendment to the amendment was germane.

The President ruled that the amendment to the amendment was germane.

The question was taken on the adoption of the Ortman amendment to the Senjem amendment.

The roll was called, and there were yeas 21 and nays 43, as follows:

Those who voted in the affirmative were:

Dille	Hann	Koering	Pariseau	Vandev eer
Fischbach	Ingebrigtsen	Limmer	Parry	
Frederickson	Johnson	Michel	Robling	
Gerlach	Jungbauer	Olson, G.	Rosen	
Gimse	Koch	Ortman	Senjem	

Those who voted in the negative were:

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

The motion did not prevail. So the amendment to the amendment was not adopted.

Senator Vandev eer moved to amend the Senjem amendment to S.F. No. 3223 as follows:

Page 135, delete lines 6 to 11

Page 136, delete lines 7 to 16

Page 138, line 7, delete "\$2,061,000" and insert "\$7,721,000" and delete "\$1,603,000" and insert "\$7,721,000"

Page 138, line 12, delete "\$1,000,000" and insert "\$3,187,000 in 2010 and \$3,187,000"

Page 138, delete lines 17 to 21

Page 141, line 4, delete "\$30,000,000" and insert "\$47,275,000"

Pages 223 to 225, delete sections 5 to 7

Page 229, delete section 11

Page 237, delete line 28

Page 239, delete section 3

Page 243, delete sections 5 and 7

Page 294, line 25, delete "172,000" and insert "-0-" and delete "49,580,000" and insert "49,348,000"

Page 294, line 29, delete everything after the second comma

Page 294, delete line 30 and insert "\$49,348,000"

Page 296, line 29, delete "(452,000)" and insert "(3,652,000)"

Page 297, line 31, delete "(140,979,000)" and insert "(140,694,000)"

Page 297, line 35, delete "(27,635,000)" and insert "(27,480,000)"

Page 298, line 12, delete "(16,221,000)" and insert "(10,130,000)"

Page 299, line 22, delete "-0-" and delete "(701,000)"

Page 299, line 27, delete "(9,911,000)" and insert "515,000"

Page 299, line 29, delete "(23,636,000)" and insert "(2,631,000)"

Page 302, line 30, delete "(2,646,000)" and insert "(2,037,000)"

Page 302, line 9, delete "-0-" and delete "341,000"

Page 302, delete lines 10 to 21

Correct the section totals and the appropriation summary

Renumber and reletter in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the Vandever amendment to the Senjem amendment.

The roll was called, and there were yeas 39 and nays 24, as follows:

Those who voted in the affirmative were:

Berglin	Fobbe	Koch	Pariseau	Senjem
Bonoff	Frederickson	Koering	Parry	Sheran
Carlson	Gerlach	Kubly	Pogemiller	Skogen
Clark	Gimse	Limmer	Prettner Solon	Sparks
Dahle	Hann	Michel	Rest	Stumpf
Dille	Ingebrigtsen	Olseen	Robling	Vandever
Erickson Ropes	Johnson	Olson, M.	Rosen	Wiger
Fischbach	Jungbauer	Ortman	Saltzman	

Those who voted in the negative were:

Anderson	Dibble	Latz	Moua	Scheid
Bakk	Doll	Lourey	Murphy	Sieben
Betzold	Foley	Lynch	Pappas	Tomassoni
Chaudhary	Higgins	Marty	Rummel	Torres Ray
Cohen	Kelash	Metzen	Saxhaug	

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Senjem amendment, as amended.

The roll was called, and there were yeas 10 and nays 56, as follows:

Those who voted in the affirmative were:

Hann	Jungbauer	Limmer	Ortman	Senjem
Ingebrigtsen	Koch	Michel	Robling	Vandever

Those who voted in the negative were:

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

The motion did not prevail. So the Senjem amendment, as amended, was not adopted.

Senator Frederickson moved to amend S.F. No. 3223 as follows:

Page 60, after line 25, insert:

"Sec. 22. **STATE OFFICE BUILDING PARKING RAMP.**

The commissioner of administration shall charge \$99 per month for the use of a parking stall in the below-ground level portion of the State Office Building parking ramp. Notwithstanding Minnesota Statutes, section 16B.58, subdivision 5, the increase in revenue attributable to the rate required under this section must be deposited in the general fund."

Renumber the sections in sequence and correct the internal references

The motion prevailed. So the amendment was adopted.

Senator Ingebrigtsen moved to amend S.F. No. 3223 as follows:

Page 34, after line 11, insert:

"Sec. 20. **IRON RANGE RESOURCES AND REHABILITATION**

\$5,700,000 in 2010 must be transferred by the commissioner of management and budget from the Douglas J. Johnson economic protection trust fund established in Minnesota Statutes, section 298.292, to the general fund. This is a onetime transfer."

Page 54, line 24, delete "\$7,868,000 in fiscal year 2010,"

Page 54, line 30, reinstate the first stricken "8,125,000"

Page 54, line 31, delete "13,625,000"

Page 55, line 6, after the stricken "\$2,268,000" insert "\$2,368,000"

Page 55, lines 7 and 8, reinstate the stricken language and delete the new language

Correct the section totals and the appropriation summary

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 19 and nays 46, as follows:

Those who voted in the affirmative were:

Dille	Gerlach	Johnson	Michel	Rosen
Erickson Ropes	Gimse	Jungbauer	Olson, G.	Senjem
Fischbach	Hann	Koch	Ortman	Vanderveer
Frederickson	Ingebrigtsen	Limmer	Robling	

Those who voted in the negative were:

Anderson	Dibble	Lourey	Pogemiller	Skogen
Bakk	Doll	Lynch	Prettner Solon	Sparks
Berglin	Fobbe	Marty	Rest	Stumpf
Betzold	Foley	Metzen	Rummel	Tomassoni
Bonoff	Higgins	Moua	Saltzman	Torres Ray
Carlson	Kelash	Murphy	Saxhaug	Wiger
Chaudhary	Koering	Olseen	Scheid	
Clark	Kubly	Olson, M.	Sheran	
Cohen	Langseth	Pappas	Sieben	
Dahle	Latz	Parry	Skoe	

The motion did not prevail. So the amendment was not adopted.

Senator Pappas moved to amend S.F. No. 3223 as follows:

Page 70, line 6, after "positions" insert "in Minnesota Statutes, section 179A.10, subdivision 1, clause (1),"

The motion prevailed. So the amendment was adopted.

Senator Koch moved to amend S.F. No. 3223 as follows:

Page 70, after line 12, insert:

"Section 1. Minnesota Statutes 2009 Supplement, section 273.111, subdivision 3, is amended to read:

Subd. 3. **Requirements.** (a) Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 1b, 2a, or 2b under section 273.13, shall be entitled to valuation and tax deferral under this section only if it is primarily devoted to agricultural use, and meets the qualifications in subdivision 6, and either:

(1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the owner or is real estate which is farmed with the real estate which contains the homestead property; or

(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling, or any combination thereof, for a period of at least seven years prior to application for benefits under the provisions of this section, or is real estate which is farmed with the real estate which qualifies under this clause and is within four townships or cities or combination thereof from the qualifying real estate; or

(3) is the homestead of an individual who is part of an entity described in paragraph (b), clause (1), (2), or (3); or

(4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations on the parcel or parcels, provided that only the acres used to produce nursery stock qualify for treatment under this section.

(b) Valuation of real estate under this section is limited to parcels owned by individuals except for:

(1) a family farm entity or authorized farm entity regulated under section 500.24;

(2) an entity, not regulated under section 500.24, in which the majority of the members, partners, or shareholders are related and at least one of the members, partners, or shareholders either resides on the land or actively operates the land; and

(3) corporations that derive 80 percent or more of their gross receipts from the wholesale or retail sale of horticultural or nursery stock.

The terms in this paragraph have the meanings given in section 500.24, where applicable.

(c) Land that previously qualified for tax deferral under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under ~~Minnesota Statutes 2006, section 273.111, subdivision~~ subdivisions 3 and 6, for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

(d) Land that is enrolled in the reinvest in Minnesota program under sections 103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public Law 99-198, or a similar state or federal conservation program qualifies for valuation and assessment deferral under this section if it was in agricultural use before enrollment ~~and, provided that, in the case of land enrolled in the reinvest in Minnesota program, it is not subject to a perpetual easement.~~

EFFECTIVE DATE. This section is effective for assessment year 2010 and thereafter, for taxes payable in 2011 and thereafter."

Page 71, after line 1, insert:

"Sec. 3. Minnesota Statutes 2009 Supplement, section 273.111, subdivision 11a, is amended to read:

Subd. 11a. **Continuation of tax treatment upon sale or other event.** (a) When real property qualifying under ~~subdivision~~ subdivisions 3 and 6 is sold or transferred, no additional taxes or deferred special assessments plus interest shall be extended against the property provided the property continues to qualify pursuant to ~~subdivision~~ subdivisions 3 and 6, and provided the new owner files an application for continued deferment within 30 days after the sale or transfer.

For purposes of meeting the income requirements of subdivision 6, the property purchased shall be considered in conjunction with other qualifying property owned by the purchaser.

(b) The following transfers do not constitute a change of ownership of property qualifying under subdivision 3:

(1) death of a property owner when a surviving owner retains ownership of the property thereafter;

(2) divorce of a married couple when one of the spouses retains ownership of the property thereafter;

(3) marriage of a single property owner when that owner retains ownership of the property in whole or in part thereafter;

(4) organization into or reorganization of a farm entity ownership under section 500.24, if all owners maintain the same beneficial interest both before and after the organizational changes; and

(5) placement of the property in trust provided that the individual owners of the property are the grantors of the trust and they maintain the same beneficial interest both before and after placement of the property in trust.

EFFECTIVE DATE. This section is effective for assessment year 2010 and thereafter, for taxes payable in 2011 and thereafter.

Sec. 4. Minnesota Statutes 2009 Supplement, section 273.13, subdivision 23, is amended to read:

Subd. 23. **Class 2.** (a) ~~An agricultural homestead consists of class 2a agricultural land~~ Class 2a property is agricultural land including any improvements that is homesteaded, along with any class 2b rural vacant land that is contiguous to the class 2a land under the same ownership. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a or 1b property under subdivision 22. The value of the remaining land including improvements up to the first tier valuation limit of agricultural homestead property has a net class rate of 0.5 percent of market value. The remaining property over the first tier has a class rate of one percent of market value. For purposes of this subdivision, the "first tier valuation limit of agricultural homestead property" and "first tier" means the limit certified under section 273.11, subdivision 23.

(b) ~~Class 2a agricultural land consists of parcels of property, or portions thereof, that are agricultural land and buildings. Class 2a property has a net class rate of one percent of market value, unless it is part of an agricultural homestead under paragraph (a). Class 2a property must also include any property that would otherwise be classified as 2b, but is interspersed with class 2a property, including but not limited to sloughs, wooded wind shelters, acreage abutting ditches,~~

~~ravines, rock piles, land subject to a setback requirement, and other similar land that is impractical for the assessor to value separately from the rest of the property or that is unlikely to be able to be sold separately from the rest of the property.~~

~~An assessor may classify the part of a parcel described in this subdivision that is used for agricultural purposes as class 2a and the remainder in the class appropriate to its use.~~

~~(e) Class 2b rural vacant land consists of parcels of property, or portions thereof, that are unplatted property is (1) real estate, rural in character and not used for agricultural purposes, including land used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; or (3) real estate that is nonhomestead agricultural land. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph. Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split classified, and ten acres must be assigned to the split parcel containing the structure. Class 2b property has a net class rate of one percent of market value unless it is part of an agricultural homestead under paragraph (a), or qualifies as class 2c under paragraph ~~(d)~~ (c).~~

~~(d)~~ (c) Class 2c managed forest land consists of no less than 20 and no more than 1,920 acres statewide per taxpayer that is being managed under a forest management plan that meets the requirements of chapter 290C, but is not enrolled in the sustainable forest resource management incentive program. It has a class rate of .65 percent, provided that the owner of the property must apply to the assessor in order for the property to initially qualify for the reduced rate and provide the information required by the assessor to verify that the property qualifies for the reduced rate. If the assessor receives the application and information before May 1 in an assessment year, the property qualifies beginning with that assessment year. If the assessor receives the application and information after April 30 in an assessment year, the property may not qualify until the next assessment year. The commissioner of natural resources must concur that the land is qualified. The commissioner of natural resources shall annually provide county assessors verification information on a timely basis. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph.

~~(e)~~ (d) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility. "Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership,

may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

~~(f)~~ (e) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:

(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;

(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;

(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or

(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

~~(g)~~ (f) Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

~~(h)~~ (g) The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

~~(i)~~ (h) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

~~(j)~~ (i) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

~~(k)~~ (j) The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

~~(l)~~ (k) Class 2d airport landing area consists of a landing area or public access area of a privately owned public use airport. It has a class rate of one percent of market value. To qualify for classification under this paragraph, a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of this paragraph, "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under this paragraph must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport

or landing area no longer meets the requirements of this paragraph. For purposes of this paragraph, "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

~~(m)~~ (1) Class 2e consists of land with a commercial aggregate deposit that is not actively being mined and is not otherwise classified as class 2a or 2b, provided that the land is not located in a county that has elected to opt-out of the aggregate preservation program as provided in section 273.1115, subdivision 6. It has a class rate of one percent of market value. To qualify for classification under this paragraph, the property must be at least ten contiguous acres in size and the owner of the property must record with the county recorder of the county in which the property is located an affidavit containing:

- (1) a legal description of the property;
- (2) a disclosure that the property contains a commercial aggregate deposit that is not actively being mined but is present on the entire parcel enrolled;
- (3) documentation that the conditional use under the county or local zoning ordinance of this property is for mining; and
- (4) documentation that a permit has been issued by the local unit of government or the mining activity is allowed under local ordinance. The disclosure must include a statement from a registered professional geologist, engineer, or soil scientist delineating the deposit and certifying that it is a commercial aggregate deposit.

For purposes of this section and section 273.1115, "commercial aggregate deposit" means a deposit that will yield crushed stone or sand and gravel that is suitable for use as a construction aggregate; and "actively mined" means the removal of top soil and overburden in preparation for excavation or excavation of a commercial deposit.

~~(n)~~ (m) When any portion of the property under this subdivision or subdivision 22 begins to be actively mined, the owner must file a supplemental affidavit within 60 days from the day any aggregate is removed stating the number of acres of the property that is actively being mined. The acres actively being mined must be (1) valued and classified under subdivision 24 in the next subsequent assessment year, and (2) removed from the aggregate resource preservation property tax program under section 273.1115, if the land was enrolled in that program. Copies of the original affidavit and all supplemental affidavits must be filed with the county assessor, the local zoning administrator, and the Department of Natural Resources, Division of Land and Minerals. A supplemental affidavit must be filed each time a subsequent portion of the property is actively mined, provided that the minimum acreage change is five acres, even if the actual mining activity constitutes less than five acres.

~~(o)~~ (n) The ~~definitions~~ definition prescribed by the commissioner under ~~paragraphs~~ paragraph (c) and ~~(d)~~ are is not rules a rule and are is exempt from the rulemaking provisions of chapter 14, and the provisions in section 14.386 concerning exempt rules do not apply.

EFFECTIVE DATE. This section is effective for assessment year 2010 and thereafter, for taxes payable in 2011 and thereafter."

Page 84, after line 17, insert:

"Sec. 13. **LAND REMOVED FROM PROGRAM.**

(a) Any land that had been enrolled in the Minnesota Agricultural Property Tax Law under Minnesota Statutes 2006, section 273.111, and that was removed from the program between May 21, 2008, and the effective date of this section, must be reinstated to the program at the request of the owner provided that the eligibility requirements under Minnesota Statutes 2006, section 273.111, subdivisions 3 and 6, are met.

(b) If additional taxes have been paid by a property owner prior to the effective date of this section with respect to property described in paragraph (a), as a result of the property being removed from the program authorized under Minnesota Statutes 2006, section 273.111, the county must repay the property owner in the manner prescribed by the commissioner of revenue.

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

Sec. 14. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall correct internal cross-references to sections that are affected by the relettering in section 4."

Page 84, delete section 10 and insert:

"Sec. 15. **REPEALER.**

(a) Minnesota Statutes 2008, section 273.111, subdivisions 8 and 11, are repealed, and Minnesota Statutes 2006, section 273.111, subdivisions 8 and 11, are reenacted.

(b) Minnesota Statutes 2008, section 273.1384, subdivision 2, is repealed, and Minnesota Statutes 2006, section 273.1384, subdivision 2, is reenacted.

(c) Minnesota Statutes 2009 Supplement, section 273.111, subdivision 4, is repealed, and Minnesota Statutes 2006, section 273.111, subdivision 4, is reenacted.

(d) Minnesota Statutes 2009 Supplement, section 273.111, subdivision 9, is repealed, and Minnesota Statutes 2006, section 273.111, subdivision 9, is reenacted.

(e) Minnesota Statutes 2009 Supplement, sections 273.1108; 273.111, subdivision 3a; and 273.114, are repealed.

(f) Minnesota Statutes 2008, section 477A.03, subdivision 5, is repealed.

(g) Laws 2008, chapter 366, article 6, section 52, paragraph (c), is repealed, and pursuant to Minnesota Statutes, section 645.36, Minnesota Statutes 2006, section 273.111, subdivision 6, is revived."

Page 84, line 20, delete "This section is effective for aids payable in 2011 and" and insert "Paragraphs (a) to (e) are effective for assessment year 2010 and thereafter, for taxes payable in 2011 and thereafter. Paragraph (f) is effective for aids payable in 2011 and thereafter. Paragraph (g) is effective the day following final enactment."

Page 84, delete line 21

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 32 and nays 34, as follows:

Those who voted in the affirmative were:

Chaudhary	Frederickson	Koch	Olseen	Scheid
Clark	Gerlach	Koering	Olson, G.	Senjem
Dahle	Gimse	Limmer	Ortman	Sheran
Dille	Hann	Lourey	Pariseau	Vandevveer
Erickson Ropes	Ingebrigtsen	Lynch	Parry	
Fischbach	Johnson	Metzen	Robling	
Fobbe	Jungbauer	Michel	Rosen	

Those who voted in the negative were:

Anderson	Dibble	Latz	Prettner Solon	Skogen
Bakk	Doll	Marty	Rest	Sparks
Berglin	Foley	Moua	Rummel	Stumpf
Betzold	Higgins	Murphy	Saltzman	Tomassoni
Bonoff	Kelash	Olson, M.	Saxhaug	Torres Ray
Carlson	Kubly	Pappas	Sieben	Wiger
Cohen	Langseth	Pogemiller	Skoe	

The motion did not prevail. So the amendment was not adopted.

Senator Jungbauer moved to amend S.F. No. 3223 as follows:

Page 51, after line 4, insert:

"Sec. 6. Minnesota Statutes 2009 Supplement, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. **Deposit of revenues.** (a) Money collected and received under this chapter must be deposited as provided in this subdivision.

(b) From July 1, 2007, through June 30, 2008, 38.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 24 percent must be deposited in the metropolitan area transit account under section 16A.88, and 1.5 percent must be deposited in the greater Minnesota transit account under section 16A.88. The remaining money must be deposited in the general fund.

(c) From July 1, 2008, through June 30, 2009, 44.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, 27.75 percent must be deposited in the metropolitan area transit account under section 16A.88, 1.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and the remaining money must be deposited in the general fund.

(d) From July 1, 2009, through June 30, 2010, 47.5 percent of the money collected and received must be deposited in the highway user tax distribution fund, 30 percent must be deposited in the metropolitan area transit account under section 16A.88, 3.5 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 16.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) 1.5 percent in the metropolitan area transit account, except that any amount in excess of

\$6,000,000 must be deposited in the highway user tax distribution fund; and

(2) 1.25 percent in the greater Minnesota transit account, except that any amount in excess of \$5,000,000 must be deposited in the highway user tax distribution fund.

(e) From July 1, 2010, through June 30, 2011, ~~54.5~~ 56.25 percent of the money collected and received must be deposited in the highway user tax distribution fund, ~~33.75~~ 32.5 percent must be deposited in the metropolitan area transit account under section 16A.88, ~~3.75~~ 2.75 percent must be deposited in the greater Minnesota transit account under section 16A.88, and 6.25 percent must be deposited in the general fund. The remaining amount must be deposited as follows:

(1) ~~1.5~~ 1.25 percent in the ~~metropolitan area transit account~~ highway user tax distribution fund, except that any amount in excess of ~~\$6,750,000~~ \$6,000,000 must be deposited in the ~~highway user tax distribution fund~~ metropolitan area transit account; and

(2) ~~0.25~~ one percent in the ~~greater Minnesota transit account~~ highway user tax distribution fund, except that any amount in excess of ~~\$1,250,000~~ \$5,000,000 must be deposited in the ~~highway user tax distribution fund~~ greater Minnesota transit account.

(f) On and after July 1, 2011, 60 percent of the money collected and received must be deposited in the highway user tax distribution fund, 36 percent must be deposited in the metropolitan area transit account under section 16A.88, and four percent must be deposited in the greater Minnesota transit account under section 16A.88.

(g) It is the intent of the legislature that the allocations under paragraph (f) remain unchanged for fiscal year 2012 and all subsequent fiscal years."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 40, as follows:

Those who voted in the affirmative were:

Dille	Gimse	Koering	Pariseau	Stumpf
Erickson Ropes	Hann	Limmer	Parry	Vandevveer
Fischbach	Ingebrigtsen	Michel	Robling	
Fobbe	Johnson	Olseen	Rosen	
Frederickson	Jungbauer	Olson, G.	Senjem	
Gerlach	Koch	Ortman	Sheran	

Those who voted in the negative were:

Anderson	Cohen	Langseth	Olson, M.	Scheid
Bakk	Dahle	Latz	Pappas	Sieben
Berglin	Dibble	Lourey	Pogemiller	Skoe
Betzold	Doll	Lynch	Prettner Solon	Skogen
Bonoff	Foley	Marty	Rest	Sparks
Carlson	Higgins	Metzen	Rummel	Tomassoni
Chaudhary	Kelash	Moua	Saltzman	Torres Ray
Clark	Kubly	Murphy	Saxhaug	Wiger

The motion did not prevail. So the amendment was not adopted.

Senator Frederickson moved to amend S.F. No. 3223 as follows:

Page 60, after line 25, insert:

"Sec. 22. [16A.1287] SYSTEM NAME.

The statewide accounting and procurement system must be known as the Cash Accounting and Tabulation System (CATS).

EFFECTIVE DATE. This section is effective the day following final enactment and must be implemented swiftly."

The motion prevailed. So the amendment was adopted.

Senator Hann moved to amend S.F. No. 3223 as follows:

Page 60, after line 25, insert:

"Sec. 22. Minnesota Statutes 2008, section 123B.77, subdivision 1a, is amended to read:

Subd. 1a. **School district consolidated financial statement.** (a) The commissioner, in consultation with the advisory committee on financial management, accounting, and reporting, shall develop and maintain a school district consolidated financial statement format that converts uniform financial accounting and reporting standards data under subdivision 1 into a more understandable format.

(b) In addition to the information required under paragraph (a), the consolidated financial statement must also report information regarding the teacher collective bargaining agreement, including settlement date, salary and fringe benefit costs for the current biennium and the next biennium, and duty days for teacher work year. Each school district must report data to the department as required by the department to complete this report."

Amend the title accordingly

Senator Cohen questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Limmer moved to amend S.F. No. 3223 as follows:

Page 4, after line 12, insert:

"Each institution must reduce administrative budgets by at least ten percent. The remaining reductions must be allocated proportionately to all institutions to minimize the impact on students and instruction."

Page 4, line 24, after the period, insert "The legislature intends that reductions under this section are achieved through at least a ten percent reduction to administrative budgets, distributed proportionately to the Twin Cities campus and the other campuses of the University of Minnesota. Remaining reductions must be made to minimize the impact on students and instruction."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 33, as follows:

Those who voted in the affirmative were:

Chaudhary	Frederickson	Koch	Pariseau	Skogen
Dahle	Gerlach	Koering	Parry	Sparks
Dille	Gimse	Limmer	Robling	Vandever
Doll	Hann	Michel	Rosen	Wiger
Erickson Ropes	Ingebrigtsen	Olseen	Scheid	
Fischbach	Johnson	Olson, G.	Senjem	
Fobbe	Jungbauer	Ortman	Sheran	

Those who voted in the negative were:

Anderson	Cohen	Latz	Pappas	Sieben
Bakk	Dibble	Lourey	Pogemiller	Skoe
Berglin	Foley	Lynch	Prettner Solon	Stumpf
Betzold	Higgins	Marty	Rest	Tomassoni
Bonoff	Kelash	Metzen	Rummel	Torres Ray
Carlson	Kubly	Moua	Saltzman	
Clark	Langseth	Murphy	Saxhaug	

The motion did not prevail. So the amendment was not adopted.

Senator Frederickson moved to amend S.F. No. 3223 as follows:

Page 60, after line 25, insert:

"Sec. 22. Minnesota Statutes 2009 Supplement, section 16A.152, subdivision 2, is amended to read:

Subd. 2. **Additional revenues; priority.** (a) If on the basis of a forecast of general fund revenues and expenditures, the commissioner of management and budget determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of management and budget must allocate money to the following accounts and purposes in priority order:

- (1) the cash flow account established in subdivision 1 until that account reaches \$350,000,000;
- (2) the budget reserve account established in subdivision 1a until that account reaches \$653,000,000;
- (3) the amount necessary to increase the aid payment schedule for school district aids and credits payments in section 127A.45 to not more than 90 percent rounded to the nearest tenth of a percent without exceeding the amount available and with any remaining funds deposited in the budget reserve;
- (4) the amount necessary to restore all or a portion of the net aid reductions under section 127A.441 and to reduce the property tax revenue recognition shift under section 123B.75, subdivision 5, paragraph (b), and Laws 2003, First Special Session chapter 9, article 5, section 34, as amended by Laws 2003, First Special Session chapter 23, section 20, by the same amount; ~~and~~
- (5) to the state airports fund, the amount necessary to restore the amount transferred from the state airports fund under Laws 2008, chapter 363, article 11, section 3, subdivision 5; and
- (6) the budget reserve account established in subdivision 1a until that account reaches \$1,300,000,000.

(b) The amounts necessary to meet the requirements of this section are appropriated from

the general fund within two weeks after the forecast is released or, in the case of transfers under paragraph (a), clauses (3) and (4), as necessary to meet the appropriations schedules otherwise established in statute.

(c) The commissioner of management and budget shall certify the total dollar amount of the reductions under paragraph (a), clauses (3) and (4), to the commissioner of education. The commissioner of education shall increase the aid payment percentage and reduce the property tax shift percentage by these amounts and apply those reductions to the current fiscal year and thereafter."

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

The motion prevailed. So the amendment was adopted.

S.F. No. 3223 was read the third time.

Senator Pogemiller moved that S.F. No. 3223 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Latz in the chair.

After some time spent therein, the committee arose, and Senator Latz reported that the committee had considered the following:

S.F. Nos. 2004, 2397, 2453, 2182, 2923, 2709, 2927, 2847, 2535, 3027, 2912, 1524, 838, 2719, 2267 and 2984, which the committee recommends to pass.

S.F. No. 3009, which the committee recommends to pass with the following amendment offered by Senator Torres Ray:

Page 2, line 13, delete "legislature" and insert "chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services"

The motion prevailed. So the amendment was adopted.

S.F. No. 2953, which the committee recommends to pass with the following amendment offered by Senator Olson, G.:

Page 1, line 7, delete "no" and insert "neither the mayor nor any"

Page 1, delete lines 10 and 11 and insert:

"EFFECTIVE DATE. This section is effective August 1, 2010, and applies to persons elected or appointed to serve as mayor or city council member on or after that date."

Page 1, line 14, delete "No" and insert "Neither the mayor nor any"

Page 1, delete lines 17 and 18 and insert:

"EFFECTIVE DATE. This section is effective August 1, 2010, and applies to persons elected or appointed to serve as mayor or city council member on or after that date."

Amend the title as follows:

Page 1, line 3, after "council" insert "or as mayor"

The motion prevailed. So the amendment was adopted.

S.F. No. 2562, which the committee recommends to pass with the following amendment offered by Senator Betzold:

Page 6, after line 29, insert:

"Sec. 6. **REPEALER.**

Minnesota Statutes 2008, section 548.092, is repealed."

Page 6, delete line 31 and insert "Sections 2 to 6 are effective January 1, 2011. Sections 4 to 6 apply retroactively to"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

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. 1671.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 22, 2010

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1671: A bill for an act relating to the financing and operation of state and local government; appropriating money or reducing appropriations for state government, higher education and economic development, environment and natural resources, activities or programs of Department of Commerce, agriculture, veterans affairs, transportation, public safety, judiciary, Uniform Laws Commission, Private Detective Board, human rights, corrections, Sentencing Guidelines Commission, minority boards, public facilities authority, tourism, humanities, public broadcasting, zoos, science museum, and Housing Finance Agency; modifying loan, grant, and scholarship provisions; funding certain projects for veterans; increasing bond limits; establishing a central system office and governing credit transfers for the Minnesota State Colleges and Universities; requiring bond issues for certain projects; modifying investment disposition of mineral fund; modifying mineral fund payments in lieu of taxes; providing for or modifying certain provisions relating to membership of tourism council and film and TV reimbursement amounts; modifying provisions relating to continuing education for certain licensed occupations, securities transaction exemptions, mortgages, and operation of state government; modifying certain Boards of Barber Examiners and Cosmetology provisions; establishing a new trunk highway emergency relief account; amending provisions related to trunk highway bonding, hazardous materials permits, fire safety account, uses of public safety service fee, grants for emergency shelters, and in-service training for peace officers; authorizing county sentence to service programs to charge fees; changing provisions relating to agriculture and veterans affairs; changing provisions for expenses of governor-elect, disposal of old state-owned buildings, public access to parking spaces, fleet management, and lease purchase agreements; providing for operation of a state recycling center and a state Webmaster for state Web sites; providing for Web access to appropriations information; requiring two-sided printing for state use; requiring standards to enhance public access to state electronic data; providing for zero-based budgeting; creating a commission to reengineer delivery of government services; providing for transfers to Help America Vote Act account; changing and creating funds and accounts; modifying provisions for tax return preparers; requesting proposals for enhancing the state's tax collection process and revenues; modifying calculation of state aids and

credits for local government; authorizing and adjusting fees; establishing a pilot project; making technical changes; requiring reports; providing for rulemaking; amending Minnesota Statutes 2008, sections 4.51; 16B.04, subdivision 2; 16B.24, subdivision 3; 16B.48, subdivision 2; 16E.04, subdivision 2; 16E.05, by adding a subdivision; 18G.07; 79.34, subdivision 1; 80A.46; 80A.65, subdivision 1; 97A.061, subdivision 1; 103G.705, subdivision 2; 115A.15, subdivision 6; 116L.17, subdivision 2; 116U.25; 116U.26; 136A.121, subdivision 6; 136A.1701, subdivision 4; 136A.29, subdivision 9; 154.06; 154.065, subdivision 2; 154.07, by adding a subdivision; 154.15, by adding a subdivision; 161.04, by adding a subdivision; 273.1384, by adding a subdivision; 297I.06, subdivision 3; 326B.148, subdivision 1; 403.11, subdivision 1; 471.6175, subdivision 4; 477A.013, subdivision 9; 477A.03, subdivisions 2a, 2b; 477A.12, subdivision 1; 611A.32, subdivisions 1, 2; 626.8458, subdivision 5; 641.12, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 16A.152, subdivision 2; 16A.82; 16E.02, subdivision 1; 45.30, subdivision 6; 136A.121, subdivision 9; 136F.98, subdivision 1; 154.002; 154.003; 155A.23, by adding a subdivision; 155A.24, subdivision 2, by adding subdivisions; 155A.25; 190.19, subdivision 2a; 270C.145; 273.111, subdivision 9; 275.70, subdivision 5; 289A.08, subdivision 16; 298.294; 299A.45, subdivision 1; 357.021, subdivision 7; Laws 2007, chapter 45, article 1, section 3, subdivisions 4, as amended, 5, as amended; Laws 2009, chapter 37, article 2, section 13; Laws 2009, chapter 78, article 1, section 3, subdivision 2; article 7, section 2; Laws 2009, chapter 83, article 1, sections 10, subdivisions 4, 7; 11; 14, subdivision 2; Laws 2009, chapter 94, article 1, section 3, subdivision 5; article 3, section 2, subdivision 3; Laws 2009, chapter 95, article 1, sections 3, subdivisions 6, 21; 5, subdivision 2; Laws 2009, chapter 101, article 1, section 31; proposing coding for new law in Minnesota Statutes, chapters 10; 15B; 16A; 16B; 97A; 136A; 136F; 477A; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 136A.127, subdivisions 1, 3, 5, 6, 7, 10, 11; 154.07, subdivision 5; 176.135, subdivision 1b; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18; 477A.03, subdivision 5; Minnesota Statutes 2009 Supplement, sections 135A.61; 136A.121, subdivision 9b; 136A.127, subdivisions 2, 4, 9, 9b, 10a, 14.

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. 1671 and that the rules of the Senate be so far suspended as to give H.F. No. 1671 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. 1671. 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	Bonoff	Cohen	Erickson Ropes	Kelash
Bakk	Carlson	Dahle	Fobbe	Kubly
Berglin	Chaudhary	Dibble	Foley	Langseth
Betzold	Clark	Doll	Higgins	Latz

Lourey	Murphy	Rest	Sheran	Stumpf
Lynch	Olseen	Rummel	Sieben	Tomassoni
Marty	Pappas	Saltzman	Skoe	Torres Ray
Metzen	Pogemiller	Saxhaug	Skogen	Vickerman
Moua	Prettner Solon	Scheid	Sparks	Wiger

Those who voted in the negative were:

Dille	Hann	Koering	Pariseau	Vandev eer
Fischbach	Ingebrigtsen	Limmer	Parry	
Frederickson	Johnson	Michel	Robling	
Gerlach	Jungbauer	Olson, G.	Rosen	
Gimse	Koch	Ortman	Senjem	

The motion prevailed.

H.F. No. 1671 was read the second time.

Senator Cohen moved to amend H.F. No. 1671 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1671, and insert the language after the enacting clause, and the title, of S.F. No. 3223, the second engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 1671 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 43 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Langseth	Pappas	Skoe
Bakk	Dibble	Latz	Pogemiller	Skogen
Berglin	Doll	Lourey	Rest	Sparks
Betzold	Erickson Ropes	Lynch	Rummel	Stumpf
Bonoff	Fobbe	Marty	Saltzman	Tomassoni
Carlson	Foley	Metzen	Saxhaug	Vickerman
Chaudhary	Higgins	Moua	Scheid	Wiger
Clark	Kelash	Murphy	Sheran	
Cohen	Kubly	Olseen	Sieben	

Those who voted in the negative were:

Dille	Hann	Koering	Pariseau	Senjem
Fischbach	Ingebrigtsen	Limmer	Parry	Torres Ray
Frederickson	Johnson	Michel	Prettner Solon	Vandev eer
Gerlach	Jungbauer	Olson, G.	Robling	
Gimse	Koch	Ortman	Rosen	

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.

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 refuses to concur in the Senate amendments to House File No. 1671:

H.F. No. 1671: A bill for an act relating to the financing and operation of state and local government; appropriating money or reducing appropriations for state government, higher education and economic development, environment and natural resources, activities or programs of Department of Commerce, agriculture, veterans affairs, transportation, public safety, judiciary, Uniform Laws Commission, Private Detective Board, human rights, corrections, Sentencing Guidelines Commission, minority boards, public facilities authority, tourism, humanities, public broadcasting, zoos, science museum, and Housing Finance Agency; modifying loan, grant, and scholarship provisions; funding certain projects for veterans; increasing bond limits; establishing a central system office and governing credit transfers for the Minnesota State Colleges and Universities; requiring bond issues for certain projects; modifying investment disposition of mineral fund; modifying mineral fund payments in lieu of taxes; providing for or modifying certain provisions relating to membership of tourism council and film and TV reimbursement amounts; modifying provisions relating to continuing education for certain licensed occupations, securities transaction exemptions, mortgages, and operation of state government; modifying certain Boards of Barber Examiners and Cosmetology provisions; establishing a new trunk highway emergency relief account; amending provisions related to trunk highway bonding, hazardous materials permits, fire safety account, uses of public safety service fee, grants for emergency shelters, and in-service training for peace officers; authorizing county sentence to service programs to charge fees; changing provisions relating to agriculture and veterans affairs; changing provisions for expenses of governor-elect, disposal of old state-owned buildings, public access to parking spaces, fleet management, and lease purchase agreements; providing for operation of a state recycling center and a state Webmaster for state Web sites; providing for Web access to appropriations information; requiring two-sided printing for state use; requiring standards to enhance public access to state electronic data; providing for zero-based budgeting; creating a commission to reengineer delivery of government services; providing for transfers to Help America Vote Act account; changing and creating funds and accounts; modifying provisions for tax return preparers; requesting proposals for enhancing the state's tax collection process and revenues; modifying calculation of state aids and credits for local government; authorizing and adjusting fees; establishing a pilot project; making technical changes; requiring reports; providing for rulemaking; amending Minnesota Statutes 2008, sections 4.51; 16B.04, subdivision 2; 16B.24, subdivision 3; 16B.48, subdivision 2; 16E.04, subdivision 2; 16E.05, by adding a subdivision; 18G.07; 79.34, subdivision 1; 80A.46; 80A.65, subdivision 1; 97A.061, subdivision 1; 103G.705, subdivision 2; 115A.15, subdivision 6; 116L.17, subdivision 2; 116U.25; 116U.26; 136A.121, subdivision 6; 136A.1701, subdivision 4; 136A.29, subdivision 9; 154.06; 154.065, subdivision 2; 154.07, by adding a subdivision; 154.15, by adding a subdivision; 161.04, by adding a subdivision; 273.1384, by adding a subdivision; 297I.06,

subdivision 3; 326B.148, subdivision 1; 403.11, subdivision 1; 471.6175, subdivision 4; 477A.013, subdivision 9; 477A.03, subdivisions 2a, 2b; 477A.12, subdivision 1; 611A.32, subdivisions 1, 2; 626.8458, subdivision 5; 641.12, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 16A.152, subdivision 2; 16A.82; 16E.02, subdivision 1; 45.30, subdivision 6; 136A.121, subdivision 9; 136F.98, subdivision 1; 154.002; 154.003; 155A.23, by adding a subdivision; 155A.24, subdivision 2, by adding subdivisions; 155A.25; 190.19, subdivision 2a; 270C.145; 273.111, subdivision 9; 275.70, subdivision 5; 289A.08, subdivision 16; 298.294; 299A.45, subdivision 1; 357.021, subdivision 7; Laws 2007, chapter 45, article 1, section 3, subdivisions 4, as amended, 5, as amended; Laws 2009, chapter 37, article 2, section 13; Laws 2009, chapter 78, article 1, section 3, subdivision 2; article 7, section 2; Laws 2009, chapter 83, article 1, sections 10, subdivisions 4, 7; 11; 14, subdivision 2; Laws 2009, chapter 94, article 1, section 3, subdivision 5; article 3, section 2, subdivision 3; Laws 2009, chapter 95, article 1, sections 3, subdivisions 6, 21; 5, subdivision 2; Laws 2009, chapter 101, article 1, section 31; proposing coding for new law in Minnesota Statutes, chapters 10; 15B; 16A; 16B; 97A; 136A; 136F; 477A; repealing Minnesota Statutes 2008, sections 13.721, subdivision 4; 136A.127, subdivisions 1, 3, 5, 6, 7, 10, 11; 154.07, subdivision 5; 176.135, subdivision 1b; 221.0355, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18; 477A.03, subdivision 5; Minnesota Statutes 2009 Supplement, sections 135A.61; 136A.121, subdivision 9b; 136A.127, subdivisions 2, 4, 9, 9b, 10a, 14.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Carlson, Lenczewski, Paymar, Solberg and Garofalo have been appointed as such committee on the part of the House.

House File No. 1671 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 March 22, 2010

Senator Cohen moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1671, 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:

H.F. No. 1671: Senators Cohen, Bakk, Higgins, Vickerman and Murphy.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senator Vickerman was excused from the Session of today from 2:00 to 4:30 p.m. Senator Olson, M. was excused from the Session of today at 4:10 p.m. Senator Vandever was excused from the Session of today from 4:25 to 4:30 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:30 p.m., Tuesday, March 23, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

