

ONE HUNDRED FIRST DAY

St. Paul, Minnesota, Monday, May 10, 2010

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Monsignor James D. Habiger.

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.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time.

Senators Bakk, Rest, Ortman, Limmer and Skoe introduced—

S.F. No. 3413: A bill for an act relating to taxes; creating a Tax Expenditure Advisory Commission; providing for review and sunset of tax expenditures; proposing coding for new law

as Minnesota Statutes, chapter 290D.

Referred to the Committee on Taxes.

MOTIONS AND RESOLUTIONS

Senator Jungbauer moved that the name of Senator Clark be added as a co-author to S.F. No. 1770. The motion prevailed.

Senator Cohen moved that the name of Senator Wiger be added as a co-author to S.F. No. 2567. The motion prevailed.

Senator Cohen moved that H.F. No. 2037, No. 49 on General Orders, be stricken and re-referred to the Committee on Taxes. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of House Bills.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Bakk from the Committee on Taxes, to which was re-referred

H.F. No. 2037: A bill for an act relating to state government; moving appropriations of general fund dedicated revenues to other funds; amending Minnesota Statutes 2008, sections 3.9741, subdivision 2; 8.15, subdivision 3; 13.03, subdivision 10; 16C.23, subdivision 6; 103B.101, subdivision 9; 103I.681, subdivision 11; 116J.551, subdivision 1; 190.32; 257.69, subdivision 2; 260C.331, subdivision 6; 299C.48; 299E.02; 446A.086, subdivision 2; 469.177, subdivision 11; 518.165, subdivision 3; 609.3241; 611.20, subdivision 3; Minnesota Statutes 2009 Supplement, section 270.97; Laws 1994, chapter 531, section 1.

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

Delete everything after the enacting clause and insert:

**"ARTICLE 1
SUMMARY**

Section 1. **GENERAL FUND SUMMARY.**

The amounts shown in this section summarize general fund direct and open appropriations, and transfers into the general fund from other funds, made in this act, after forecast adjustments and after voiding certain allotment reductions.

	<u>2010</u>		<u>2011</u>		<u>Total</u>
<u>E-12 Education</u>	\$ (1,069,361,000)	\$	(686,073,000)	\$	(1,755,434,000)
<u>Higher Education</u>	(77,000)		(100,077,000)		(100,154,000)
<u>Environment and Natural Resources</u>	(1,571,000)		(1,564,000)		(3,135,000)
<u>Energy</u>	(247,000)		(247,000)		(494,000)
<u>Agriculture</u>	(493,000)		(492,000)		(985,000)
<u>Economic Development</u>	(745,000)		(745,000)		(1,490,000)
<u>Transportation</u>	(1,649,000)		(1,649,000)		(3,298,000)
<u>Public Safety</u>	(79,000)		(79,000)		(158,000)
<u>State Government</u>	(1,694,000)		(1,820,000)		(3,514,000)
<u>Health & Human Services</u>	(74,704,000)		(75,150,000)		(149,854,000)
<u>Tax Aids and Credits</u>	(103,986,000)		(260,504,000)		(364,490,000)
<u>Subtotal of Appropriations</u>	(1,254,530,000)		(1,128,400,000)		(2,382,930,000)
<u>Transfers In</u>	40,418,000		-0-		40,418,000
<u>Total</u>	\$ (1,294,948,000)	\$	(1,128,400,000)	\$	(2,423,348,000)

Sec. 2. **ALLOTMENT REDUCTIONS VOID.**

The allotment reductions made by the commissioner of management and budget from July 1, 2009, to the effective date of this section are void.

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

**ARTICLE 2
CASH FLOW**

Section 1. 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~~ \$700 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~~ \$700 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.

Sec. 2. Minnesota Statutes 2009 Supplement, section 137.025, subdivision 1, is amended to read:

Subdivision 1. **Monthly payments.** The commissioner of management and budget shall pay 1/12 of the annual appropriation to the University of Minnesota ~~on~~ by the 24st 25th day of each month. If the ~~24st 25th~~ day of the month falls on a Saturday or Sunday, the monthly payment must be made ~~on~~ by the first business day immediately following the 24st 25th day of the month.

Sec. 3. Minnesota Statutes 2008, section 276.112, is amended to read:

276.112 STATE PROPERTY TAXES; COUNTY TREASURER.

~~On or before January 25 each year, for the period ending December 31 of the prior year, and on or before June 28 each year, for the period ending on the most recent settlement day determined in section 276.09, and on or before December 2 each year, for the period ending November 20 the estimated payment and settlement dates provided in this chapter for the settlement of taxes levied by school districts, the county treasurer must make full settlement with the county auditor according to sections 276.09, 276.10, and 276.111 for all receipts of state property taxes levied under section 275.025, and must transmit those receipts to the commissioner of revenue by electronic means on the dates and according to the provisions applicable to distributions to school districts.~~

EFFECTIVE DATE. This section is effective for distributions beginning October 1, 2010, and thereafter.

Sec. 4. Minnesota Statutes 2009 Supplement, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the

taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f) or (g), except that:

(1) use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year; and

(2) except as provided in paragraph (f), for a vendor having a liability of \$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes imposed by chapter 297A, except as provided in paragraph (b), are due and payable to the commissioner monthly in the following manner:

(i) On or before the 14th day of the month following the month in which the taxable event occurred, the vendor must remit to the commissioner 90 percent of the estimated liability for the month in which the taxable event occurred.

(ii) On or before the 20th day of the month following the month in which the taxable event occurred, the vendor must pay any additional amount of tax not remitted on or before the 14th day of the month following the month in which the taxable event occurred.

(b) Notwithstanding paragraph (a), a vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of the year, the vendor must remit 90 percent of the estimated June liability to the commissioner.

(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) A vendor having a liability of:

~~(1) \$20,000 or more in the fiscal year ending June 30, 2005; or~~

~~(2) \$10,000 or more in the, but less than \$120,000 during a fiscal year ending June 30, 2006 2009, and fiscal years thereafter, must remit by electronic means all liabilities on returns due for periods beginning in the subsequent calendar year by electronic means on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4, except for 90 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.~~

(2) \$120,000 or more, during a fiscal year ending June 30, 2009, and fiscal years thereafter, must remit by electronic means all liabilities in the manner provided in paragraph (a), clause (2), on returns due for periods beginning in the subsequent calendar year, except for 90 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.

(d) Notwithstanding paragraph (b) or (c), a person prohibited by the person's religious beliefs from paying electronically shall be allowed to remit the payment by mail. The filer must notify the commissioner of revenue of the intent to pay by mail before doing so on a form prescribed by the commissioner. No extra fee may be charged to a person making payment by mail under this paragraph. The payment must be postmarked at least two business days before the due date for

making the payment in order to be considered paid on a timely basis.

(e) Whenever the liability is \$120,000 or more separately for (1) the tax imposed under chapter 297A, (2) a fee that is to be reported on the same return as and paid with the chapter 297A taxes, or (3) any other tax that is to be reported on the same return as and paid with the chapter 297A taxes, then the payment of all the liabilities on the return must be accelerated as provided in this subdivision.

(f) At the start of the first calendar quarter at least 90 days after the cash flow account established in section 16A.152, subdivision 1, and the budget reserve account established in section 16A.152, subdivision 1a, reach the amounts listed in section 16A.152, subdivision 2, paragraph (a), the remittance of estimated sales tax collections by the 14th day of a month required under paragraph (a), clause (2), shall be suspended. The commissioner of management and budget shall notify the commissioner of revenue when the accounts have reached the required amounts. Beginning with the suspension of paragraph (a), clause (2), for a vendor with a liability of \$120,000 or more during a fiscal year ending June 30, 2009, and fiscal years thereafter, the taxes imposed by chapter 297A are due and payable to the commissioner on the 20th day of the month following the month in which the taxable event occurred. Payments of tax liabilities for taxable events occurring in June under paragraph (b) are not changed.

EFFECTIVE DATE. This section is effective for taxes due and payable after September 1, 2010.

Sec. 5. Minnesota Statutes 2008, section 289A.60, is amended by adding a subdivision to read:

Subd. 31. **Accelerated payment of monthly sales tax liability; penalty for underpayment.** For payments made after September 1, 2010, if a vendor is required by section 289A.20, subdivision 4, to remit a 90 percent payment by the 14th of the month following the month in which the taxable event occurred, as an estimation of monthly sales tax liabilities, including the liability of any fee or other tax that is to be reported on the same return as and paid with the chapter 297A taxes, for the month in which the taxable event occurred, the vendor shall pay a penalty equal to ten percent of the amount of liability that was required to be paid by the 14th of the month less the amount remitted by the 14th of the month. The penalty must not be imposed, however, if the amount remitted by the 14th of the month equals the lesser of (1) 90 percent of the liability for the month preceding the month in which the taxable event occurred, (2) 90 percent of the liability of the same month in the previous calendar year as the month in which the taxable event occurred, or (3) 90 percent of the average monthly liability for the previous calendar year.

EFFECTIVE DATE. This section is effective for taxes due and payable after September 1, 2010.

ARTICLE 3

E-12 EDUCATION

Section 1. Minnesota Statutes 2008, section 123B.75, is amended by adding a subdivision to read:

Subd. 1a. **Definition.** For the purpose of this section, "school district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

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

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 2009 and 2010, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:~~

~~(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or~~

~~(2) the sum of:~~

~~(i) 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; and~~

~~(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6; plus~~

~~(iii) zero 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).~~

~~(b) 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, paragraph (a), 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).~~

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

Sec. 3. Minnesota Statutes 2008, section 123B.75, subdivision 9, is amended to read:

Subd. 9. **Commissioner shall specify fiscal year.** The commissioner shall specify the fiscal year or years to which the revenue from any aid or tax levy is applicable if Minnesota Statutes do not so specify. The commissioner must report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over education finance by January 15 of each year any adjustments under this subdivision in the previous year.

Sec. 4. Minnesota Statutes 2008, section 126C.48, subdivision 7, is amended to read:

Subd. 7. **Reporting.** For each tax settlement, the county auditor shall report to each school district by fund, the district tax settlement revenue defined in section 123B.75, subdivision 5, ~~paragraph (a)~~ 1a, on the form specified in section 276.10. The county auditor shall send to the district a copy of the spread levy report specified in section 275.124.

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

Sec. 5. Minnesota Statutes 2008, section 127A.441, is amended to read:

127A.441 AID REDUCTION; LEVY REVENUE RECOGNITION CHANGE.

Each year, the state aids payable to any school district for that fiscal year that are recognized as revenue in the school district's general and community service funds shall be adjusted by an amount equal to (1) the amount the district recognized as revenue for the prior fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b), minus (2) the amount the district recognized as revenue for the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (a) or (b). For purposes of making the aid adjustments under this section, the amount the district recognizes as revenue for either the prior fiscal year or the current fiscal year pursuant to section 123B.75, subdivision 5, paragraph (b), shall not include any amount levied pursuant to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6. Payment from the permanent school fund shall not be adjusted pursuant to this section. The school district shall be notified of the amount of the adjustment made to each payment pursuant to this section.

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

Sec. 6. Minnesota Statutes 2008, section 127A.45, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) ~~The term~~ "Other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) ~~The term~~ "Cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) ~~The term~~ "Payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

(d) The current year aid payment percentage equals 73 in fiscal years 2010 and 2011 and 90 in fiscal years 2012 and later.

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

Sec. 7. 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. 8. Laws 2009, chapter 96, article 1, section 24, subdivision 2, is amended to read:

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

	<u>5,195,504,000</u>		
\$	<u>4,291,422,000</u>	.....	2010
	<u>5,626,994,000</u>		
\$	<u>4,947,948,000</u>	.....	2011

The 2010 appropriation includes ~~\$555,864,000~~ \$553,591,000 for 2009 and ~~\$4,639,640,000~~ \$3,737,831,000 for 2010.

The 2011 appropriation includes ~~\$500,976,000~~ \$1,363,306,000 for 2010 and ~~\$5,126,018,000~~ \$3,584,642,000 for 2011.

Sec. 9. Laws 2009, chapter 96, article 6, section 11, subdivision 6, is amended to read:

Subd. 6. **Educate parents partnership.** For the educate parents partnership under Minnesota Statutes, section 124D.129:

\$	50,000 <u>49,000</u>	.....	2010
\$	50,000 <u>49,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Sec. 10. Laws 2009, chapter 96, article 6, section 11, subdivision 7, is amended to read:

Subd. 7. **Kindergarten entrance assessment initiative and intervention program.** For the kindergarten entrance assessment initiative and intervention program under Minnesota Statutes, section 124D.162:

\$	287,000 <u>281,000</u>	.....	2010
\$	287,000 <u>281,000</u>	.....	2011

Any balance in the first year does not cancel but is available in the second year.

Sec. 11. Laws 2009, chapter 96, article 7, section 3, subdivision 2, is amended to read:

Subd. 2. **Department.** (a) For the Department of Education:

	20,943,000		
\$	<u>20,147,600</u>	.....	2010
	20,943,000		
\$	<u>19,811,000</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~~ \$618,000 each year is for the Board of Teaching. Any balance in the first year does not cancel but is available in the second year.

(e) ~~\$171,000~~ \$167,000 each year is for the Board of School Administrators. Any balance in the first year does not cancel but is available in the second year.

(f) ~~\$40,000 each year~~ \$10,000 is for an early hearing loss intervention coordinator under Minnesota Statutes, section 125A.63, subdivision 5. This appropriation is for fiscal year 2010 only. 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.

Sec. 12. ADVANCE FINAL PAYMENT; FISCAL YEARS 2010 AND 2011.

(a) Notwithstanding Minnesota Statutes, section 127A.45, subdivisions 3 and 7, for fiscal years 2010 and 2011 only, a school district or charter school exceeding its expenditure limitations under Minnesota Statutes, section 123B.83, as of June 30, 2009, or June 30, 2010, 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 section must not exceed the lesser of:

(1) the difference between 90 percent and the current year aid payment percentage under Minnesota Statutes, section 127A.45, 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 Minnesota Statutes, 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 fiscal year must not exceed \$7,500,000. If the amount exceeds \$7,500,000, the advance final payment for each eligible district must be reduced proportionately.

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

ARTICLE 4

E-12 EDUCATION FORECAST ADJUSTMENTS

Section 1. Minnesota Statutes 2009 Supplement, section 123B.54, is amended to read:

123B.54 DEBT SERVICE APPROPRIATION.

(a) ~~\$9,109,000 in fiscal year 2009, \$7,948,000 in fiscal year 2010, \$9,275,000 in fiscal year 2011, \$9,574,000 \$16,900,000 in fiscal year 2012, and \$8,904,000 \$19,175,000 in fiscal year 2013 and later are appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 123B.53.~~

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Sec. 2. Laws 2009, chapter 96, article 1, section 24, subdivision 5, is amended to read:

Subd. 5. **Consolidation transition.** For districts consolidating under Minnesota Statutes, section 123A.485:

\$ ~~854,000~~ 684,000 2010

\$ ~~927,000~~ 590,000 2011

The 2010 appropriation includes \$0 for 2009 and ~~\$854,000~~ \$684,000 for 2010.

The 2011 appropriation includes ~~\$94,000~~ \$252,000 for 2010 and ~~\$833,000~~ \$338,000 for 2011.

Sec. 3. Laws 2009, chapter 96, article 1, section 24, subdivision 6, is amended to read:

Subd. 6. **Nonpublic pupil education aid.** For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

\$ ~~17,250,000~~
12,861,000 2010

\$ ~~17,889,000~~
16,663,000 2011

The 2010 appropriation includes ~~\$1,647,000~~ \$1,067,000 for 2009 and ~~\$15,603,000~~ \$11,794,000 for 2010.

The 2011 appropriation includes ~~\$1,733,000~~ \$4,362,000 for 2010 and ~~\$16,156,000~~ \$12,301,000 for 2011.

Sec. 4. Laws 2009, chapter 96, article 1, section 24, subdivision 7, is amended to read:

Subd. 7. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$ ~~22,159,000~~
17,297,000 2010

\$ ~~22,712,000~~
20,333,000 2011

The 2010 appropriation includes \$2,077,000 for 2009 and ~~\$20,082,000~~ \$15,220,000 for 2010.

The 2011 appropriation includes ~~\$2,231,000~~ \$5,629,000 for 2010 and ~~\$20,481,000~~ \$14,704,000 for 2011.

Sec. 5. Laws 2009, chapter 96, article 2, section 67, subdivision 2, is amended to read:

Subd. 2. **Charter school building lease aid.** For building lease aid under Minnesota Statutes, section 124D.11, subdivision 4:

\$ ~~40,453,000~~
34,833,000 2010

\$ ~~44,775,000~~
46,370,000 2011

The 2010 appropriation includes \$3,704,000 for 2009 and ~~\$36,749,000~~ \$31,129,000 for 2010.

The 2011 appropriation includes ~~\$4,083,000~~ \$11,513,000 for 2010 and ~~\$40,692,000~~

\$34,857,000 for 2011.

Sec. 6. Laws 2009, chapter 96, article 2, section 67, subdivision 3, is amended to read:

Subd. 3. **Charter school startup aid.** For charter school startup cost aid under Minnesota Statutes, section 124D.11:

	<u>1,488,000</u>		
\$	<u>1,218,000</u>	.....	2010
	<u>1,064,000</u>		
\$	<u>759,000</u>	.....	2011

The 2010 appropriation includes \$202,000 for 2009 and ~~\$1,286,000~~ \$1,016,000 for 2010.

The 2011 appropriation includes ~~\$142,000~~ \$375,000 for 2010 and ~~\$922,000~~ \$384,000 for 2011.

Sec. 7. Laws 2009, chapter 96, article 2, section 67, subdivision 4, is amended to read:

Subd. 4. **Integration aid.** For integration aid under Minnesota Statutes, section 124D.86, subdivision 5:

	<u>65,358,000</u>		
\$	<u>50,812,000</u>	.....	2010
	<u>65,484,000</u>		
\$	<u>63,717,000</u>	.....	2011

The 2010 appropriation includes ~~\$6,110,000~~ \$5,832,000 for 2009 and ~~\$59,248,000~~ \$44,980,000 for 2010.

The 2011 appropriation includes ~~\$6,583,000~~ \$16,636,000 for 2010 and ~~\$58,901,000~~ \$47,081,000 for 2011.

Sec. 8. Laws 2009, chapter 96, article 2, section 67, subdivision 7, is amended to read:

Subd. 7. **Success for the future.** For American Indian success for the future grants under Minnesota Statutes, section 124D.81:

	<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.

Sec. 9. Laws 2009, chapter 96, article 2, section 67, subdivision 9, is amended to read:

Subd. 9. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

	<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.

Sec. 10. Laws 2009, chapter 96, article 3, section 21, subdivision 2, is amended to read:

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section 125A.75:

	<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.

Sec. 11. Laws 2009, chapter 96, article 3, section 21, subdivision 3, is amended to read:

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>1,125,000</u>	.....	2010
	<u>1,895,000</u>		
\$	<u>1,193,000</u>	.....	2011

If the appropriation for either year is insufficient, the appropriation for the other year is available.

Sec. 12. Laws 2009, chapter 96, article 3, section 21, subdivision 4, is amended to read:

Subd. 4. **Travel for home-based services.** For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

\$	258,000 <u>224,000</u>	.....	2010
\$	282,000 <u>291,000</u>	.....	2011

The 2010 appropriation includes \$24,000 for 2009 and ~~\$234,000~~ \$200,000 for 2010.

The 2011 appropriation includes ~~\$26,000~~ \$73,000 for 2010 and ~~\$256,000~~ \$218,000 for 2011.

Sec. 13. Laws 2009, chapter 96, article 3, section 21, subdivision 5, is amended to read:

Subd. 5. **Special education; excess costs.** For excess cost aid under Minnesota Statutes, section 125A.79, subdivision 7:

	110,871,000		
\$	<u>96,926,000</u>	.....	2010
	110,877,000		
\$	<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.

Sec. 14. Laws 2009, chapter 96, article 4, section 12, subdivision 2, is amended to read:

Subd. 2. **Health and safety revenue.** For health and safety aid according to Minnesota Statutes, section 123B.57, subdivision 5:

\$	461,000 <u>132,000</u>	.....	2010
\$	460,000 <u>139,000</u>	.....	2011

The 2010 appropriation includes \$10,000 for 2009 and ~~\$151,000~~ \$122,000 for 2010.

The 2011 appropriation includes ~~\$16,000~~ \$44,000 for 2010 and ~~\$144,000~~ \$95,000 for 2011.

Sec. 15. Laws 2009, chapter 96, article 4, section 12, subdivision 3, is amended to read:

Subd. 3. **Debt service equalization.** For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

	7,948,000		
\$	<u>6,608,000</u>	.....	2010
	9,275,000		
\$	<u>8,465,000</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~~ \$6,337,000 for 2011.

Sec. 16. Laws 2009, chapter 96, article 4, section 12, subdivision 4, is amended to read:

Subd. 4. **Alternative facilities bonding aid.** For alternative facilities bonding aid, according to Minnesota Statutes, section 123B.59, subdivision 1:

	19,287,000		
\$	<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.

Sec. 17. Laws 2009, chapter 96, article 4, section 12, subdivision 6, is amended to read:

Subd. 6. **Deferred maintenance aid.** For deferred maintenance aid, according to Minnesota Statutes, section 123B.591, subdivision 4:

	2,302,000		
\$	<u>1,918,000</u>	.....	2010
	2,073,000		
\$	<u>2,211,000</u>	.....	2011

The 2010 appropriation includes \$260,000 for 2009 and ~~\$2,042,000~~ \$1,658,000 for 2010.

The 2011 appropriation includes ~~\$226,000~~ \$613,000 for 2010 and ~~\$1,847,000~~ \$1,598,000 for 2011.

Sec. 18. Laws 2009, chapter 96, article 5, section 13, subdivision 4, is amended to read:

Subd. 4. **Kindergarten milk.** For kindergarten milk aid under Minnesota Statutes, section 124D.118:

	1,098,000		
\$	<u>1,104,000</u>	.....	2010
	1,120,000		
\$	<u>1,126,000</u>	.....	2011

Sec. 19. Laws 2009, chapter 96, article 5, section 13, subdivision 6, is amended to read:

Subd. 6. **Basic system support.** For basic system support grants under Minnesota Statutes, section 134.355:

	13,570,000		
\$	<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.

Sec. 20. Laws 2009, chapter 96, article 5, section 13, subdivision 7, is amended to read:

Subd. 7. **Multicounty, multitype library systems.** For grants under Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

	1,300,000		
\$	<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.

Sec. 21. Laws 2009, chapter 96, article 5, section 13, subdivision 9, is amended to read:

Subd. 9. **Regional library telecommunications aid.** For regional library telecommunications aid under Minnesota Statutes, section 134.355:

~~2,300,000~~
\$ 1,909,000 2010
\$ 2,300,000 2011

The 2010 appropriation includes \$230,000 for 2009 and ~~\$2,070,000~~ \$1,679,000 for 2010.

The 2011 appropriation includes ~~\$230,000~~ \$621,000 for 2010 and ~~\$2,070,000~~ \$1,679,000 for 2011.

Sec. 22. Laws 2009, chapter 96, article 6, section 11, subdivision 2, is amended to read:

Subd. 2. **School readiness.** For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

~~10,095,000~~
\$ 8,379,000 2010
\$ 10,095,000 2011

The 2010 appropriation includes \$1,009,000 for 2009 and ~~\$9,086,000~~ \$7,370,000 for 2010.

The 2011 appropriation includes ~~\$1,009,000~~ \$2,725,000 for 2010 and ~~\$9,086,000~~ \$7,370,000 for 2011.

Sec. 23. Laws 2009, chapter 96, article 6, section 11, subdivision 3, is amended to read:

Subd. 3. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

~~22,955,000~~
\$ 19,005,000 2010
~~22,547,000~~
\$ 22,126,000 2011

The 2010 appropriation includes \$3,020,000 for 2009 and ~~\$19,935,000~~ \$15,985,000 for 2010.

The 2011 appropriation includes ~~\$2,214,000~~ \$5,911,000 for 2010 and ~~\$20,333,000~~ \$16,215,000 for 2011.

Sec. 24. Laws 2009, chapter 96, article 6, section 11, subdivision 4, is amended to read:

Subd. 4. **Health and developmental screening aid.** For health and developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

	<u>3,694,000</u>		
\$	<u>2,922,000</u>	.....	2010
	<u>3,800,000</u>		
\$	<u>3,531,000</u>	.....	2011

The 2010 appropriation includes \$367,000 for 2009 and ~~\$3,327,000~~ \$2,555,000 for 2010.

The 2011 appropriation includes ~~\$369,000~~ \$945,000 for 2010 and ~~\$3,431,000~~ \$2,586,000 for 2011.

Sec. 25. Laws 2009, chapter 96, article 6, section 11, subdivision 8, is amended to read:

Subd. 8. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

\$	585,000 <u>476,000</u>	.....	2010
\$	467,000 <u>486,000</u>	.....	2011

The 2010 appropriation includes \$73,000 for 2009 and ~~\$512,000~~ \$403,000 for 2010.

The 2011 appropriation included ~~\$56,000~~ \$148,000 for 2010 and ~~\$411,000~~ \$338,000 for 2011.

Sec. 26. Laws 2009, chapter 96, article 6, section 11, subdivision 9, is amended to read:

Subd. 9. **Adults with disabilities program aid.** For adults with disabilities programs under Minnesota Statutes, section 124D.56:

\$	710,000 <u>588,000</u>	.....	2010
\$	710,000	.....	2011

The 2010 appropriation includes ~~\$71,000~~ \$69,000 for 2009 and ~~\$639,000~~ \$519,000 for 2010.

The 2011 appropriation includes ~~\$71,000~~ \$191,000 for 2010 and ~~\$639,000~~ \$519,000 for 2011.

Sec. 27. Laws 2009, chapter 96, article 6, section 11, subdivision 12, is amended to read:

Subd. 12. **Adult basic education aid.** For adult basic education aid under Minnesota Statutes, section 124D.531:

	<u>42,975,000</u>		
\$	<u>35,671,000</u>	.....	2010
	<u>44,258,000</u>		
\$	<u>44,065,000</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~~

\$32,421,000 for 2011.

ARTICLE 5
HIGHER EDUCATION

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>(77,000)</u>	\$	<u>(100,077,000)</u>	<u>\$ (100,154,000)</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 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**

<u>Sec. 3. MINNESOTA OFFICE OF HIGHER EDUCATION</u>	<u>\$</u>	<u>(77,000)</u>	<u>\$</u>	<u>(77,000)</u>
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This reduction is from the appropriation for agency administration.

If an extension of the enhanced federal medical assistance percentage (FMAP) under Public Law 111-5, section 5001, to at least June 30, 2011, is enacted by June 15, 2010, \$36,000,000 is appropriated from the general fund to the Minnesota Office of Higher Education for the state grant program, to be available for the fiscal year ending June 30, 2011.

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 \$580,802,000 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 \$578,370,000 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)

ARTICLE 6

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>	\$	<u>(1,571,000)</u>	\$	<u>(1,564,000)</u>	\$	<u>(3,135,000)</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 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.

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>(38,000)</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>	-0-	<u>(16,000)</u>
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<u>Subd. 5. Administrative Support</u>	<u>(12,000)</u>	<u>(15,000)</u>
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Sec. 4. NATURAL RESOURCES

<u>Subdivision 1. Total Appropriation</u>	<u>\$ (1,375,000)</u>	<u>\$ (1,379,000)</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>(420,000)</u>	<u>(422,000)</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>(46,000)</u>	<u>(47,000)</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>(112,000)</u>	<u>(113,000)</u>
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<u>Sec. 5. METROPOLITAN COUNCIL</u>	<u>\$ (86,000)</u>	<u>\$ (86,000)</u>
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Sec. 6. Laws 2010, chapter 215, article 3, section 3, subdivision 6, is amended to read:

Subd. 6. Transfers In

(a) The amounts appropriated from the agency indirect costs account in the special revenue fund are reduced by \$328,000 in fiscal year 2010 and \$462,000 in fiscal year 2011, and those amounts must be transferred to the general fund by June 30, 2011. The appropriation reductions are onetime.

(b) The commissioner of management and budget shall transfer ~~\$8,000,000~~ \$48,000,000 in fiscal year 2011 from the closed landfill investment fund in Minnesota Statutes, section 115B.421, to the general fund. The commissioner shall transfer ~~\$4,000,000~~ \$10,000,000 on July 1, ~~2013,~~ and \$4,000,000 on July 1, in each of the years 2014, 2015, 2016, and 2017 from the general fund to the closed landfill investment fund. For ~~the July 1, 2014,~~ each transfer to the closed landfill investment fund, the commissioner shall determine the total amount of interest and other earnings that would have accrued to the fund if the transfers to the general fund under this paragraph had not been made and add this amount to the transfer. The amounts necessary for these transfers are appropriated from the general fund in the fiscal years specified for the transfers.

ARTICLE 7

ENERGY

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>	\$	(247,000)	\$	(247,000)	\$	(494,000)

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 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.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2010</u>	<u>2011</u>
Sec. 3. <u>DEPARTMENT OF COMMERCE</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ (247,000)	\$ (247,000)
The appropriation reductions for each purpose are shown in the following subdivisions.		
Subd. 2. <u>Administrative Services</u>	(97,000)	(97,000)
Subd. 3. <u>Market Assurance</u>	(150,000)	(150,000)

ARTICLE 8
AGRICULTURE

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	\$ (493,000)	\$ (492,000)	\$ (985,000)

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.

<u>APPROPRIATIONS</u>	
<u>Available for the Year</u>	
<u>Ending June 30</u>	
<u>2010</u>	<u>2011</u>

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. 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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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.

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.

The base appropriation from the general fund for fiscal years 2012 and 2013 is \$16,292,000 each year.

<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**

Sec. 3. HUMAN RIGHTS \$ (79,000) \$ (79,000)

ARTICLE 12

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>	\$	(1,694,000)	(1,820,000)	(3,514,000)

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.

APPROPRIATIONS

Available for the Year

Ending June 30

2010

2011

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR

\$ (81,000) \$ (81,000)

\$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

\$ (130,000) \$ (130,000)

\$96,000 of the reduction in each of fiscal years 2010 and 2011 are from the appropriation for information technology security.

	<u>2010</u>	<u>2011</u>
Sec. 3. <u>DEPARTMENT OF HUMAN SERVICES</u>		
Subdivision 1. <u>Total Appropriation</u>	\$ <u>(74,177,000)</u>	\$ <u>(74,625,000)</u>
<u>The appropriation reductions for each purpose are shown in the following subdivisions.</u>		
Subd. 2. <u>Agency Management; Financial Operations</u>	<u>(3,289,000)</u>	<u>(3,282,000)</u>
<u>The reduction in fiscal year 2011 is a base reduction for fiscal year 2012 and thereafter.</u>		
Subd. 3. <u>Children and Economic Assistance Grants</u>		
(a) <u>Child Support Enforcement Grants</u>	<u>(3,400,000)</u>	<u>-0-</u>
(b) <u>Children's Services Grants</u>	<u>(600,000)</u>	<u>-0-</u>
<u>American Indian Child Welfare Projects.</u> <u>Notwithstanding Laws 2009, chapter 79, article 2, section 35, \$600,000 of the fiscal year 2009 funds extended in fiscal year 2010 cancel to the general fund.</u>		
(c) <u>Children and Community Services Grants</u>	<u>(16,900,000)</u>	<u>(1,500,000)</u>
(d) <u>General Assistance Grants</u>	<u>(5,267,000)</u>	<u>(3,190,000)</u>
(e) <u>Minnesota Supplemental Aid Grants</u>	<u>(733,000)</u>	<u>-0-</u>
(f) <u>Group Residential Housing Grants</u>	<u>(467,000)</u>	<u>(706,000)</u>
Subd. 4. <u>Basic Health Care Grants</u>		
(a) <u>Medical Assistance Basic Health Care Grants - Families and Children</u>	<u>(5,599,000)</u>	<u>(29,163,000)</u>
(b) <u>Medical Assistance Basic Health Care Grants - Elderly and Disabled</u>	<u>(2,331,000)</u>	<u>(23,114,000)</u>
<u>Hospital Fee-for-Service Payment Delay.</u> <u>Payments from the Medicaid Management Information System that would otherwise have been made for inpatient hospital services</u>		

for Minnesota health care program enrollees must be delayed as follows: for fiscal year 2011, June payments must be included in the first payments in fiscal year 2012. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. This payment delay includes, and is not in addition to, the payment delay for inpatient hospital services in Laws 2009, chapter 79, article 13, section 3, subdivision 6, paragraph (c).

Nonhospital Fee-for-Service Payment Delay. Payments from the Medicaid Management Information System that would otherwise have been made for nonhospital acute care services for Minnesota health care program enrollees must be delayed as follows: for fiscal year 2011, June payments must be included in the first payments in fiscal year 2012. This payment delay must not include nursing facilities, intermediate care facilities for persons with developmental disabilities, home and community-based services, prepaid health plans, personal care provider organizations, and home health agencies. The provisions of Minnesota Statutes, section 16A.124, do not apply to these delayed payments. This payment delay includes, and is not in addition to, the payment delay for nonhospital acute care services in Laws 2009, chapter 79, article 13, section 3, subdivision 6, paragraph (c).

<u>(c) General Assistance Medical Care Grants</u>	<u>(15,879,000)</u>	<u>-0-</u>
<u>Subd. 5. Health Care Management; Administration</u>	<u>(180,000)</u>	<u>(360,000)</u>

Incentive Program and Outreach Grants. The general fund appropriation for the incentive program under Laws 2008, chapter 358, article 5, section 3, subdivision 4, paragraph (b), is canceled. This paragraph is effective retroactively from January 1, 2010.

Subd. 6. Continuing Care Grants

<u>(a) Aging and Adult Services Grants</u>	<u>(3,600,000)</u>	<u>(900,000)</u>
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Community Service/Service Development

Grants Reduction. Effective retroactively from July 1, 2009, funding for grants made under Minnesota Statutes, sections 256.9754 and 256B.0917, subdivision 13, is reduced by \$3,600,000 in fiscal year 2010 and \$900,000 in fiscal year 2011. Grants made during fiscal year 2010 under Minnesota Statutes, section 256.9754, shall not be used for new construction or building renovation.

(b) Medical Assistance Long-Term Care Facilities Grants(3,827,000)(2,520,000)**ICF/MR Variable Rates Suspension.**

Effective retroactively from July 1, 2009, to June 30, 2010, no new variable rates shall be authorized for intermediate care facilities for persons with developmental disabilities under Minnesota Statutes, section 256B.5013, subdivision 1.

ICF/MR Occupancy Rate Adjustment

Suspension. Effective retroactively from July 1, 2009, to June 30, 2010, approval of new applications for occupancy rate adjustments for unoccupied short-term beds under Minnesota Statutes, section 256B.5013, subdivision 7, is suspended.

(c) Medical Assistance Long-Term Care Waivers and Home Care Grants(2,318,000)(4,477,000)**Developmental Disability Waiver Acuity**

Factor. Effective retroactively from January 1, 2010, the January 1, 2010, one percent growth factor in the developmental disability waiver allocations under Minnesota Statutes, section 256B.092, subdivisions 4 and 5, that is attributable to changes in acuity, is suspended to June 30, 2011.

(d) Adult Mental Health Grants(5,000,000)-0-**(e) Chemical Dependency Entitlement Grants**(3,622,000)(3,622,000)**(f) Chemical Dependency Nonentitlement Grants**(393,000)(393,000)

<u>Subd. 7. Continuing Care Management</u>	<u>(350,000)</u>	<u>-0-</u>
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County Maintenance of Effort. The general fund appropriation for the State-County Results Accountability and Service Delivery Reform under Minnesota Statutes, chapter 402A, is canceled. This paragraph is effective retroactively from July 1, 2009.

<u>Subd. 8. State-Operated Services; Adult Mental Health Services</u>	<u>(422,000)</u>	<u>(4,588,000)</u>
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Sec. 4. DEPARTMENT OF HEALTH

<u>Subdivision. 1. Total Appropriation</u>	<u>\$</u>	<u>(527,000)</u>	<u>\$</u>	<u>(525,000)</u>
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The appropriation reductions for each purpose are shown in the following subdivisions.

The reductions in fiscal year 2011, other than in subdivision 3, are base reductions for fiscal year 2012 and thereafter.

<u>Subd. 2. Community and Family Health Promotion</u>	<u>(53,000)</u>	<u>(355,000)</u>
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<u>Subd. 3. Policy Quality and Compliance</u>	<u>(118,000)</u>	<u>(74,000)</u>
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Office of Unlicensed Health Care Practice. Of the general fund reduction \$74,000 in fiscal year 2011 is from the Office of Unlicensed Complementary and Alternative Health Care Practice. This is a onetime reduction.

<u>Subd. 4. Health Protection</u>	<u>(225,000)</u>	<u>(74,000)</u>
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<u>Subd. 5. Administrative Support Services</u>	<u>(131,000)</u>	<u>(22,000)</u>
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Sec. 5. 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

Base Adjustment. The general fund base is decreased by \$3,598,000 in fiscal year 2012 and \$3,470,000 in fiscal year 2013.

Alternative Care Transfer. Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

(c) Medical Assistance Grants; Long-Term Care Facilities.

367,444,000 419,749,000

(d) Medical Assistance Long-Term Care Waivers and Home Care Grants

853,567,000 1,039,517,000

Manage Growth in TBI and CADI

Waivers. During the fiscal years beginning on July 1, 2009, and July 1, 2010, the commissioner shall allocate money for home and community-based waiver programs under Minnesota Statutes, section 256B.49, to ensure a reduction in state spending that is equivalent to limiting the caseload growth of the TBI waiver to 12.5 allocations per month each year of the biennium and the CADI waiver to 95 allocations per month each year of the biennium. Limits do not apply: (1) when there is an approved plan for nursing facility bed closures for individuals under age 65 who require relocation due to the bed closure; (2) to fiscal year 2009 waiver allocations delayed due to unallotment; or (3) to transfers authorized by the commissioner from the personal care assistance program of individuals having a home care rating of "CS," "MT," or "HL." Priorities for the allocation of funds must be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting.

Manage Growth in DD Waiver.

The commissioner shall manage the growth in the DD waiver by limiting the allocations included in the February 2009 forecast to 15 additional diversion allocations each month for the calendar years that begin on January 1, 2010, and January 1, 2011. Additional allocations must be made available for transfers authorized by the commissioner from the personal care program of individuals having a home care rating of "CS," "MT," or "HL."

Adjustment to Lead Agency Waiver Allocations.

Prior to the availability of the

alternative license defined in Minnesota Statutes, section 245A.11, subdivision 8, the commissioner shall reduce lead agency waiver allocations for the purposes of implementing a moratorium on corporate foster care.

Alternatives to Personal Care Assistance Services. Base level funding of \$3,237,000 in fiscal year 2012 and \$4,856,000 in fiscal year 2013 is to implement alternative services to personal care assistance services for persons with mental health and other behavioral challenges who can benefit from other services that more appropriately meet their needs and assist them in living independently in the community. These services may include, but not be limited to, a 1915(i) state plan option.

(e) Mental Health Grants

	Appropriations by Fund	
General	77,739,000	77,739,000
Health Care Access	750,000	750,000
Lottery Prize	1,508,000	1,508,000

Funding Usage. Up to 75 percent of a fiscal year's appropriation for adult mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

(f) Deaf and Hard-of-Hearing Grants 1,930,000 1,917,000

(g) Chemical Dependency Entitlement Grants 111,303,000 122,822,000

Payments for Substance Abuse Treatment.

For services provided during fiscal years 2010 and 2011, county-negotiated rates and provider claims to the consolidated chemical dependency fund must not exceed rates charged for these services on January 1, 2009; and rates for fiscal years 2010 and 2011 must not exceed 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, statewide average rates under the new rate methodology to be developed under Minnesota Statutes, section 254B.12, must not exceed the average rates charged for these services on January 1, 2009, plus a state share increase of \$3,787,000 for fiscal year 2012 and \$5,023,000 for fiscal year 2013. Notwithstanding any provision to the contrary in this article, this provision expires on June 30, 2013.

Chemical Dependency Special Revenue Account. For fiscal year 2010, \$750,000 must be transferred from the consolidated chemical dependency treatment fund administrative account and deposited into the general fund.

County CD Share of MA Costs for ARRA Compliance. Notwithstanding the provisions of Minnesota Statutes, chapter 254B, for chemical dependency services provided during the period 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. 6. Laws 2009, chapter 79, article 13, section 4, subdivision 4, as amended by Laws 2009, chapter 173, article 2, section 2, subdivision 4, is amended to read:

Subd. 4. Health Protection

	Appropriations by Fund	
General	9,871,000	9,780,000
State Government		
Special Revenue	30,209,000	30,209,000

Base Adjustment. The general fund base is reduced by \$50,000 in each of fiscal years 2012 and 2013.

Health Protection Appropriations. (a) \$163,000 each year is for the lead abatement grant program.

(b) \$100,000 each year is for emergency preparedness and response activities.

(c) \$50,000 each year is for tuberculosis prevention and control. This is a onetime appropriation.

~~(d) \$55,000 in fiscal year 2010 is for pentachlorophenol.~~

~~(e) \$20,000 in fiscal year 2010 is for a PFC Citizens Advisory Group.~~

American Recovery and Reinvestment Act Funds. Federal funds received by the commissioner for immunization operations from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, are appropriated to the commissioner for the purposes of the grant.

Sec. 7. Minnesota Statutes 2009 Supplement, section 256B.056, subdivision 3c, is amended to read:

Subd. 3c. **Asset limitations for families and children.** A household of two or more persons must not own more than \$20,000 in total net assets except that this asset limit shall be \$6,000 for the period January 1, 2011, through June 30, 2011, plus \$200 for each additional legal dependent, and a household of one person must not own more than \$10,000 in total net assets, except that this asset limit shall be \$3,000 for the period January 1, 2011, through June 30, 2011. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance for families and children is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

- (1) household goods and personal effects are not considered;
- (2) capital and operating assets of a trade or business up to \$200,000 are not considered, except that a bank account that contains personal income or assets, or is used to pay personal expenses, is not considered a capital or operating asset of a trade or business;
- (3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;
- (4) assets designated as burial expenses are excluded to the same extent they are excluded by the Supplemental Security Income program;
- (5) court-ordered settlements up to \$10,000 are not considered;
- (6) individual retirement accounts and funds are not considered; and
- (7) assets owned by children are not considered.

The assets specified in clause (2) must be disclosed to the local agency at the time of application and at the time of an eligibility redetermination, and must be verified upon request of the local agency.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 8. Minnesota Statutes 2009 Supplement, section 256B.0659, subdivision 11, is amended to read:

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

- (1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:
 - (i) supervision by a qualified professional every 60 days; and
 - (ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;
- (2) be employed by a personal care assistance provider agency;
- (3) enroll with the department as a personal care assistant after clearing a background study. Before a personal care assistant provides services, the personal care assistance provider agency must

initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

- (i) not disqualified under section 245C.14; or
- (ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;
- (4) be able to effectively communicate with the recipient and personal care assistance provider agency;
- (5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;
- (6) not be a consumer of personal care assistance services;
- (7) maintain daily written records including, but not limited to, time sheets under subdivision 12;
- (8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;
- (9) complete training and orientation on the needs of the recipient within the first seven days after the services begin; and
- (10) be limited to providing and being paid for up to 310 hours per month, except that this limit shall be 275 hours per month for the period July 1, 2009, through June 30, 2010 of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with.

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

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

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

Sec. 9. Minnesota Statutes 2009 Supplement, section 256B.441, subdivision 55, is amended to read:

Subd. 55. **Phase-in of rebased operating payment rates.** (a) For the rate years beginning October 1, 2008, to October 1, 2015, the operating payment rate calculated under this section

shall be phased in by blending the operating rate with the operating payment rate determined under section 256B.434. For purposes of this subdivision, the rate to be used that is determined under section 256B.434 shall not include the portion of the operating payment rate related to performance-based incentive payments under section 256B.434, subdivision 4, paragraph (d). For the rate year beginning October 1, 2008, the operating payment rate for each facility shall be 13 percent of the operating payment rate from this section, and 87 percent of the operating payment rate from section 256B.434. ~~For the rate year beginning October 1, 2009, the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434.~~ For rate years beginning October 1, 2009; October 1, 2010; October 1, 2011; and October 1, 2012, no rate adjustments shall be implemented under this section, but shall be determined under section 256B.434. For the rate year beginning October 1, 2013, the operating payment rate for each facility shall be 65 percent of the operating payment rate from this section, and 35 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2014, the operating payment rate for each facility shall be 82 percent of the operating payment rate from this section, and 18 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2015, the operating payment rate for each facility shall be the operating payment rate determined under this section. The blending of operating payment rates under this section shall be performed separately for each RUG's class.

(b) For the rate year beginning October 1, 2008, the commissioner shall apply limits to the operating payment rate increases under paragraph (a) by creating a minimum percentage increase and a maximum percentage increase.

(1) Each nursing facility that receives a blended October 1, 2008, operating payment rate increase under paragraph (a) of less than one percent, when compared to its operating payment rate on September 30, 2008, computed using rates with RUG's weight of 1.00, shall receive a rate adjustment of one percent.

(2) The commissioner shall determine a maximum percentage increase that will result in savings equal to the cost of allowing the minimum increase in clause (1). Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the maximum percentage increase.

(3) Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than one percent and less than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the blended October 1, 2008, operating payment rate increase determined under paragraph (a).

(4) The October 1, 2009, through October 1, 2015, operating payment rate for facilities receiving the maximum percentage increase determined in clause (2) shall be the amount determined under paragraph (a) less the difference between the amount determined under paragraph (a) for October 1, 2008, and the amount allowed under clause (2). This rate restriction does not apply to rate increases provided in any other section.

(c) A portion of the funds received under this subdivision that are in excess of operating

payment rates that a facility would have received under section 256B.434, as determined in accordance with clauses (1) to (3), shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h).

(1) Determine the amount of additional funding available to a facility, which shall be equal to total medical assistance resident days from the most recent reporting year times the difference between the blended rate determined in paragraph (a) for the rate year being computed and the blended rate for the prior year.

(2) Determine the portion of all operating costs, for the most recent reporting year, that are compensation related. If this value exceeds 75 percent, use 75 percent.

(3) Subtract the amount determined in clause (2) from 75 percent.

(4) The portion of the fund received under this subdivision that shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h), shall equal the amount determined in clause (1) times the amount determined in clause (3).

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan's payment rate under section 256B.692 for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the

following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23.

(d) Effective for services rendered on or after January 1, 2009, through December 31, 2009, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance and general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) Effective for services provided on or after January 1, 2010, the commissioner shall require that managed care plans use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section 256B.0659.

(f) Effective for services rendered on or after January 1, 2010, through December 31, 2010, the commissioner shall withhold ~~3.5~~ 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(g) Effective for services rendered on or after January 1, 2011, through December 31, 2011, the commissioner shall withhold ~~four~~ 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23. If an extension of the enhanced federal medical assistance percentage (FMAP) under Public Law 111-5, section 5001, is enacted before June 15, 2010, the withhold percentage stated in this paragraph shall be 4.0 percent.

(h) Effective for services rendered on or after January 1, 2012, through December 31, 2012, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(i) Effective for services rendered on or after January 1, 2013, through December 31, 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(j) Effective for services rendered on or after January 1, 2014, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance and prepaid general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(k) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

(l) Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and 7.

EFFECTIVE DATE. The additional withhold percentage in paragraph (f) is effective retroactively from January 1, 2010.

Sec. 11. Minnesota Statutes 2009 Supplement, section 256B.76, subdivision 1, is amended to read:

Subdivision 1. **Physician reimbursement.** (a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992.

(b) Effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services. The increases in this paragraph shall be implemented January 1, 2000, for managed care.

(c) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by five percent, except that for the period July 1, 2009, through June 30, 2011, payments rates shall be reduced by 6.5 percent for the medical assistance and general assistance medical care programs, over the rates in effect on June 30, 2009. The additional 1.5 percent reduction in effect for the period from July 1, 2010, to June 30, 2011, does not apply to physician services billed by a psychiatrist or an advanced practice registered nurse with a specialty in mental health. This reduction does not apply to office or other outpatient visits,

preventive medicine visits and family planning visits billed by physicians, advanced practice nurses, or physician assistants in a family planning agency or in one of the following primary care practices: general practice, general internal medicine, general pediatrics, general geriatrics, and family medicine. This reduction does not apply to federally qualified health centers, rural health centers, and Indian health services. Effective October 1, 2009, payments made to managed care plans and county-based purchasing plans under sections 256B.69, 256B.692, and 256L.12 shall reflect the payment reduction described in this paragraph.

EFFECTIVE DATE. The additional rate reductions in this section are effective retroactively from July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 256B.76, subdivision 4, is amended to read:

Subd. 4. **Critical access dental providers.** (a) 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:

(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;

(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

(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.

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.

(b) Notwithstanding paragraph (a), critical access payments must not be made for dental services provided from April 1, 2010, to June 30, 2010.

EFFECTIVE DATE. This section is effective retroactively from April 1, 2010.

Sec. 13. Minnesota Statutes 2009 Supplement, section 256B.766, is amended to read:

256B.766 REIMBURSEMENT FOR BASIC CARE SERVICES.

(a) Effective for services provided on or after July 1, 2009, total payments for basic care services, shall be reduced by three percent, except that for the period July 1, 2009, through June 30, 2011, total payments shall be reduced by 4.5 percent for the medical assistance and general assistance

medical care programs, prior to third-party liability and spenddown calculation. Payments made to managed care plans and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect this reduction.

(b) This section does not apply to physician and professional services, inpatient hospital services, family planning services, mental health services, dental services, prescription drugs, medical transportation, federally qualified health centers, rural health centers, Indian health services, and Medicare cost-sharing.

EFFECTIVE DATE. The additional rate reductions in this section are effective retroactively from July 1, 2009.

Sec. 14. REDUCTION OF GROUP RESIDENTIAL HOUSING SUPPLEMENTAL SERVICE RATE.

Effective retroactively from November 1, 2009, through June 30, 2011, the commissioner of human services shall decrease the group residential housing (GRH) supplementary service rate under Minnesota Statutes, section 256I.05, subdivision 1a, by five percent for services rendered on or after that date, except that reimbursement rates for a GRH facility reimbursed as a nursing facility shall not be reduced. The reduction in this paragraph is in addition to the reduction under Laws 2009, chapter 79, article 8, section 79, paragraph (b), clause (11).

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

Sec. 15. ARTICLE EFFECTIVE DATE.

This article is effective the day following final enactment. If an extension of the enhanced federal medical assistance percentage (FMAP) under Public Law 111-5, section 5001, to at least June 30, 2011, is enacted by June 15, 2010, and notwithstanding the immediate or retroactive effective dates for various sections of this article, reductions in this article effective on or after July 1, 2010, except for reductions to appropriations for state agency administrative costs in section 3, subdivision 2, and section 4, shall not take effect.

ARTICLE 14

AIDS, CREDITS, REFUNDS

Section 1. Minnesota Statutes 2008, section 273.1384, subdivision 6, as added by Laws 2010, chapter 215, article 13, section 2, is amended to read:

Subd. 6. **Credit reduction.** In 2011 and each year thereafter, the 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 ~~unallotment the reductions announced prior to February 28, 2010, under section 16A.152~~ 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 for taxes payable in 2011 and thereafter.

Sec. 2. [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 section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of taconite aids under 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 section 477A.0124 that the county was certified to receive in 2009, plus the amount of taconite aids under 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 section 477A.013 that the town was certified to receive in 2009, plus the amount of taconite aids under sections 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 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 1.188968672 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under section 477A.0124 that the county was certified to receive in 2009, plus the amount of market value credit reimbursements under 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 section 477A.013 and then, if necessary, to reduce the amount payable to the county in 2009 as market value credit reimbursements under 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 section 477A.013.

For all other cities, the aid reduction amount is equal to 3.3127634 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2009, plus the amount of market value credit reimbursements under 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 section 477A.013 and then, if necessary, to reduce the amount payable to the city in 2009 as market value credit reimbursements under 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 1.735103 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 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 2.41396687 percent of the county's 2009 revenue base.

The reduction amount is limited to the sum of the amount of county program aid under section

477A.0124 that the county was certified to receive in 2009, plus the amount of market value credit reimbursements under 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 section 477A.013 and then, if necessary, to reduce the amount payable to the county in 2010 as market value credit reimbursements under 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 7.643803025 percent of the city's 2009 revenue base.

The reduction amount is limited to the sum of 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 market value credit reimbursements under 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 section 477A.013 and then, if necessary, to reduce the amount payable to the city in 2010 as market value credit reimbursements under 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 3.660798 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 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 and is retroactive for aids and credit reimbursements payable in 2009.

Sec. 3. Laws 2010, chapter 215, article 13, section 6, is amended to read:

Sec. 6. **477A.0133 ADDITIONAL 2010 AID AND CREDIT 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 and cities.** The commissioner of revenue must compute additional 2010 aid and credit reimbursement reduction amounts for each county and city under this section, 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, to reflect the ~~reduction of allotments under section 16A.152~~ reductions under section 477A.0133.

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~~ under section 477A.0133.

The reduction amount under this section is applied first to reduce the amount payable to the county or city in 2010 as market value credit reimbursements under section 273.1384, and then if necessary, 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.

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 1.82767 percent of the county's 2010 revenue base. The additional 2010 aid reduction amount for a city is equal to the lesser of (1) 3.4287 percent of the city's 2010 revenue base or (2) \$28 multiplied by the city's 2008 population.

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

Sec. 4. **REFUNDS AND CREDITS.**

Subdivision 1. **Political contribution credit.** Notwithstanding the provisions of Minnesota Statutes, section 290.06, subdivision 23, or any other law to the contrary, the political contribution refund does not apply to contributions made after June 30, 2009, and before July 1, 2011.

Subd. 2. **Property tax refund.** For property tax refunds based on rent paid during calendar year 2009 only (but also applying to refunds based on property taxes payable in 2010 that include gross rent paid in 2009), the following rules apply:

(1) "rent constituting property taxes" must be calculated by substituting "15 percent" for "19 percent" under Minnesota Statutes, section 290A.03, subdivision 11; and

(2) "property taxes payable" must be calculated under Minnesota Statutes, section 290A.03, subdivision 13, by substituting "15 percent" for "19 percent" in determining the portion of gross rent paid that is included in property taxes payable.

Subd. 3. **Sustainable forest incentive program.** The maximum sustainable forest incentive program payments under Minnesota Statutes, section 290C.07, per each Social Security number or state or federal business tax identification number must not exceed \$100,000. The provisions of this subdivision apply only to payments made during fiscal year 2011.

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

Sec. 5. **LEVY VALIDATION.**

Any special levy under Minnesota Statutes, section 275.70, subdivision 5, clause (22), approved by the commissioner of revenue for taxes payable in 2010, is validated notwithstanding a later judicial decision that may affect the validity of unallotments that were announced in 2009. A local government may not levy under Minnesota Statutes, section 275.70, subdivision 5, clause (22) for taxes payable in 2011 for any retroactive reduction in aid and credit reimbursements for aids and credits payable in 2008 or 2009.

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

ARTICLE 15

SPECIAL REVENUE FUND

Section 1. Minnesota Statutes 2008, section 3.9741, subdivision 2, is amended to read:

Subd. 2. **Postsecondary Education Board.** The legislative auditor may enter into an interagency agreement with the Board of Trustees of the Minnesota State Colleges and Universities to conduct financial audits, in addition to audits conducted under section 3.972, subdivision 2. All payments received for audits requested by the board shall be ~~added to the appropriation for~~ deposited in the special revenue fund and appropriated to the legislative auditor to pay audit expenses.

Sec. 2. Minnesota Statutes 2008, section 8.15, subdivision 3, is amended to read:

Subd. 3. **Agreements.** (a) To facilitate the delivery of legal services, the attorney general may:

(1) enter into agreements with executive branch agencies, political subdivisions, or quasi-state agencies to provide legal services for the benefit of the citizens of Minnesota; and

(2) in addition to funds otherwise appropriated by the legislature, accept and spend funds received under any agreement authorized in clause (1) for the purpose set forth in clause (1), subject to a report of receipts to the chairs of the senate Finance Committee and the house of representatives Ways and Means Committee by October 15 each year.

(b) When entering into an agreement for legal services, the attorney general must notify the committees responsible for funding the Office of the Attorney General. When the attorney general enters into an agreement with a state agency, the attorney general must also notify the committees

responsible for funding that agency.

Funds received under this subdivision must be deposited in ~~the general~~ an account in the special revenue fund and are appropriated to the attorney general for the purposes set forth in this subdivision.

Sec. 3. Minnesota Statutes 2008, section 13.03, subdivision 10, is amended to read:

Subd. 10. **Costs for providing copies of data.** Money may be collected by a responsible authority in a state agency for the actual cost to the agency of providing copies or electronic transmittal of government data is appropriated to the agency and added to the appropriations from which the costs were paid. When money collected for purposes of this section is of a magnitude sufficient to warrant a separate account in the state treasury, that money must be deposited in a fund other than the general fund and is appropriated to the agency.

Sec. 4. Minnesota Statutes 2008, section 16C.23, subdivision 6, is amended to read:

Subd. 6. **State surplus property.** The commissioner may do any of the following to dispose of state surplus property:

- (1) transfer it to or between state agencies;
- (2) transfer it to a governmental unit or nonprofit organization in Minnesota; or
- (3) sell it and charge a fee to cover expenses incurred by the commissioner in the disposal of the surplus property.

The proceeds of the sale less the fee must be deposited in an account in a fund other than the general fund and are appropriated to the agency for whose account the sale was made, to be used and expended by that agency to purchase similar state property.

Sec. 5. Minnesota Statutes 2008, section 103B.101, subdivision 9, is amended to read:

Subd. 9. **Powers and duties.** In addition to the powers and duties prescribed elsewhere, the board shall:

- (1) coordinate the water and soil resources planning activities of counties, soil and water conservation districts, watershed districts, watershed management organizations, and any other local units of government through its various authorities for approval of local plans, administration of state grants, and by other means as may be appropriate;
- (2) facilitate communication and coordination among state agencies in cooperation with the Environmental Quality Board, and between state and local units of government, in order to make the expertise and resources of state agencies involved in water and soil resources management available to the local units of government to the greatest extent possible;
- (3) coordinate state and local interests with respect to the study in southwestern Minnesota under United States Code, title 16, section 1009;
- (4) develop information and education programs designed to increase awareness of local water and soil resources problems and awareness of opportunities for local government involvement in preventing or solving them;

(5) provide a forum for the discussion of local issues and opportunities relating to water and soil resources management;

(6) adopt an annual budget and work program that integrate the various functions and responsibilities assigned to it by law; and

(7) report to the governor and the legislature by October 15 of each even-numbered year with an assessment of board programs and recommendations for any program changes and board membership changes necessary to improve state and local efforts in water and soil resources management.

The board may accept grants, gifts, donations, or contributions in money, services, materials, or otherwise from the United States, a state agency, or other source to achieve an authorized purpose. The board may enter into a contract or agreement necessary or appropriate to accomplish the transfer. The board may receive and expend money to acquire conservation easements, as defined in chapter 84C, on behalf of the state and federal government consistent with the Camp Ripley's Army Compatible Use Buffer Project.

Any money received is hereby deposited in an account in a fund other than the general fund and appropriated and dedicated for the purpose for which it is granted.

Sec. 6. Minnesota Statutes 2008, section 103I.681, subdivision 11, is amended to read:

Subd. 11. **Permit fee schedule.** (a) The commissioner of natural resources shall adopt a permit fee schedule under chapter 14. The schedule may provide minimum fees for various classes of permits, and additional fees, which may be imposed subsequent to the application, based on the cost of receiving, processing, analyzing, and issuing the permit, and the actual inspecting and monitoring of the activities authorized by the permit, including costs of consulting services.

(b) A fee may not be imposed on a state or federal governmental agency applying for a permit.

(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. Fees received must be deposited in the state treasury and credited to ~~the general~~ an account in the natural resources fund. Permit fees received are appropriated annually from the ~~general~~ natural resources fund to the commissioner of natural resources for the costs of inspecting and monitoring the activities authorized by the permit, including costs of consulting services.

Sec. 7. Minnesota Statutes 2008, section 116J.551, subdivision 1, is amended to read:

Subdivision 1. **Grant account.** A contaminated site cleanup and development grant account is created in the ~~general~~ special revenue fund. Money in the account may be used, as appropriated by law, to make grants as provided in section 116J.554 and to pay for the commissioner's costs in reviewing applications and making grants. Notwithstanding section 16A.28, money appropriated to the account for this program from any source is available until spent.

Sec. 8. Minnesota Statutes 2008, section 190.32, is amended to read:

190.32 FEDERAL REIMBURSEMENT RECEIPTS.

The Department of Military Affairs may deposit federal reimbursement receipts into ~~the general fund~~ an account in the special revenue fund, maintenance of military training facilities.

These receipts are for services, supplies, and materials initially purchased by the Camp Ripley maintenance account.

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

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

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

Sec. 10. Minnesota Statutes 2008, section 260C.331, subdivision 6, is amended to read:

Subd. 6. **Guardian ad litem fees.** (a) In proceedings in which the court appoints a guardian ad litem pursuant to section 260C.163, subdivision 5, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian fees.

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

Sec. 11. Minnesota Statutes 2009 Supplement, section 270.97, is amended to read:

270.97 DEPOSIT OF REVENUES.

The commissioner shall deposit all revenues derived from the tax, interest, and penalties received from the county in the contaminated site cleanup and development account in the ~~general~~ special revenue fund and is annually appropriated to the commissioner of the Department of Employment and Economic Development, for the purposes of section 116J.551.

Sec. 12. Minnesota Statutes 2008, section 299C.48, is amended to read:

299C.48 CONNECTION BY AUTHORIZED AGENCY; FEE, APPROPRIATION.

(a) An agency authorized under section 299C.46, subdivision 3, may connect with and participate in the criminal justice data communications network upon approval of the commissioner of public safety; provided, that the agency shall first agree to pay installation charges as may be necessary for connection and monthly operational charges as may be established by the commissioner of public safety. Before participation by a criminal justice agency may be approved, the agency must have executed an agreement with the commissioner providing for security of network facilities and restrictions on access to data supplied to and received through the network.

(b) In addition to any fee otherwise authorized, the commissioner of public safety shall impose a fee for providing secure dial-up or Internet access for criminal justice agencies and noncriminal justice agencies. The following monthly fees apply:

- (1) criminal justice agency accessing via Internet, \$15;
- (2) criminal justice agency accessing via dial-up, \$35;
- (3) noncriminal justice agency accessing via Internet, \$35; and
- (4) noncriminal justice agency accessing via dial-up, \$35.

(c) The installation and monthly operational charges collected by the commissioner of public safety under paragraphs (a) and (b) must be deposited in an account in the special revenue fund and are annually appropriated to the commissioner to administer sections 299C.46 to 299C.50.

Sec. 13. Minnesota Statutes 2008, section 299E.02, is amended to read:

299E.02 CONTRACT SERVICES; APPROPRIATION.

Fees charged for contracted security services provided by the Capitol Complex Security Division of the Department of Public Safety must be deposited in an account in the special revenue fund and are annually appropriated to the commissioner of public safety to administer and provide these services.

Sec. 14. Minnesota Statutes 2008, section 446A.086, subdivision 2, as amended by Laws 2010, chapter 290, section 14, is amended to read:

Subd. 2. **Application.** (a) This section provides a state guarantee of the payment of principal and interest on debt obligations if:

- (1) the obligations are issued for new projects and are not issued for the purposes of refunding previous obligations;
- (2) application to the Public Facilities Authority is made before issuance; and
- (3) the obligations are covered by an agreement meeting the requirements of subdivision 3.

(b) Applications to be covered by the provisions of this section must be made in a form and contain the information prescribed by the authority. Applications are subject to either a fee of \$500 for each bond issue requested by a county or governmental unit or the applicable fees under section 446A.087.

(c) Application fees paid under this section must be deposited in a separate credit enhancement bond guarantee account in the ~~general~~ special revenue fund. Money in the credit enhancement bond

guarantee account is appropriated to the authority for purposes of administering this section.

(d) Neither the authority nor the commissioner is required to promulgate administrative rules under this section and the procedures and requirements established by the authority or commissioner under this section are not subject to chapter 14.

Sec. 15. Minnesota Statutes 2008, section 469.177, subdivision 11, is amended to read:

Subd. 11. **Deduction for enforcement costs; appropriation.** (a) The county treasurer shall deduct an amount equal to 0.25 percent of any increment distributed to an authority or municipality. The county treasurer shall pay the amount deducted to the commissioner of management and budget for deposit in ~~the state general~~ an account in the special revenue fund.

(b) The amounts deducted and paid under paragraph (a) are appropriated to the state auditor for the cost of (1) the financial reporting of tax increment financing information and (2) the cost of examining and auditing of authorities' use of tax increment financing as provided under section 469.1771, subdivision 1. Notwithstanding section 16A.28 or any other law to the contrary, this appropriation does not cancel and remains available until spent.

(c) For taxes payable in 2002 and thereafter, the commissioner of revenue shall increase the percent in paragraph (a) to a percent equal to the product of the percent in paragraph (a) and the amount that the statewide tax increment levy for taxes payable in 2002 would have been without the class rate changes in this act and the elimination of the general education levy in this act divided by the statewide tax increment levy for taxes payable in 2002.

Sec. 16. Minnesota Statutes 2008, section 518.165, subdivision 3, is amended to read:

Subd. 3. **Fees.** (a) A guardian ad litem appointed under either subdivision 1 or 2 may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court shall enter an order for costs, fees, and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying shall be borne by the state courts. The costs of court-appointed counsel to the guardian ad litem shall be paid by the county in which the proceeding is being held if a party is incapable of paying for them. Until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented, the costs of court-appointed counsel to a guardian ad litem in the Eighth Judicial District shall be paid by the state courts if a party is incapable of paying for them. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

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

Sec. 17. Minnesota Statutes 2008, section 609.3241, is amended to read:

609.3241 PENALTY ASSESSMENT AUTHORIZED.

When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than \$250 and not more than \$500 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than \$500 and not more than \$1,000. The mandatory minimum portion of the assessment is to be used for the purposes described in section 626.558, subdivision 2a, and is in addition to the surcharge required by section 357.021, subdivision 6. Any portion of the assessment imposed in excess of the mandatory minimum amount shall be ~~forwarded to the general~~ deposited in an account in the special revenue fund and is appropriated annually to the commissioner of public safety. The commissioner, with the assistance of the General Crime Victims Advisory Council, shall use money received under this section for grants to agencies that provide assistance to individuals who have stopped or wish to stop engaging in prostitution. Grant money may be used to provide these individuals with medical care, child care, temporary housing, and educational expenses.

Sec. 18. Minnesota Statutes 2008, section 611.20, subdivision 3, is amended to read:

Subd. 3. **Reimbursement.** In each fiscal year, the commissioner of management and budget shall deposit the payments in the ~~general~~ special revenue fund and credit them to a separate account with the Board of Public Defense. The amount credited to this account is appropriated to the Board of Public Defense.

The balance of this account does not cancel but is available until expended. Expenditures by the board from this account for each judicial district public defense office must be based on the amount of the payments received by the state from the courts in each judicial district. A district public defender's office that receives money under this subdivision shall use the money to supplement office overhead payments to part-time attorneys providing public defense services in the district. By January 15 of each year, the Board of Public Defense shall report to the chairs and ranking minority members of the senate and house of representatives divisions having jurisdiction over criminal justice funding on the amount appropriated under this subdivision, the number of cases handled by each district public defender's office, the number of cases in which reimbursements were ordered, the average amount of reimbursement ordered, and the average amount of money received by part-time attorneys under this subdivision.

Sec. 19. Laws 1994, chapter 531, section 1, is amended to read:

Section 1. **SALE OF WILDLIFE LANDS.**

Notwithstanding Minnesota Statutes, sections 84.027, subdivision 10; 92.45; 94.09 to 94.165; 97A.135; 103F.535, or any other law, the commissioner of administration may sell lands located in the Gordy Yaeger wildlife management area in Olmsted county. The consideration for the lands described in sections 2 and 3 shall be \$950 per acre. The conveyances shall be by ~~quitclaim~~ quitclaim deed in a form approved by the attorney general and shall reserve to the state all minerals and mineral rights. The proceeds received from the sales are to be deposited in an account in the general natural resources fund and are appropriated to the commissioner of natural resources for acquisition of replacement wildlife management area lands. These sales are pursuant to the recommendation of the Gordy Yaeger wildlife management area advisory committee.

ARTICLE 16 INCOME TAX

Section 1. 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~~ \$33,280, 5.35 percent;
- (2) On all over ~~\$25,680~~ \$33,280, but not over ~~\$102,030~~ \$132,220, 7.05 percent;
- (3) On all over ~~\$102,030~~ \$132,220, but not over \$200,000, 7.85 percent;
- (4) On all over \$200,000, 9.15 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first ~~\$17,570~~ \$22,770, 5.35 percent;
- (2) On all over ~~\$17,570~~ \$22,770, but not over ~~\$57,710~~ \$74,780, 7.05 percent;
- (3) On all over ~~\$57,710~~ \$74,780, but not over \$113,110, 7.85 percent;
- (4) On all over \$113,110, 9.15 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~~ \$28,030, 5.35 percent;
- (2) On all over ~~\$21,630~~ \$28,030, but not over ~~\$86,910~~ \$112,620, 7.05 percent;
- (3) On all over ~~\$86,910~~ \$112,620, but not over \$170,350, 7.85 percent;
- (4) On all over \$170,350, 9.15 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), 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).

(f) For taxable years beginning after December 31, 2013, the maximum tax rate under this section is 7.85 percent, if the commissioner of management and budget estimates in the February 2013 economic forecast that the unrestricted general fund balance at the end of fiscal year 2013 equals or exceeds \$500,000,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 2. Minnesota Statutes 2008, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. **Inflation adjustment of brackets.** (a) For taxable years beginning after December 31, ~~2000~~ 2010, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, ~~1999~~ 2009, and before January 1, ~~2001~~ 2011. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets and by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "~~1999~~" "2009" shall be substituted for the word "1992." For ~~2001~~ 2011, the commissioner shall then determine the percent change from the 12 months ending on August 31, ~~1999~~ 2009, to the 12 months ending on August 31, ~~2000~~ 2010, and in each subsequent year, from the 12 months ending on August 31, ~~1999~~ 2009, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 3. ACCELERATED REINSTATEMENT OF PHASEOUT OF PERSONAL AND DEPENDENT EXEMPTIONS AND LIMITATION OF ITEMIZED DEDUCTIONS.

In determining net taxable income under Minnesota Statutes, section 290.01, for taxable years beginning after December 31, 2009, and before January 1, 2011, sections 102 and 103 of Public Law 107-16, relating to the repeal of phaseout of personal exemptions and the phaseout of overall limitation on itemized deductions, do not apply.

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

Delete the title and insert:

"A bill for an act relating to the state budget; balancing proposed general fund spending and anticipated general fund revenue; modifying certain payment schedules to improve cash flow; making reductions in appropriations for E-12 education, higher education, environment and natural resources, energy and commerce, agriculture, economic development, transportation, public safety, state government, human services, and health; modifying calculation of state tax aids and credits; providing for deposit of certain receipts in the special revenue fund rather than the general fund; adding a fourth tier to income tax rates; appropriating money; amending Minnesota Statutes 2008, sections 3.9741, subdivision 2; 8.15, subdivision 3; 13.03, subdivision 10; 16C.23, subdivision 6; 103B.101, subdivision 9; 103I.681, subdivision 11; 116J.551, subdivision 1; 123B.75, subdivisions 5, 9, by adding a subdivision; 126C.48, subdivision 7; 127A.441; 127A.45, subdivisions 2, 13; 127A.46; 190.32; 256B.76, subdivision 4; 257.69, subdivision 2; 260C.331, subdivision 6; 273.1384, subdivision 6, as added; 276.112; 289A.60, by adding a subdivision; 290.06, subdivision 2d; 299C.48; 299E.02; 446A.086, subdivision 2, as amended; 469.177, subdivision 11; 518.165, subdivision 3; 609.3241; 611.20, subdivision 3; Minnesota Statutes 2009 Supplement, sections 123B.54; 137.025, subdivision 1; 256B.056, subdivision 3c; 256B.0659, subdivision 11; 256B.441, subdivision 55; 256B.69, subdivision 5a; 256B.76, subdivision 1; 256B.766; 270.97; 289A.20, subdivision 4; 290.06, subdivision 2c; Laws 1994, chapter 531, section 1; Laws 2009, chapter 79, article 13, sections 3, subdivision 8, as amended; 4, subdivision 4, as amended; Laws 2009, chapter 96, article 1, section 24, subdivisions 2, 5, 6, 7; article 2, section 67, subdivisions 2, 3, 4, 7, 9; article 3, section 21, subdivisions 2, 3, 4, 5; article 4, section 12, subdivisions 2, 3, 4, 6; article 5, section 13, subdivisions 4, 6, 7, 9; article 6, section 11, subdivisions 2, 3, 4, 6, 7, 8, 9, 12; article 7, section 3, subdivision 2; Laws 2010, chapter 215, article 3, section 3, subdivision 6; article 13, section 6; proposing coding for new law in Minnesota Statutes, chapter 477A."

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

SECOND READING OF HOUSE BILLS

H.F. No. 2037 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section

19, of the Constitution of Minnesota, with respect to H.F. No. 2037 and that the rules of the Senate be so far suspended as to give H.F. No. 2037, now on General Orders, its 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. 2037. 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 46 and nays 20, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dille	Gimse	Jungbauer	Olson, G.	Robling
Fischbach	Hann	Koch	Ortman	Rosen
Frederickson	Ingebrigtsen	Limmer	Pariseau	Senjem
Gerlach	Johnson	Michel	Parry	Vandever

The motion prevailed.

Senator Pogemiller moved that H.F. No. 2037 be laid on the table. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Pogemiller moved that H.F. No. 2037 be taken from the table. The motion prevailed.

H.F. No. 2037: A bill for an act relating to state government; moving appropriations of general fund dedicated revenues to other funds; amending Minnesota Statutes 2008, sections 3.9741,

subdivision 2; 8.15, subdivision 3; 13.03, subdivision 10; 16C.23, subdivision 6; 103B.101, subdivision 9; 103I.681, subdivision 11; 116J.551, subdivision 1; 190.32; 257.69, subdivision 2; 260C.331, subdivision 6; 299C.48; 299E.02; 446A.086, subdivision 2; 469.177, subdivision 11; 518.165, subdivision 3; 609.3241; 611.20, subdivision 3; Minnesota Statutes 2009 Supplement, section 270.97; Laws 1994, chapter 531, section 1.

Senator Bakk moved to amend H.F. No. 2037, the second unofficial engrossment, as follows:

Page 69, line 6, delete "9.15" and insert "9.1"

Page 69, line 15, delete "9.15" and insert "9.1"

Page 69, line 22, delete "9.15" and insert "9.1"

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend H.F. No. 2037, the second unofficial engrossment, as follows:

Page 24, line 27, delete "\$10,000,000" and insert "\$12,000,000"

The motion prevailed. So the amendment was adopted.

Senator Marty moved to amend H.F. No. 2037, the second unofficial engrossment, as follows:

Page 68, after line 30, insert:

"Section 1. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 3, is amended to read:

Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, ~~except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return.~~

(b) Members of a unitary business that are required to file a combined report on one return must designate a member of the unitary business to be responsible for tax matters, including the filing of returns, the payment of taxes, additions to tax, penalties, interest, or any other payment, and for the receipt of refunds of taxes or interest paid in excess of taxes lawfully due. The designated member must be a member of the unitary business that is filing the single combined report and either:

(1) a corporation that is subject to the taxes imposed by chapter 290; or

(2) a corporation that is not subject to the taxes imposed by chapter 290:

(i) Such corporation consents by filing the return as a designated member under this clause to remit taxes, penalties, interest, or additions to tax due from the members of the unitary business subject to tax, and receive refunds or other payments on behalf of other members of the unitary business. The member designated under this clause is a "taxpayer" for the purposes of this chapter and chapter 270C, and is liable for any liability imposed on the unitary business under this chapter and chapter 290.

(ii) If the state does not otherwise have the jurisdiction to tax the member designated under this clause, consenting to be the designated member does not create the jurisdiction to impose tax on the designated member, other than as described in item (i).

(iii) The member designated under this clause must apply for a business tax account identification number.

(c) The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner.

(d) If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 2. Minnesota Statutes 2008, section 290.01, subdivision 5, is amended to read:

Subd. 5. **Domestic corporation.** The term "domestic" when applied to a corporation means a corporation:

(1) created or organized in the United States, or under the laws of the United States or of any state, the District of Columbia, or any political subdivision of any of the foregoing but not including the Commonwealth of Puerto Rico, or any possession of the United States;

(2) which qualifies as a DISC, as defined in section 992(a) of the Internal Revenue Code; ~~or~~

(3) which qualifies as a FSC, as defined in section 922 of the Internal Revenue Code;

(4) which is incorporated in a tax haven;

(5) which is engaged in activity in a tax haven sufficient for the tax haven to impose a net income tax under United States constitutional standards and section 290.015, and which reports that 20 percent or more of its income is attributable to business in the tax haven; or

(6) which has the average of its property, payroll, and sales factors, as defined under section 290.191, within the 50 states of the United States and the District of Columbia of 20 percent or more.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 3. Minnesota Statutes 2008, section 290.01, is amended by adding a subdivision to read:

Subd. 5c. **Tax haven.** (a) "Tax haven" means a foreign jurisdiction designated under this subdivision.

(b) The commissioner may designate a foreign jurisdiction as a tax haven by administrative rule if the jurisdiction:

(1) has no or nominal effective tax on the relevant income; and

(2)(i) has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;

(ii) has a tax regime that lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;

(iii) facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

(iv) explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic markets; or

(v) has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

(c) The following foreign jurisdictions are deemed to be tax havens, unless the commissioner, by revenue notice, revokes the listing of a jurisdiction:

(1) Anguilla;

(2) Antigua and Barbuda;

(3) Aruba;

(4) Bahamas;

(5) Barbados;

(6) Belize;

(7) Bermuda;

(8) British Virgin Islands;

(9) Cayman Islands;

(10) Cook Islands;

(11) Dominica;

(12) Gibraltar;

(13) Grenada;

(14) Guernsey-Sark-Alderney;

(15) Isle of Man;

(16) Jersey;

(17) Latvia;

- (18) Liechtenstein;
- (19) Luxembourg;
- (20) Nauru;
- (21) Netherlands Antilles;
- (22) Panama;
- (23) Samoa;
- (24) St. Kitts and Nevis;
- (25) St. Lucia;
- (26) St. Vincent and Grenadines;
- (27) Turks and Caicos; and
- (28) Vanuatu.

(d) The commissioner shall revoke a foreign jurisdiction's listing under paragraph (b) or (c), as applicable, if the United States enters into a tax treaty or other agreement with the foreign jurisdiction that provides for prompt, obligatory, and automatic exchange of information with the United States government relevant to enforcing the provisions of federal tax laws and the treaty or other agreement was in effect for the taxable year.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 4. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. **Corporations; additions to federal taxable income.** For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 and 965 of the Internal Revenue Code;

(6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(10) 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, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

(11) for taxable years beginning before January 1, 2010, the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend shall be reduced by the amount of the addition to income required by clauses (20), (21), (22), and (23);

(12) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(13) the amount of net income excluded under section 114 of the Internal Revenue Code;

(14) any increase 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;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

(16) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(17) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

(18) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

(19) the amount of expenses disallowed under section 290.10, subdivision 2;

(20) for taxable years beginning before January 1, 2010, an amount equal to the interest and intangible expenses, losses, and costs paid, accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit of a corporation that is a member of the taxpayer's unitary business group that qualifies as a foreign operating corporation. For purposes of this clause, intangible expenses and costs include:

(i) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;

(ii) losses incurred, directly or indirectly, from factoring transactions or discounting transactions;

(iii) royalty, patent, technical, and copyright fees;

(iv) licensing fees; and

(v) other similar expenses and costs.

For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This clause does not apply to any item of interest or intangible expenses or costs paid, accrued, or incurred, directly or indirectly, to a foreign operating corporation with respect to such item of income to the extent that the income to the foreign operating corporation is income from sources without the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(21) for taxable years beginning before January 1, 2010, except as already included in the taxpayer's taxable income pursuant to clause (20), any interest income and income generated from intangible property received or accrued by a foreign operating corporation that is a member of the taxpayer's unitary group. For purposes of this clause, income generated from intangible property includes:

(i) income related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;

(ii) income from factoring transactions or discounting transactions;

(iii) royalty, patent, technical, and copyright fees;

(iv) licensing fees; and

(v) other similar income.

For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This clause does not apply to any item of interest or intangible income received or accrued by a foreign operating corporation with respect to such item of income to the extent that the income is income from sources without the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(22) for taxable years beginning before January 1, 2010, the dividends attributable to the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to the dividends paid deduction of a real estate investment trust under section 561(a) of the Internal Revenue Code for amounts paid or accrued by the real estate investment trust to the foreign operating corporation;

(23) for taxable years beginning before January 1, 2010, the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to gains derived from the sale of real or personal property located in the United States;

(24) the additional amount allowed as a deduction for donation of computer technology and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and

(25) discharge of indebtedness income resulting from reacquisition of business indebtedness and deferred under section 108(i) of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 5. 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) for taxable years beginning before January 1, 2010, 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).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009."

Page 69, line 6, delete "9.15" and insert "ten"

Page 69, line 15, delete "9.15" and insert "ten"

Page 69, line 22, delete "9.15" and insert "ten"

Page 71, after line 6, insert:

"Sec. 6. Minnesota Statutes 2008, section 290.17, subdivision 4, is amended to read:

Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to business income subject to subdivision 5, income of an insurance company, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which result in a flow of value between them. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a sole proprietorship, a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity is also presumed when business activities or operations are of mutual benefit, dependent upon or contributory to one another, either individually or as a group.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group. For this purpose, the term "voting stock" shall include membership interests of mutual insurance holding companies formed under section 66A.40.

(f) The net income and apportionment factors under section 290.191 or 290.20 of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business. A foreign corporation or other foreign entity which is required to file a return under this chapter shall file on a separate return basis. The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g). The legislature intends that the provisions of this paragraph are not severable from the provisions of section 290.01, subdivision 5, clauses (4) to (6), and if any of those provisions are found to be unconstitutional, the provisions of this paragraph are void for the respective taxable years.

~~(g) The adjusted net income of a foreign operating corporation shall be deemed to be paid as a dividend on the last day of its taxable year to each shareholder thereof, in proportion to each shareholder's ownership, with which such corporation is engaged in a unitary business. Such deemed dividend shall be treated as a dividend under section 290.21, subdivision 4.~~

Dividends actually paid by a foreign operating corporation to a corporate shareholder which is a member of the same unitary business as the foreign operating corporation shall be eliminated from the net income of the unitary business in preparing a combined report for the unitary business. The adjusted net income of a foreign operating corporation shall be its net income adjusted as follows:

~~(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto Rico, or a United States possession or political subdivision of any of the foregoing shall be a deduction; and~~

~~(2) the subtraction from federal taxable income for payments received from foreign corporations or foreign operating corporations under section 290.01, subdivision 19d, clause (10), shall not be allowed.~~

~~If a foreign operating corporation incurs a net loss, neither income nor deduction from that corporation shall be included in determining the net income of the unitary business.~~

~~(h)~~ For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities ~~other than foreign operating corporations~~ that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

~~(i)~~ (h) Deductions for expenses, interest, or taxes otherwise allowable under this chapter that are connected with or allocable against dividends, ~~deemed dividends described in paragraph (g), or royalties, fees, or other like income described in section 290.01, subdivision 19d, clause (10),~~ shall not be disallowed.

~~(j)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph ~~(h)~~ (g) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph ~~(h)~~ (g) in the denominators of the apportionment formula.

~~(k)~~ (j) If a corporation has been divested from a unitary business and is included in a combined report for a fractional part of the common accounting period of the combined report:

(1) its income includable in the combined report is its income incurred for that part of the year determined by proration or separate accounting; and

(2) its sales, property, and payroll included in the apportionment formula must be prorated or accounted for separately.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009."

Page 71, after line 14, insert:

"Sec. 8. **REPEALER.**

Minnesota Statutes 2008, sections 290.01, subdivision 6b; and 290.0921, subdivision 7, are repealed.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009."

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 9 and nays 57, as follows:

Those who voted in the affirmative were:

Anderson	Latz	Moua	Pappas	Torres Ray
Dibble	Marty	Murphy	Prettner Solon	

Those who voted in the negative were:

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

The motion did not prevail. So the amendment was not adopted.

H.F. No. 2037 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.

Senator Senjem moved that those not voting be excused from voting. The motion did not prevail.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Prettner Solon	Sparks
Bakk	Foley	Marty	Rest	Stumpf
Berglin	Higgins	Metzen	Saxhaug	Tomassoni
Betzold	Kelash	Moua	Scheid	Torres Ray
Chaudhary	Kubly	Murphy	Sheran	Vickerman
Clark	Langseth	Pappas	Sieben	Wiger
Cohen	Latz	Pogemiller	Skoe	

Those who voted in the negative were:

Bonoff	Fischbach	Ingebrigtsen	Lynch	Pariseau
Carlson	Fobbe	Johnson	Michel	Parry
Dahle	Frederickson	Jungbauer	Olseen	Robling
Dille	Gerlach	Koch	Olson, G.	Rosen
Doll	Gimse	Koering	Olson, M.	Rummel
Erickson Ropes	Hann	Limmer	Ortman	Saltzman

Senjem

Skogen

Vandever

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 3046: A bill for an act relating to energy; providing for large solar energy electric generation demonstration conservation improvement project; amending Minnesota Statutes 2008, section 216B.241, by adding a subdivision.

Senate File No. 3046 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2010

Senator Sparks moved that the Senate do not concur in the amendments by the House to S.F. No. 3046, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2642: A bill for an act relating to legislation; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to laws and statutes; amending Minnesota Statutes 2008, sections 3.7393, subdivision 12; 12A.05, subdivision 3; 13.321, subdivision 10; 13.411, subdivision 5; 13.861, subdivision 2; 16B.24, subdivision 5; 16D.11, subdivision 7; 53C.01, subdivision 12a; 84.797, subdivision 6; 84.803, subdivision 2; 84.8045; 115A.932, subdivision 1; 116.155, subdivision 3; 125A.64, subdivision 6; 126C.55, subdivision 6; 128D.03, subdivision 2; 129C.10, subdivision 8; 136F.61; 168.002, subdivision 13; 168.013, subdivision 1; 169.67, subdivision 1; 190.025, subdivision 3; 214.04, subdivision 1; 216B.1691, subdivision 1; 245A.18, subdivision 2; 256L.04, subdivision 1; 260C.301, subdivision 1; 270.41, subdivision 5; 273.1115, subdivisions 1, 3; 273.124, subdivision 11; 290.0921, subdivision 3a; 297A.61, subdivision

3; 309.72; 325F.675, subdivision 6; 325F.732, subdivision 2; 332.37; 332.40, subdivision 2; 332.52, subdivision 3; 374.02; 469.154, subdivision 3; 473.599, subdivision 8; 490.133; 507.071, subdivision 16; 515B.1-102; Minnesota Statutes 2009 Supplement, sections 16A.126, subdivision 1; 16C.138, subdivision 2; 47.60, subdivisions 4, 6; 53.09, subdivision 2; 69.772, subdivision 6; 116J.401, subdivision 2; 120B.30, subdivisions 1, 2; 122A.60, subdivision 2; 124D.10, subdivisions 3, 8, 14, 15, 23, 25; 152.025; 168.33, subdivision 7; 169.011, subdivision 71; 169.865, subdivision 1; 176.135, subdivision 8; 246B.06, subdivision 7; 256.969, subdivision 3b; 256B.0659, subdivision 3; 256B.5012, subdivision 8; 260C.212, subdivision 7; 270.97; 270C.445, subdivision 7; 299A.61, subdivision 1; 332B.07, subdivisions 1, 4; 332B.09, subdivision 3; 424A.02, subdivision 10; 524.5-701; 571.914, subdivision 4; 626.557, subdivision 20; Laws 2009, chapter 78, article 8, section 22, subdivision 3; Laws 2009, chapter 79, article 10, section 48; Laws 2009, chapter 88, article 5, section 17; Laws 2009, chapter 172, article 1, section 2, subdivision 5; repealing Minnesota Statutes 2008, sections 13.6435, subdivision 9; 15.38, subdivision 5; 168.098; 256B.041, subdivision 5; 256D.03, subdivision 5; Laws 2005, First Special Session chapter 4, article 8, section 87; Laws 2006, chapter 277, article 1, sections 1; 3; Laws 2008, chapter 287, article 1, section 104; Laws 2008, chapter 300, section 6; Laws 2009, chapter 78, article 4, section 41; Laws 2009, chapter 88, article 6, sections 14; 15; 16; Laws 2009, chapter 169, article 10, section 32; Minnesota Rules, parts 9525.0750; 9525.0760; 9525.0770; 9525.0780; 9525.0790; 9525.0800; 9525.0810; 9525.0820; 9525.0830.

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

Jackson, Hilstrom, Champion, Atkins and Kohls.

Senate File No. 2642 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2918: 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; 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 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.

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

Murphy, M.; Nelson; Kahn; Thissen and Smith.

Senate File No. 2918 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

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

S.F. No. 2933: A bill for an act relating to human services; making changes to continuing care policy and technical provisions; amending Minnesota Statutes 2008, sections 245A.03, by adding a subdivision; 626.557, subdivision 9a; Minnesota Statutes 2009 Supplement, sections 144.0724, subdivision 11; 256B.0625, subdivision 19c; 256B.0651, by adding a subdivision; 256B.0652, subdivision 6; 256B.0659, subdivisions 4, 10, 11, 13, 21, 30, by adding a subdivision; 256B.0911, subdivision 2b.

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

Hosch, Thissen and Abeler.

Senate File No. 2933 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2737, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2737: A bill for an act relating to state government; changing certain pesticide control provisions; authorizing waiver of a fee; providing for control of bovine tuberculosis; eliminating the native grasses and wildflower seed production and incentive program; authorizing ownership of agricultural land by certain nonprofit corporations; requiring tree care and tree trimming company registration; regulating certain sale and distribution of firewood; authorizing individuals and entities to take certain easements in agricultural land; allowing a temporary lien for livestock production inputs for 45 days following a mediation request requiring reports; clarifying the role of the commissioner and Department of Veterans Affairs in providing certain resources for the county veterans service offices; modifying a residency requirement for purposes of eligibility for higher educational benefits for the surviving spouse and children of a deceased veteran who dies as a result of military service; repealing authorization for a license plate; repealing a requirement that the Department of Veterans Affairs report on the status of a construction project priority listing; appropriating money; amending Minnesota Statutes 2008, sections 3.737, subdivision 4; 17.03, by adding a subdivision; 18B.31, subdivision 5; 18B.36, subdivision 1; 18B.37, subdivision 4; 18G.07; 28A.082, subdivision 1; 35.244, subdivisions 1, 2; 197.60, subdivision 1; 197.601; 197.605; 197.606; 197.609, subdivisions 1, 2; 197.75, subdivision 1; 239.092; 239.093; 500.221, subdivisions 2, 4; 500.24, subdivision 2; 514.965, subdivision 2; 514.966, subdivision 6, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 3.737, subdivision 1; 18B.316, subdivision 10; Laws 2008, chapter 296, article 1, section 25; proposing coding for new law in Minnesota Statutes, chapters 17; 38; repealing Minnesota Statutes 2008, sections 17.231; 168.1251; 343.26; Laws 2009, chapter 94, article 3, section 23.

Senate File No. 2737 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2427, and repassed said bill in accordance with the report of the Committee, so adopted.

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;

101ST DAY]

MONDAY, MAY 10, 2010

10873

524.1-201; 524.2-114; Minnesota Statutes 2009 Supplement, section 524.5-409; proposing coding for new law in Minnesota Statutes, chapter 524.

Senate File No. 2427 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2974, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2974: A bill for an act relating to health; amending provisions for electronic health record technology; providing for administrative penalties; appropriating money; amending Minnesota Statutes 2009 Supplement, sections 62J.495, subdivisions 1a, 3, by adding a subdivision; 62J.497, subdivisions 4, 5; proposing coding for new law in Minnesota Statutes, chapter 62J.

Senate File No. 2974 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1481, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1481: A bill for an act relating to the budget reserve; modifying priorities for additional revenues in general fund forecasts; requiring a report; amending Minnesota Statutes 2008, sections 16A.103, subdivisions 1a, 1b, by adding a subdivision; 16A.11, subdivision 1, by adding a subdivision; 16A.152, subdivision 2, by adding a subdivision.

Senate File No. 1481 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2790, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2790: A bill for an act relating to public safety; modifying provisions related to certain juvenile records; authorizing the expungement of certain juvenile records; authorizing the

commissioner of human services to grant set asides or variances for certain individuals disqualified from licensure because of an offense committed as a juvenile; requiring chemical use screen of juvenile offenders; changing penalties and prohibitions related to using or brandishing replica firearms and BB guns on school property; requiring the revisor of statutes to publish a table in Minnesota Statutes containing cross-references to collateral sanctions imposed on juveniles as a result of an adjudication of delinquency; clarifying detention placement options for extended jurisdiction juveniles pending revocation hearings; modifying certain provisions regarding juvenile delinquency to include stays of adjudication of delinquency; extending the duration of the continuance period allowed in a juvenile delinquency matter; amending Minnesota Statutes 2008, sections 121A.23, subdivision 1; 241.31, subdivision 1; 242.32, subdivision 2; 260B.125, subdivision 4; 260B.130, subdivision 5; 260B.157, subdivision 1; 260B.171, subdivision 5; 260B.176, subdivision 2; 260B.198, subdivision 7; 299C.105, subdivision 1; 299C.61, subdivision 8a; 609.117, subdivision 1; 609.344, subdivision 1; 609.66, subdivision 1d; 609A.02, subdivisions 2, 3; 609A.03, subdivisions 1, 2, 4, 5, 5a, 7; 624.713, subdivision 3; Minnesota Statutes 2009 Supplement, sections 245C.24, subdivision 2; 624.713, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609A.

Senate File No. 2790 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 10, 2010

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR

H.F. No. 3729: A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, payment, enforcement, collection, refund, and other changes to individual income; corporate franchise, estate, sales and use, local taxes, gross receipts, gross revenues, cigarette, tobacco, insurance, property, minerals, petroleum, and other taxes and tax-related provisions; requiring sunset of new tax expenditures; property tax reform, accountability, value, and efficiency provisions; modifying certain payment schedules; making changes to tax-forfeited land, emergency debt certificate, local government aid, job opportunity building zone, special service district, agricultural preserve, tax increment financing, economic development authority, and special taxing district provisions; increasing and modifying certain borrowing authorities; modifying bond allocation provisions; specifying duties of assessors; requiring studies; providing appointments; repealing political contribution refund; appropriating money; amending Minnesota Statutes 2008, sections 60A.209, subdivision 1; 82B.035, subdivision 2; 103D.335, subdivision 17; 270.075, subdivisions 1, 2; 270.41, subdivision 5; 270A.03, subdivision 7; 270C.11, subdivision 4; 270C.34, subdivision 1; 270C.52, subdivision 2; 270C.87; 270C.94, subdivision 3; 272.0213; 272.025, subdivisions 1, 3; 272.029, subdivisions 4, 7; 273.061, subdivisions 7, 8; 273.113, subdivision 3; 273.1231, subdivision 1; 273.1232, subdivision

1; 273.124, subdivisions 1, 8, 14; 273.13, subdivision 34; 273.1392; 275.71, subdivisions 4, 5; 275.75; 276.02; 276.112; 279.01, subdivision 3; 279.025; 279.37, subdivision 1; 282.01, subdivisions 1, 1a, 1b, 1c, 1d, 2, 3, 4, 7, 7a, by adding subdivisions; 289A.08, subdivision 7; 289A.09, subdivision 2; 289A.10, subdivision 1; 289A.12, subdivision 14; 289A.30, subdivision 2; 289A.50, subdivisions 1, 2, 4; 289A.60, subdivision 7, by adding a subdivision; 290.014, subdivision 2; 290.067, subdivision 1; 290.081; 290.0921, subdivision 3; 290.17, subdivision 2; 290.21, subdivision 4; 290A.04, subdivision 2; 290B.03, by adding a subdivision; 290B.04, subdivisions 3, 4; 290B.05, subdivision 1; 291.03, by adding a subdivision; 295.55, subdivisions 2, 3; 297A.62, as amended; 297A.665; 297A.68, subdivision 39; 297A.70, subdivision 13; 297A.71, subdivisions 23, 39; 297A.995, subdivisions 10, 11; 297F.01, subdivision 22a; 297F.04, by adding a subdivision; 297F.07, subdivision 4; 297F.25, subdivision 1; 297I.01, subdivision 9; 297I.05, subdivision 7; 297I.30, subdivisions 1, 2, 7, 8; 297I.40, subdivisions 1, 5; 297I.65, by adding a subdivision; 298.282, subdivision 1; 428A.12; 428A.18, subdivision 2; 469.101, subdivision 1; 469.319, subdivision 5; 469.3193; 473.39, by adding a subdivision; 473H.05, subdivision 1; 474A.04, subdivision 6; 474A.091, subdivision 3; Minnesota Statutes 2009 Supplement, sections 134.34, subdivision 4; 137.025, subdivision 1; 273.114, subdivision 2; 273.124, subdivision 3a; 273.13, subdivisions 23, 25; 275.065, subdivision 3; 275.70, subdivision 5, as amended; 276.04, subdivision 2; 279.01, subdivision 1; 289A.18, subdivision 1; 289A.20, subdivision 4; 290.01, subdivisions 19a, 19b, as amended, 19d; 290.06, subdivision 2c; 290.0671, subdivision 1; 290.091, subdivision 2; 290B.03, subdivision 1; 291.005, subdivision 1, as amended; 297I.35, subdivision 2; 475.755; 477A.011, subdivision 36, as amended; 477A.013, subdivision 8; Laws 2001, First Special Session chapter 5, article 3, section 50, as amended; Laws 2002, chapter 377, article 3, section 25, as amended; Laws 2009, chapter 88, article 2, section 49; article 4, sections 5; 23, subdivision 4; Laws 2010, chapter 216, sections 2, subdivision 3; 3, subdivision 6; by adding subdivisions; 4, subdivisions 1, 2, 4, 6, 7, 8; proposing coding for new law in Minnesota Statutes, chapters 3; 6; 270C; 273; 296A; 524; 645; repealing Minnesota Statutes 2008, sections 10A.322, subdivision 4; 13.4967, subdivision 2; 282.01, subdivisions 9, 10, 11; 290.06, subdivision 23; 297I.30, subdivisions 4, 5, 6; 383A.76.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 13, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Gerlach	Johnson	Koering	Ortman	Vandev eer
Hann	Jungbauer	Limmer	Parry	
Ingebrigtsen	Koch	Michel	Robling	

So the bill passed and its title was agreed to.

S.F. No. 2937: A bill for an act relating to human services; chemical dependency treatment; pilot projects; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 254B; repealing Laws 2009, chapter 79, article 7, section 26, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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	

So the bill passed and its title was agreed to.

S.F. No. 1770: A bill for an act relating to poverty; establishing the Ladder Out of Poverty Task Force; providing for its membership and duties; providing legislative appointments.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 2, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Koch Lynch

So the bill passed and its title was agreed to.

S.F. No. 3361: A bill for an act relating to real property transfers; prohibiting private transfer fees; proposing coding for new law in Minnesota Statutes, chapter 513.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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	

So the bill passed and its title was agreed to.

S.F. No. 3043: A bill for an act relating to commerce; reducing the size of the Real Estate Appraiser Advisory Board; providing for the licensing and regulation of appraisal management companies; appropriating money; amending Minnesota Statutes 2008, sections 82B.05, subdivision 5, by adding a subdivision; 82B.06; Minnesota Statutes 2009 Supplement, section 82B.05, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 82C.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 6, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Gerlach	Jungbauer	Metzen
Johnson	Koering	Parry

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3386, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3386 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 10, 2010

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3386

A bill for an act relating to real property; requiring performance guidelines for certain residential contracts; modifying statutory warranties; requiring notice and opportunity to repair; providing for dispute resolution procedures; requiring a report; amending Minnesota Statutes 2008, sections 302A.781, subdivision 4; 326B.809; 327A.01, by adding a subdivision; 327A.02, subdivision 4, by adding subdivisions; 327A.03; proposing coding for new law in Minnesota Statutes, chapter 327A.

May 7, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3386 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 3386 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 302A.781, subdivision 4, is amended to read:

Subd. 4. **Statutory homeowner warranty claims preserved.** The statutory warranties provided under section 327A.02, and any contribution or indemnity claim arising from the breach of those warranties, are not affected by a the dissolution under this chapter of a vendor or home improvement contractor.

Sec. 2. Minnesota Statutes 2008, section 322B.863, subdivision 4, is amended to read:

Subd. 4. **Statutory homeowner warranty claims preserved.** The statutory warranties provided under section 327A.02, and any contribution or indemnity claim arising from the breach of those warranties, are not affected by a the dissolution under this chapter of a vendor or home improvement contractor.

Sec. 3. Minnesota Statutes 2008, section 326B.809, is amended to read:

326B.809 WRITTEN CONTRACT REQUIRED.

(a) All agreements including proposals, estimates, bids, quotations, contracts, purchase orders, and change orders between a licensee and a customer for the performance of a licensee's services must be in writing and must contain the following:

- (1) a detailed summary of the services to be performed;
- (2) a description of the specific materials to be used or a list of standard features to be included; and
- (3) the total contract price or a description of the basis on which the price will be calculated.

(b) Before entering into an agreement, the licensee shall provide a prospective customer with written performance guidelines for the services to be performed. Performance guidelines also must be included or incorporated by reference in the agreement. All agreements shall be signed and dated by the licensee and customer.

(c) The licensee shall provide to the customer, at no charge, a signed and dated document at the time that the licensee and customer sign and date the document. Documents include agreements, performance guidelines, and mechanic's lien waivers.

Sec. 4. Minnesota Statutes 2008, section 327A.01, subdivision 7, is amended to read:

Subd. 7. **Vendor.** "Vendor" means any person, firm, or corporation ~~which~~ that constructs dwellings for the purpose of sale, including the construction of dwellings on land owned by vendees. Vendor does not include a subcontractor or material supplier involved in the construction of a dwelling.

Sec. 5. Minnesota Statutes 2008, section 327A.01, is amended by adding a subdivision to read:

Subd. 12. **Inspection.** "Inspection" means a visual or invasive examination of the alleged property damage.

Sec. 6. Minnesota Statutes 2008, section 327A.02, subdivision 4, is amended to read:

Subd. 4. **Response from vendor or home improvement contractor to notice of claim; right to inspect.** ~~(a) Following notice under section 327A.03, The vendee or owner must allow an inspection and opportunity to for purposes of the preparation of an offer to repair the known alleged loss or damage under subdivision 5. Upon request of the vendee, a court may order the vendor to conduct the inspection. The inspection must be performed and any offer to repair must be made in writing to the vendee by the vendor or home improvement contractor within 30 days of the vendor's receipt of the written notice required under section 327A.03, clause (a), alleging loss or damage~~ the notification

under section 327A.03, clause (a). Any damage to property caused as a result of an inspection must be promptly repaired by the inspecting party to restore the property to its pre-inspected condition.

(b) The applicable statute of limitations and statute of repose for an action based on breach of a warranty imposed by this section, or any other action in contract, tort, or other law for any injury to real or personal property or bodily injury or wrongful death arising out of the alleged loss or damage, is tolled from the date the written notice provided by the vendee or owner is postmarked, or if not sent through the mail, received by the vendor or home improvement contractor until the earliest latest of the following:

(1) the date the vendee rejects the vendor's offer to repair of completion of the home warranty dispute resolution process under section 327A.051; or

(2) the date the vendor rejects the vendee's claim in writing;

(3) failure by the vendor to make an offer to repair within the 30-day period described in this subdivision; or

(4) 180 days.

~~For purposes of this subdivision, "vendor" includes a home improvement contractor.~~

~~(b) (c) Upon completion of repairs as described in an offer to repair, the vendor must provide the vendee with a list of the repairs made and a notice that the vendee may have a right to pursue a warranty claim under this chapter. Provision of this statement is not an admission of liability. Compliance with this subdivision does not affect any rights of the vendee under this chapter.~~

Sec. 7. Minnesota Statutes 2008, section 327A.02, is amended by adding a subdivision to read:

Subd. 5. **Right to repair; agreement.** (a) Within 15 days of completion of the inspection required by subdivision 4, the vendor or home improvement contractor must provide to the vendee or owner a written offer to repair. The offer to repair must include, at a minimum:

(1) the scope of the proposed repair work; and

(2) the proposed date on which the repair work would begin and the estimated date of completion.

(b) This subdivision does not prevent the vendee or owner from obtaining the information in paragraph (a) from another contractor or from negotiating with the vendor or home improvement contractor for a different scope of work.

(c) If the parties agree to a scope of work, the vendor or home improvement contractor must perform the repair work in accordance with the offer to repair. If the parties do not agree to a scope of work, the vendee or owner must submit the matter to the homeowner warranty dispute resolution process under section 327A.051.

(d) Upon completion of repairs described in an offer to repair, the vendor or home improvement contractor must provide the vendee or owner with a written notice that the scope of the work agreed upon has been completed.

Sec. 8. Minnesota Statutes 2008, section 327A.02, is amended by adding a subdivision to read:

Subd. 6. **Failure to perform inspection or repair.** If the vendor or home improvement

contractor fails to perform an inspection under subdivision 4 or fails to make an offer to repair or perform agreed upon repairs under subdivision 5, the vendee or owner may commence an action.

Sec. 9. Minnesota Statutes 2008, section 327A.02, is amended by adding a subdivision to read:

Subd. 7. **Processes required before commencement of action.** Except as provided in subdivision 6, a cause of action for which the statute of limitations or statute of repose is tolled under subdivision 4, paragraph (b), must not be commenced in district court until the earlier of:

- (1) the completion of the home warranty dispute resolution process under section 327A.051; or
- (2) 60 days after the written offer of repair is provided to the vendee or owner.

Sec. 10. Minnesota Statutes 2008, section 327A.03, is amended to read:

327A.03 EXCLUSIONS.

The liability of the vendor or the home improvement contractor under sections 327A.01 to 327A.07 is limited to the specific items set forth in sections 327A.01 to 327A.07 and does not extend to the following:

(a) loss or damage not reported by the vendee or the owner to the vendor or the home improvement contractor in writing within six months after the vendee or the owner discovers or should have discovered the loss or damage; unless the vendee or owner establishes that the vendor or home improvement contractor had actual notice of the loss or damage;

(b) loss or damage caused by defects in design, installation, or materials which the vendee or the owner supplied, installed, or directed to be installed;

(c) secondary loss or damage such as personal injury or property damage;

(d) loss or damage from normal wear and tear;

(e) loss or damage from normal shrinkage caused by drying of the dwelling or the home improvement within tolerances of building standards;

(f) loss or damage from dampness and condensation due to insufficient ventilation after occupancy;

(g) loss or damage from negligence, improper maintenance or alteration of the dwelling or the home improvement by parties other than the vendor or the home improvement contractor;

(h) loss or damage from changes in grading of the ground around the dwelling or the home improvement by parties other than the vendor or the home improvement contractor;

(i) landscaping or insect loss or damage;

(j) loss or damage from failure to maintain the dwelling or the home improvement in good repair;

(k) loss or damage which the vendee or the owner, whenever feasible, has not taken timely action to minimize;

(l) loss or damage which occurs after the dwelling or the home improvement is no longer used primarily as a residence;

(m) accidental loss or damage usually described as acts of God, including, but not limited to: fire, explosion, smoke, water escape, windstorm, hail or lightning, falling trees, aircraft and vehicles, flood, and earthquake, except when the loss or damage is caused by failure to comply with building standards;

(n) loss or damage from soil movement which is compensated by legislation or covered by insurance;

(o) loss or damage due to soil conditions where construction is done upon lands owned by the vendee or the owner and obtained by the vendee or owner from a source independent of the vendor or the home improvement contractor;

(p) in the case of home improvement work, loss or damage due to defects in the existing structure and systems not caused by the home improvement.

Sec. 11. [327A.051] HOME WARRANTY DISPUTE RESOLUTION.

Subdivision 1. **Panel of neutrals.** (a) The commissioner of labor and industry shall maintain a list of persons who consent to serve as qualified neutrals for purposes of this section. The commissioner shall establish application requirements and qualifications for qualified neutrals, taking into consideration the education, experience, and training of the applicant, potential conflicts of interest, and that the purpose of the process is to assist parties in determining an agreeable scope of repair or other resolution of their dispute.

(b) As a condition of being included on the panel of neutrals identified in this section, the commissioner of labor and industry may charge each qualified neutral a fee of \$200 per year for the administration of the home warranty dispute resolution process.

Subd. 2. **Dispute resolution process.** (a) The home warranty dispute resolution process required by this section is commenced by written application to the commissioner. A request must include the complete current address and full name of the contact person for each participating party.

(b) Within ten days of receiving a written request, the commissioner shall provide each party with a written list of three qualified neutrals randomly selected from the panel of neutrals established under subdivision 1. The commissioner shall also provide complete contact information for each qualified neutral.

(c) Within five business days after receipt of the list from the commissioner, the parties shall mutually select one of the three qualified neutrals identified by the commissioner to serve as the qualified neutral for their dispute. If the parties cannot mutually agree on a neutral, the vendor or home improvement contractor shall strike one of the neutrals from the list, the vendee or owner shall subsequently strike one of the remaining neutrals from the list, and the remaining neutral shall serve as the qualified neutral for the dispute resolution process. The parties shall notify the selected qualified neutral and the commissioner of the selection.

Subd. 3. **Neutral evaluation; fee.** (a) The qualified neutral selected by the parties shall convene, and each party shall attend, an in-person conference of the parties. The qualified neutral shall select the date for the conference after consulting the parties. The conference must occur no later than 30 days after the neutral's selection, except by mutual agreement of the parties. In addition, the neutral shall collect from each party an administrative fee of \$25 and shall submit those fees to the commissioner no later than ten days after the completion of the conference.

(b) At least seven days before the conference, each party must provide the qualified neutral and the other party with all information and documentation necessary to understanding the dispute, or the alleged loss or damages.

(c) After reviewing the information and documentation provided by the parties and after consulting with the parties at the conference, the neutral shall issue to the parties a nonbinding, written determination, which must include, to the extent possible, findings and recommendations on the scope and amount of repairs necessary, if any. The qualified neutral shall mail the determination to each party within ten days after the conference.

(d) The parties shall share the expense of the qualified neutral's billed time equally, unless otherwise agreed. The neutral's billed time for evaluation of documents, meeting with the parties, and issuing a written determination must not exceed six hours, unless agreed to in writing by both parties. The neutral must identify the neutral's hourly rate to the parties.

Subd. 4. **Alternative process.** If both parties agree, the parties may designate an alternative dispute resolution process in lieu of participating in the home warranty dispute resolution process established by this section. If the parties agree to an alternative dispute resolution process, they shall provide written notice of the agreement and a description of the selected process to the commissioner as soon as practicable, but no later than the date the parties are required to select a neutral under subdivision 2.

Subd. 5. **Effect on future proceedings.** (a) The written determination issued by the qualified neutral and all communications relating to the home warranty dispute resolution process, except those between any party and the commissioner, are deemed confidential settlement communications pursuant to Rule 408 of the Minnesota Rules of Evidence.

(b) No party may use the written offer of repair provided by a vendor or home improvement contractor, a counteroffer to repair, or a written determination issued by the qualified neutral as evidence of liability in subsequent litigation between the parties. The qualified neutral may not be called to testify regarding the dispute resolution proceedings.

(c) Any amount paid by a party for the services of a qualified neutral under this section is deemed a taxable cost of the prevailing party in a subsequent litigation involving the same subject matter.

Subd. 6. **Noncompliance with timelines; effect.** Failure to strictly comply with the timelines in this section shall not be grounds for dismissal of any claim brought under section 327A.05, provided that the parties establish good faith effort in complying with this section.

Sec. 12. Minnesota Statutes 2009 Supplement, section 327A.08, is amended to read:

327A.08 LIMITATIONS.

Notwithstanding any other provision of sections 327A.01 to 327A.08:

(a) the terms of the home improvement warranties required by sections 327A.01 to 327A.08 commence upon completion of the home improvement and the term shall not be required to be renewed or extended if the home improvement contractor performs additional improvements required by warranty;

(b) the home improvement warranties required by sections 327A.01 to 327A.08 shall not include

products or materials installed that are already covered by implied or written warranty; and

(c) the warranties required by sections 327A.01 to 327A.08 must be set forth as written warranty instruments and must be included as part of the construction contract ~~and~~. The warranties and the exclusions under section 327A.03, the right to inspect and offer to repair under section 327A.02, subdivisions 4 and 5, and the home warranty dispute resolution process under section 327A.051 must be conveyed in writing to the owner. Failure to comply with this paragraph is a violation of section 326B.84.

(d) If the warranties required by sections 327A.01 to 327A.08 are not provided to the owner in writing as required by paragraph (c), they are implied statutory warranties that have the same effect as if the vendor or home improvement contractor had complied with paragraph (c).

(e) The owner's right under this section to receive the written warranty required under this section may not be waived or modified by contract or otherwise. Any agreement that purports to waive or modify the right to the written warranty required under this section is void.

(f) This section does not limit the ability of the vendor or home improvement contractor and the owner to enter into the agreements permitted under section 327A.04, subdivisions 2 and 3.

Sec. 13. **REPORT.**

By February 1, 2014, the commissioner of labor and industry shall report to the chairs and ranking minority members of the committees of the legislature with jurisdiction over civil law matters on the number of dispute resolution cases established under Minnesota Statutes, section 327A.051, and, to the extent possible, identify the number of cases that used the home warranty dispute process and the number that used an alternative dispute resolution process under subdivision 4 of that section.

Sec. 14. **EFFECTIVE DATE; APPLICATION.**

Sections 1 and 2 and 4 to 11 are effective January 1, 2011, and apply to notices of claims given and actions commenced on or after that date. Sections 3 and 12 are effective January 1, 2011, and apply to contracts entered into on or after that date.

Sections 1 to 12 do not revive claims already barred or extend any applicable statute of limitations or repose."

Delete the title and insert:

"A bill for an act relating to real property; requiring performance guidelines for certain residential contracts; modifying statutory warranties; requiring notice and opportunity to repair; providing for dispute resolution procedures; requiring a report; amending Minnesota Statutes 2008, sections 302A.781, subdivision 4; 322B.863, subdivision 4; 326B.809; 327A.01, subdivision 7, by adding a subdivision; 327A.02, subdivision 4, by adding subdivisions; 327A.03; Minnesota Statutes 2009 Supplement, section 327A.08; proposing coding for new law in Minnesota Statutes, chapter 327A."

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

House Conferees: Marsha Swails, Mike Obermueller, Joe Hoppe

Senate Conferees: Kathy Saltzman, Linda Scheid, Warren Limmer

Senator Saltzman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3386 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3386 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 64 and nays 3, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2639, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2639 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 10, 2010

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2639

A bill for an act relating to public safety; authorizing wireless telecommunications service providers to provide call locations for emergencies; proposing coding for new law in Minnesota

Statutes, chapter 237.

May 6, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2639 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 2639 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[237.82] DEFINITIONS; CALL LOCATION INFORMATION.**

Subdivision 1. **Scope.** The definitions in this section apply to section 237.83.

Subd. 2. **Call location information.** "Call location information" means information indicating the geographical location of a telecommunications device.

Subd. 3. **Law enforcement agency.** "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

Subd. 4. **Wireless telecommunications service provider.** "Wireless telecommunications service provider" means a provider of commercial mobile radio services, as that term is defined in United States Code, title 47, section 332, subsection (d), including all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent wide area specialized mobile radio licensees, that offers real-time, two-way voice service interconnected with the public switched telephone network and that is doing business in this state.

Sec. 2. **[237.83] DISCLOSURE OF CALL LOCATION INFORMATION; EMERGENCY SITUATIONS.**

Subdivision 1. **Written request.** Upon receipt of a written request from a law enforcement agency stating that the disclosure of call location information is needed in an emergency situation that involves the risk of death or serious physical harm to a person who possesses a telecommunications device, a wireless telecommunications service provider shall provide the requested call location information concerning that device to the requesting agency.

Subd. 2. **Protocols.** A wireless telecommunications service provider shall establish protocols consistent with this section that govern its response to a request from a law enforcement agency

under subdivision 1.

Subd. 3. **Cause of action limitation.** No cause of action shall lie in any court against a wireless telecommunications service provider, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and according to this section.

Subd. 4. **Provider contact information.** The Bureau of Criminal Apprehension shall obtain contact information for all wireless telecommunications service providers authorized to do business in Minnesota or submitting to the jurisdiction of this state in order to facilitate a request from a law enforcement agency for call location information under this section. The bureau shall disseminate this information on a quarterly basis, or immediately as changes occur, to all public safety answer points in the state.

Sec. 3. KELSEY SMITH ACT.

This act shall be known as the Kelsey Smith Act."

Delete the title and insert:

"A bill for an act relating to public safety; requiring wireless telecommunications service providers to provide call locations for emergencies; providing for the Kelsey Smith Act; proposing coding for new law in Minnesota Statutes, chapter 237."

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

House Conferees: Sheldon Johnson, Paul Gardner, Joe Hoppe

Senate Conferees: Yvonne Prettner Solon, Kathy Sheran, Ray Vandever

Senator Prettner Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2639 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2639 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	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	

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2634, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2634 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 10, 2010

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2634

A bill for an act relating to natural resources; expanding prohibitions on the appropriation of water from the Mt. Simon-Hinckley aquifer; amending Minnesota Statutes 2008, section 103G.271, subdivision 4a.

May 7, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2634 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 2634 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 103G.271, subdivision 4a, is amended to read:

Subd. 4a. **Mt. Simon-Hinckley aquifer.** (a) Except as provided in paragraph (b), the commissioner may not issue new water use permits that will appropriate water from for the Mt. Simon-Hinckley aquifer in a metropolitan county, as defined in section 473.121, subdivision 4, unless the appropriation is for potable domestic water use, there are no feasible or practical alternatives to this source, and a water conservation plan is incorporated with the permit. Domestic water uses include water used for general household purposes for essential human needs such as cooking, cleaning, drinking, washing, and waste disposal.

(b) ~~The commissioner shall terminate all permits authorizing appropriation and use of water from the Mt. Simon-Hinckley aquifer for once-through systems in a metropolitan county, as~~

defined in section 473.121, subdivision 4, by December 31, 1992. Notwithstanding paragraph (a), the commissioner may issue a new water use permit for the Mt. Simon-Hinckley aquifer for nondomestic use if there are no feasible or practical alternatives to the use of the aquifer, and water recycling and water conservation plans, as determined by the commissioner, are required under the permit. The commissioner shall ensure that a holder of a permit issued under this paragraph is implementing all water recycling and conservation plans required under the permit. This paragraph does not apply within a metropolitan county, as defined in section 473.121, subdivision 4, or Chisago County."

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

House Conferees: Jeremy Kalin, Paul Gardner, Jenifer Loon

Senate Conferees: Rick Olseen, Kathy Sheran, Dennis Frederickson

Senator Olseen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2634 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 2634 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 42 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Kelash	Olson, M.	Scheid
Bakk	Dibble	Kubly	Pappas	Sheran
Berglin	Dille	Langseth	Pariseau	Sieben
Betzold	Doll	Latz	Pogemiller	Tomassoni
Bonoff	Erickson Ropes	Lourey	Prettner Solon	Torres Ray
Carlson	Fobbe	Marty	Rest	Wiger
Chaudhary	Foley	Moua	Rummel	
Clark	Frederickson	Murphy	Saltzman	
Cohen	Higgins	Olseen	Saxhaug	

Those who voted in the negative were:

Fischbach	Johnson	Lynch	Parry	Skogen
Gerlach	Jungbauer	Metzen	Robling	Sparks
Gimse	Koch	Michel	Rosen	Stumpf
Hann	Koering	Olson, G.	Senjem	Vandever
Ingebrigtsen	Limmer	Ortman	Skoe	Vickerman

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3147 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3147

A bill for an act relating to health occupation; requiring license revocation for chiropractors convicted of a felony-level criminal sexual conduct offense; amending Minnesota Statutes 2008, sections 148.10, by adding a subdivision; 364.09.

May 7, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3147 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3147 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 148.10, is amended by adding a subdivision to read:

Subd. 7. **Conviction of a felony-level criminal sexual conduct offense.** (a) Except as provided in paragraph (e), the board shall not grant or renew a license to practice chiropractic to any person who has been convicted on or after August 1, 2010, of any of the provisions of sections 609.342, subdivision 1, 609.343, subdivision 1, 609.344, subdivision 1, paragraphs (c) to (o), or 609.345, subdivision 1, paragraphs (b) to (o).

(b) A license to practice chiropractic is automatically revoked if the licensee is convicted of an offense listed in paragraph (a) of this section.

(c) A license to practice chiropractic that has been denied or revoked under this subdivision is not subject to chapter 364.

(d) For purposes of this subdivision, "conviction" means a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court, unless the court stays imposition or execution of the sentence and final disposition of the case is accomplished at a nonfelony level.

(e) The board may establish criteria whereby an individual convicted of an offense listed in paragraph (a) of this subdivision may become licensed provided that the criteria:

(1) utilize a rebuttable presumption that the applicant is not suitable for licensing or credentialing;

(2) provide a standard for overcoming the presumption; and

(3) require that a minimum of ten years has elapsed since the applicant was released from any incarceration or supervisory jurisdiction related to the offense.

The board shall not consider an application under this paragraph if the board determines that the

victim involved in the offense was a patient or a client of the applicant at the time of the offense.

EFFECTIVE DATE. This section is effective for new licenses issued on or after August 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 364.09, is amended to read:

364.09 EXCEPTIONS.

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (f); to fire protection agencies; to eligibility for a private detective or protective agent license; to the licensing and background study process under chapters 245A and 245C; to eligibility for school bus driver endorsements; to eligibility for special transportation service endorsements; to eligibility for a commercial driver training instructor license, which is governed by section 171.35 and rules adopted under that section; to emergency medical services personnel, or to the licensing by political subdivisions of taxicab drivers, if the applicant for the license has been discharged from sentence for a conviction within the ten years immediately preceding application of a violation of any of the following:

(1) sections 609.185 to 609.21, 609.221 to 609.223, 609.342 to 609.3451, or 617.23, subdivision 2 or 3;

(2) any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or

(3) a violation of chapter 169 or 169A involving driving under the influence, leaving the scene of an accident, or reckless or careless driving.

This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the Board of Teaching or the commissioner of education.

(c) Nothing in this section precludes the Minnesota Police and Peace Officers Training Board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the Board of Medical Practice pursuant to section 147.091, subdivision 1a.

(e) This chapter does not apply to any person who has been denied a license to practice chiropractic or whose license to practice chiropractic has been revoked by the board in accordance with section 148.10, subdivision 7.

EFFECTIVE DATE. This section is effective for new licenses issued on or after August 1, 2010.

Sec. 3. **COUNCIL OF HEALTH BOARDS.**

The Council of Health Boards established in section 214.025 shall review the statutory provisions of sections 148.10, subdivision 7, and 364.09, paragraph (e), and make recommendations

to the house of representatives and senate legislative committees with jurisdiction over licensing health-related occupations regarding the impact of similar legislation on the health-related licensing boards. The commissioner of health or a designee shall participate in this review. The recommendations shall be submitted no later than January 15, 2011, and include any proposed legislation.

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

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "requiring a report;"

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

Senate Conferees: Sharon Erickson Ropes, Mike Parry, Mary Olson

House Conferees: Gail Kulick Jackson, Carolyn Laine, Jim Abeler

Senator Erickson Ropes moved that the foregoing recommendations and Conference Committee Report on S.F. No. 3147 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3147 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	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	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2505 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2505

A bill for an act relating to child care; appropriating money to provide statewide child care provider training, coaching, consultation, and supports to prepare for the voluntary Minnesota quality rating system.

May 7, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2505 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendments and that S.F. No. 2505 be further amended as follows:

Page 6, lines 21 and 22, delete "five-year-old children" and insert "entering kindergarteners"

Page 6, line 35, after the period, insert "Work on this duty will begin in fiscal year 2012."

Page 7, line 2, delete "2012" and insert "2013"

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

Senate Conferees: Terri Bonoff, Geoff Michel, Tom Saxhaug

House Conferees: Nora Slawik, Sandra Peterson, Bud Nornes

Senator Bonoff moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2505 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2505 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 10, as follows:

Those who voted in the affirmative were:

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

Vickerman

Wiger

Those who voted in the negative were:

Gerlach
HannIngebrigtsen
JohnsonJungbauer
KoeringLimmer
OrtmanParry
Vandever

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3081 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3081

A bill for an act relating to energy; modifying community-based energy development program; amending Minnesota Statutes 2008, section 216B.1612, subdivisions 3, 5, 7, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 216B.1612, subdivision 2.

May 8, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3081 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3081 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2009 Supplement, section 216B.1612, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying ~~owner~~ beneficiary" means:

(1) a Minnesota resident individually or as a member of a Minnesota limited liability company organized under chapter 322B and formed for the purpose of developing a C-BED project;

~~(2) a limited liability company that is organized under chapter 322B and that is made up of members who are Minnesota residents;~~

~~(3)~~ (2) a Minnesota nonprofit organization organized under chapter 317A;

~~(4)~~ (3) a Minnesota cooperative association organized under chapter 308A or 308B, including a rural electric cooperative association or a generation and transmission cooperative on behalf of and at the request of a member distribution utility;

~~(5)~~ (4) a Minnesota political subdivision or local government including, but not limited to, a municipal electric utility, or a municipal power agency on behalf of and at the request of a member distribution utility; the office of the commissioner of Iron Range resources and rehabilitation; a county, statutory or home rule charter city, town, school district, or public or private higher education institution; or any other local or regional governmental organization such as a board, commission, or association; ~~or~~

~~(6)~~ (5) a tribal council; or

(6) a legal entity (i) formed for a purpose other than to participate in C-BED projects; (ii) whose principal place of business or principal executive office is located in Minnesota; and (iii) that provides labor, services, equipment, components, or debt financing to a C-BED project.

A public utility, as defined in section 216B.02, subdivision 4, is not a qualifying beneficiary.

(d) "Net present value rate" means a rate equal to the net present value of the nominal payments to a project divided by the total expected energy production of the project over the life of its power purchase agreement. "Qualifying revenue" includes, but is not limited to:

(1) royalties, distributions, dividends, and other payments flowing directly or indirectly to individuals who are qualifying beneficiaries;

(2) reasonable fees for consulting, development, professional, construction, and operations and maintenance services paid to qualifying beneficiaries;

(3) interest and fees paid to financial institutions that are qualifying beneficiaries;

(4) the value-added portion of payments for goods manufactured in Minnesota; and

(5) production taxes.

(e) "Discount rate" means the ten-year United States Treasury Yield as quoted in the Wall Street Journal as of the date of application for determination under subdivision 10, plus five percent; except that the discount rate applicable to any qualifying revenues contingent upon an equity investor earning a specified internal rate of return is the ten-year United States Treasury Yield, plus eight percent.

(f) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing any adverse or unsafe consequences; and

(2) is consistent with the utility's resource needs as identified in its most recent resource plan submitted under section 216B.2422.

~~(g)~~ (g) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1, paragraph (a).

~~(g)~~ (h) "Community-based energy development project" or "C-BED project" means a new

renewable energy project that either as a stand-alone project or part of a partnership under subdivision 8:

(1) has no single qualifying ~~owner~~ beneficiary, including any parent company or subsidiary of the qualifying beneficiary, owning more than 15 percent of a C-BED wind energy project unless: (i) the C-BED wind energy project consists of only one or two turbines; or (ii) the qualifying ~~owner~~ beneficiary is a public entity listed under paragraph (c), clause ~~(5)~~, that is not a municipal utility (4);

(2) demonstrates that at least 51 percent of the net present value of the gross revenues from a power purchase agreement over the life of the project will flow to are qualifying owners and other local entities revenues; and

(3) has a resolution of support adopted by the county board of each county in which the project is to be located, or in the case of a project located within the boundaries of a reservation, the tribal council for that reservation.

(i) "Value-added portion" means the difference between the total sales price and the total cost of components, materials, and services purchased from or provided outside of Minnesota.

Sec. 2. Minnesota Statutes 2008, section 216B.1612, subdivision 3, is amended to read:

Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must ~~have a rate schedule that allows for a net present value rate over the 20-year life of the power purchase agreement. The tariff must provide for a rate that is higher in the first ten years of the power purchase agreement than in the last ten years. The discount rate required to calculate the net present value must be the utility's normal discount rate used for its other business purposes.~~

(b) The commission shall consider mechanisms to encourage the aggregation of C-BED projects.

(c) The commission shall require that ~~qualifying and nonqualifying owners~~ C-BED projects provide sufficient security to secure performance under the power purchase agreement, ~~and shall prohibit the transfer of the C-BED project to a nonqualifying owner during the initial 20 years of the contract and shall prohibit transfer of a C-BED project during the initial term of a power purchase agreement if the transfer will result in the project's no longer qualifying under section 216B.1612, subdivision 2, paragraph (h).~~

Sec. 3. Minnesota Statutes 2008, section 216B.1612, subdivision 5, is amended to read:

Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691 that needs to construct new generation, or purchase the output from new generation, as part of its plan to satisfy its good faith objective and standard under that section must take reasonable steps to determine if one or more C-BED projects are available that meet the utility's cost and reliability requirements, applying standard reliability criteria, to fulfill some or all of the identified need at minimal impact to customer rates.

Nothing in this section shall be construed to obligate a utility to enter into a power purchase agreement under a C-BED tariff developed under this section.

(b) Each utility shall include in its resource plan submitted under section 216B.2422 a description of its efforts to purchase energy from C-BED projects, including a list of the projects under contract and the amount of C-BED energy purchased.

(c) The commission shall consider the efforts and activities of a utility to purchase energy from C-BED projects when evaluating its good faith effort towards meeting the renewable energy objective under section 216B.1691.

(d) A municipal power agency or generation and transmission cooperative shall, when issuing a request for proposals for C-BED projects to satisfy its standard obligation under section 216B.1691, provide notice to its member distribution utilities that they may propose, in partnership with other qualifying owners beneficiaries, a C-BED project for the consideration of the municipal power agency or generation and transmission cooperative.

Sec. 4. Minnesota Statutes 2008, section 216B.1612, subdivision 7, is amended to read:

Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer and a utility shall negotiate the rate and power purchase agreement terms consistent with the tariff established under subdivision 4.

(b) At the discretion of the developer, a community-based project developer and a utility may negotiate a power purchase agreement with terms different from the tariff established under subdivision 4.

~~(c) A qualifying owner, or any combination of qualifying owners, may develop a joint venture project with a nonqualifying renewable energy project developer~~ C-BED project may be jointly developed with a non-C-BED project. However, the terms of the C-BED tariff may only apply to the portion of the energy production of the total project that is directly proportional to the equity share of the project owned by the qualifying owners energy produced by the C-BED project.

~~(d)~~ A project that is operating under a power purchase agreement under a C-BED tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for production incentives under section 216C.41.

~~(e)~~ (d) A public utility must receive commission approval of a power purchase agreement for a C-BED tariffed project. The commission shall provide the utility's ratepayers an opportunity to address the reasonableness of the proposed power purchase agreement. Unless a party objects to a contract within 30 days of submission of the contract to the commission the contract is deemed approved.

Sec. 5. Minnesota Statutes 2008, section 216B.1612, is amended by adding a subdivision to read:

Subd. 10. **C-BED eligibility determination.** (a) A developer of a C-BED project may seek a predetermination of C-BED eligibility from the commissioner of commerce at any time, and must obtain a determination of C-BED eligibility from the commissioner of commerce, based on the project's final financing terms, before construction may begin. In seeking a determination of eligibility under this subdivision, a developer of a C-BED project must submit to the commissioner of commerce detailed financial projections demonstrating that, based on a net present value analysis, and applying the discount rate to qualifying revenues and gross revenues from a power purchase agreement, the project meets the requirements of subdivision 2, paragraph (h), clause (1).

(b) A project is not required to obtain a determination of C-BED eligibility under paragraph (a) if it has received, prior to the effective date of this act, an opinion letter from the commissioner indicating that the project qualifies as a C-BED project under this section.

(c) The commissioner's determination of C-BED eligibility of a project that obtained its initial opinion letter regarding C-BED eligibility from the commissioner or written notification from the Midwest Independent Systems Operator (MISO) that the project retains a position in the interconnection queue before the effective date of this act must be based on the laws applicable at the time the initial opinion letter of C-BED eligibility was issued or the Midwest Independent System Operator interconnection queue position was obtained. A project subject to this paragraph may elect to have the determination of eligibility governed by the law in effect at the time of the determination.

Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to energy; modifying community-based energy development program; amending Minnesota Statutes 2008, section 216B.1612, subdivisions 3, 5, 7, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 216B.1612, subdivision 2."

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

Senate Conferees: Yvonne Prettner Solon, Julie Rosen, Dan Skogen

House Conferees: Andy Welti, Bill Hilty, Bob Gunther

Senator Prettner Solon moved that the foregoing recommendations and Conference Committee Report on S.F. No. 3081 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3081 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	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	Vandev eer
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	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2510 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2510

A bill for an act relating to economic development; amending the definition of green economy to include the concept of green chemistry; creating a fast-action economic response team; expanding the Minnesota investment fund; removing a grant program restriction; expanding loan program to veteran-owned small businesses; creating the Minnesota Science and Technology Authority; providing for a comparative study of state laws affecting small business start-ups; modifying certain unemployment insurance administrative, benefit, and tax provisions; protecting customers from injuries resulting from use of inflatable play equipment; modifying labor and industry licensing and certain license fee provisions; modifying enforcement requirements of the State Building Code; modifying the requirements of the Manufactured Home Building Code; allowing expedited rulemaking; providing for licensing and regulation of individuals engaged in mortgage loan origination or mortgage loan business; providing for licensing and regulation of appraisal management companies; providing for property acquisition from petroleum tank fund proceeds; clarifying requirements for granting additional cable franchises; regulating cadmium in children's jewelry; regulating the sale and termination of portable electronics insurance; authorizing amendments to a municipal comprehensive plan for affordable housing; amending Iron Range resources provisions; requiring certain reports; appropriating money; amending Minnesota Statutes 2008, sections 58.04, subdivision 1; 58.08, by adding a subdivision; 58.09; 58.10, subdivision 1; 58.11; 60K.36, subdivision 2; 60K.38, subdivision 1; 82B.05, subdivision 5, by adding a subdivision; 82B.06; 115C.08, subdivision 1; 116J.437, subdivision 1; 116J.8731, subdivisions 1, 4; 116J.996; 181.723, subdivision 5; 238.08, subdivision 1; 268.035, subdivision 20; 268.046, subdivision 1; 268.051, subdivisions 2, 5, 7; 268.07, as amended; 268.085, subdivision 9; 326B.106, subdivision 9; 326B.133, subdivisions 1, 3, 8, 11, by adding subdivisions; 326B.16; 326B.197; 326B.33, subdivisions 18, 20, 21; 326B.42, by adding subdivisions; 326B.44; 326B.46, as amended; 326B.47; 326B.475, subdivision 2; 326B.50, by adding subdivisions; 326B.54; 326B.55, as amended if enacted; 326B.56, as amended; 326B.805, subdivision 6; 326B.83, subdivisions 1, 3, 6; 326B.865; 326B.921, subdivisions 2, 4, 7; 326B.922; 326B.978, subdivision 2, by adding a subdivision; 327.31, subdivision 17, by adding subdivisions; 327.32, subdivision 1, by adding subdivisions; 327B.04, subdivision 2; 462.355, subdivision 3; Minnesota Statutes 2009 Supplement, sections 58.06, subdivision 2; 60K.55, subdivision 2; 82B.05, subdivision 1; 115C.08, subdivision 4; 116J.8731, subdivision 3; 116L.20, subdivision 1; 268.035, subdivision 19a; 268.052, subdivision 2; 268.053, subdivision 1; 268.085, subdivision 1; 268.136, subdivision 1; 326B.33, subdivision 19; 326B.475, subdivision 4; 326B.49, subdivision 1; 326B.58; 326B.815, subdivision 1; 326B.86, subdivision 1; 326B.94, subdivision 4; 326B.986, subdivision 5; 327B.04, subdivisions 7, 7a, 8; 327B.041; Laws 2009, chapter 78, article 1, section 3, subdivision 2; Laws 2010, chapter 216, section 58; proposing coding for new law in Minnesota Statutes, chapters 60K; 116J; 184B; 325E; 326B; proposing coding for new law as Minnesota Statutes, chapters 58A; 82C; 116W; repealing Minnesota Statutes 2008, sections 116J.657; 326B.133, subdivisions 9, 10; 326B.37, subdivision 13; 326B.475, subdivisions 5, 6; 326B.56, subdivision 3; 326B.885, subdivisions 3, 4; 326B.976; 327.32, subdivision 4; 327C.07, subdivisions 3, 3a, 8; Minnesota Statutes 2009 Supplement, sections 58.126; 326B.56, subdivision 4; Laws 2010, chapter 215,

article 9, section 3; Minnesota Rules, parts 1301.0500; 1301.0900; 1301.1100, subparts 2, 3, 4; 1350.7200, subpart 3; 1350.8000, subpart 2.

May 8, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2510 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2510 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

EMPLOYMENT AND ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 2008, section 116J.437, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms have the meanings given.

(b) "Green economy" means products, processes, methods, technologies, or services intended to do one or more of the following:

(1) increase the use of energy from renewable sources, including through achieving the renewable energy standard established in section 216B.1691;

(2) achieve the statewide energy-savings goal established in section 216B.2401, including energy savings achieved by the conservation investment program under section 216B.241;

(3) achieve the greenhouse gas emission reduction goals of section 216H.02, subdivision 1, including through reduction of greenhouse gas emissions, as defined in section 216H.01, subdivision 2, or mitigation of the greenhouse gas emissions through, but not limited to, carbon capture, storage, or sequestration;

(4) monitor, protect, restore, and preserve the quality of surface waters, including actions to further the purposes of the Clean Water Legacy Act as provided in section 114D.10, subdivision 1;
~~or~~

(5) expand the use of biofuels, including by expanding the feasibility or reducing the cost of producing biofuels or the types of equipment, machinery, and vehicles that can use biofuels, including activities to achieve the biofuels 25 by 2025 initiative in sections 41A.10, subdivision 2, and 41A.11; or

(6) increase the use of green chemistry, as defined in section 116.9401.

For the purpose of clause (3), "green economy" includes strategies that reduce carbon emissions,

such as utilizing existing buildings and other infrastructure, and utilizing mass transit or otherwise reducing commuting for employees.

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

Sec. 2. [116J.872] RESPONSE TEAM.

(a) The department shall operate a fast-action economic response team to contact and work with businesses that are identified as being:

(1) at risk for relocating or expanding outside the state; or

(2) prospects for expansion or relocation within the state.

(b) The fast-action response team must contact identified businesses within 24 hours.

Sec. 3. Minnesota Statutes 2008, section 116J.8731, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** The Minnesota investment fund is created to provide financial and technical assistance, through partnership with communities, for the creation of new employment or to maintain existing employment, and for business start-up, expansions, and retention. It shall accomplish these goals by the following means:

(1) creation or retention of permanent private-sector jobs in order to create above-average economic growth consistent with environmental protection, which includes investments in technology and equipment that increase productivity and provide for a higher wage;

(2) stimulation or leverage of private investment to ensure economic renewal and competitiveness;

(3) increasing the local tax base, based on demonstrated measurable outcomes, to guarantee a diversified industry mix;

(4) improving the quality of existing jobs, based on increases in wages or improvements in the job duties, training, or education associated with those jobs;

(5) improvement of employment and economic opportunity for citizens in the region to create a reasonable standard of living, consistent with federal and state guidelines on low- to moderate-income persons; and

(6) stimulation of productivity growth through improved manufacturing or new technologies, including cold weather testing.

Sec. 4. Minnesota Statutes 2009 Supplement, section 116J.8731, subdivision 3, is amended to read:

Subd. 3. **Eligible expenditures.** The money appropriated for this section may be used to fund:

(1) fund grants for infrastructure, loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must be for a principal amount not to exceed one-half of the cost of the project for which financing is sought; and

(2) fund strategic investments in renewable energy market development, such as low interest

loans for renewable energy equipment manufacturing, training grants to support renewable energy workforce, development of a renewable energy supply chain that represents and strengthens the industry throughout the state, and external marketing to garner more national and international investment into Minnesota's renewable sector. Expenditures in external marketing for renewable energy market development are not subject to the limitations in clause (1); and

(3) provide private entrepreneurs with training, other technical assistance, and financial assistance, as provided in the small cities development block grant program.

Sec. 5. Minnesota Statutes 2008, section 116J.8731, subdivision 4, is amended to read:

Subd. 4. **Eligible projects.** Assistance must be evaluated on the existence of the following conditions:

(1) creation of new jobs, retention of existing jobs, or improvements in the quality of existing jobs as measured by the wages, skills, or education associated with those jobs;

(2) increase in the tax base;

(3) the project can demonstrate that investment of public dollars induces private funds;

(4) the project can demonstrate an excessive public infrastructure or improvement cost beyond the means of the affected community and private participants in the project;

(5) the project provides higher wage levels to the community or will add value to current workforce skills;

(6) the project supports the development of microenterprises, as defined by federal statutes, through financial assistance, technical assistance, advice, or business services;

(7) whether assistance is necessary to retain existing business;

~~(7)~~ (8) whether assistance is necessary to attract out-of-state business; and

~~(8)~~ (9) the project promotes or advances the green economy as defined in section 116J.437.

A grant or loan cannot be made based solely on a finding that the conditions in clause ~~(6)~~ ~~(7)~~ or ~~(7)~~ (8) exist. A finding must be made that a condition in clause (1), (2), (3), (4), ~~(5)~~, or (6) also exists.

Applications recommended for funding shall be submitted to the commissioner.

Sec. 6. Minnesota Statutes 2008, section 116J.996, is amended to read:

116J.996 MILITARY RESERVIST ECONOMIC INJURY AND VETERAN-OWNED SMALL BUSINESS LOANS.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Active service" has the meaning given in section 190.05.

(c) "Commissioner" means the commissioner of employment and economic development.

(d) "Eligible business" means a small business, as defined in section 645.445, that was operating

in Minnesota on the date a military reservist received orders for active service.

(e) "Essential employee" means a military reservist who is an owner or employee of an eligible business and whose managerial or technical expertise is critical to the day-to-day operation of the eligible business.

(f) "Military reservist" means a member of the reserve component of the armed forces.

(g) "Reserve component of the armed forces" has the meaning given it in United States Code, title 10, section 101(c).

(h) "Substantial economic injury" means an economic harm to an eligible business that results in the inability of the eligible business to:

(1) meet its obligations as they mature;

(2) pay its ordinary and necessary operating expenses; or

(3) manufacture, produce, market, or provide a product or service ordinarily manufactured, produced, marketed, or provided by the eligible business.

(i) "Veteran-owned small business" means a small business, as defined in section 645.445, that is majority-owned and operated by a recently separated veteran.

Subd. 2. **Loan program.** The commissioner may make onetime, interest-free loans of up to \$20,000 per borrower to:

(1) eligible businesses that have sustained or are likely to sustain substantial economic injury as a result of the call to active service for 180 days or more of an essential employee; or

(2) recently separated veterans who are veterans as defined in section 197.447, and have served in active military service, at any time on or after September 11, 2001, to start a veteran-owned small business.

Loans for economic injury must be made for the purpose of preventing, remedying, or ameliorating the substantial economic injury.

Subd. 3. **Revolving loan account.** The commissioner shall use money appropriated for the purpose to establish a revolving loan account. All repayments of loans made under this section must be deposited into this account. Interest earned on money in the account accrues to the account. Money in the account is appropriated to the commissioner for purposes of the loan program created in this section, including costs incurred by the commissioner to establish and administer the program.

Subd. 4. **Rules.** Using the expedited rulemaking procedures of section 14.389, the commissioner shall develop and publish expedited rules for loan applications, use of funds, needed collateral, terms of loans, and other details of military reservist economic injury and veteran-owned small business loans.

Sec. 7. Minnesota Statutes 2008, section 116L.665, subdivision 3, is amended to read:

Subd. 3. **Purpose; duties.** The governor's Workforce Development Council shall replace the governor's Job Training Council and assume all of its requirements, duties, and responsibilities under the Workforce Investment Act. Additionally, the Workforce Development Council shall assume the

following duties and responsibilities:

(a) Review the provision of services and the use of funds and resources under applicable federal human resource programs and advise the governor on methods of coordinating the provision of services and the use of funds and resources consistent with the laws and regulations governing the programs. For purposes of this section, applicable federal and state human resource programs mean the:

- (1) Workforce Investment Act, United States Code, title 29, section 2911, et seq.;
- (2) Carl D. Perkins Vocational and Applied Technology Education Act, United States Code, title 20, section 2301, et seq.;
- (3) Adult Education Act, United States Code, title 20, section 1201, et seq.;
- (4) Wagner-Peyser Act, United States Code, title 29, section 49;
- (5) Personal Responsibility and Work Opportunities Act of 1996 (TANF);
- (6) Food Stamp Act of 1977, United States Code, title 7, section 6(d)(4), Food Stamp Employment and Training Program, United States Code, title 7, section 2015(d)(4); and
- (7) programs defined in section 116L.19, subdivision 5.

Additional federal and state programs and resources can be included within the scope of the council's duties if recommended by the governor after consultation with the council.

(b) Review federal, state, and local education, postsecondary, job skills training, and youth employment programs, and make recommendations to the governor and the legislature for establishing an integrated seamless system for providing education and work skills development services to learners and workers of all ages.

(c) Advise the governor on the development and implementation of statewide and local performance standards and measures relating to applicable federal human resource programs and the coordination of performance standards and measures among programs.

(d) Promote education and employment transitions programs and knowledge and skills of entrepreneurship among employers, workers, youth, and educators, and encourage employers to provide meaningful work-based learning opportunities;

(e) Evaluate and identify exemplary education and employment transitions programs and provide technical assistance to local partnerships to replicate the programs throughout the state.

(f) Advise the governor on methods to evaluate applicable federal human resource programs.

(g) Sponsor appropriate studies to identify human investment needs in Minnesota and recommend to the governor goals and methods for meeting those needs.

(h) Recommend to the governor goals and methods for the development and coordination of a human resource system in Minnesota.

(i) Examine federal and state laws, rules, and regulations to assess whether they present barriers to achieving the development of a coordinated human resource system.

(j) Recommend to the governor and to the federal government changes in state or federal laws, rules, or regulations concerning employment and training programs that present barriers to achieving the development of a coordinated human resource system.

(k) Recommend to the governor and to the federal government waivers of laws and regulations to promote coordinated service delivery.

(l) Sponsor appropriate studies and prepare and recommend to the governor a strategic plan which details methods for meeting Minnesota's human investment needs and for developing and coordinating a state human resource system.

(m) Provide the commissioner of employment and economic development and the committees of the legislature with responsibility for economic development with recommendations provided to the governor under this subdivision.

(n) In consultation with local workforce councils and the Department of Employment and Economic Development, develop an ongoing process to identify and address local gaps in workforce services.

Sec. 8. Minnesota Statutes 2008, section 116L.665, subdivision 6, is amended to read:

Subd. 6. **Staffing.** The Department of Employment and Economic Development must provide staff support, including but not limited to professional, technical, and clerical staff necessary to perform the duties assigned to the Minnesota Workforce Development Council. ~~The support includes professional, technical, and clerical staff necessary to perform the duties assigned to the Workforce Development Council. All staff report to the commissioner.~~ The council may ask for assistance from other units of state government as it requires in order to fulfill its duties and responsibilities.

Sec. 9. Minnesota Statutes 2008, section 116L.665, is amended by adding a subdivision to read:

Subd. 8. **Funding.** The commissioner shall develop recommendations on a funding formula for allocating Workforce Investment Act funds to the council with a minimum allocation of \$350,000 per year. The commissioner shall report the funding formula recommendations to the legislature by January 15, 2011.

Sec. 10. **[116L.98] WORKFORCE PROGRAM OUTCOMES.**

The commissioner shall develop and implement a set of standard approaches for assessing the outcomes of workforce programs under this chapter. The outcomes assessed must include, but are not limited to, periodic comparisons of workforce program participants and nonparticipants.

The commissioner shall also monitor the activities and outcomes of programs and services funded by legislative appropriations and administered by the department on a pass-through basis and develop a consistent and equitable method of assessing recipients for the costs of its monitoring activities.

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

Sec. 11. **[116W.01] MINNESOTA SCIENCE AND TECHNOLOGY AUTHORITY ACT.**

This chapter may be cited as the "Minnesota Science and Technology Authority Act."

Sec. 12. [116W.02] DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms in this section have the meanings given them.

Subd. 2. **Authority.** "Authority" means the Minnesota Science and Technology Authority.

Subd. 3. **Eligible recipient.** "Eligible recipient" means an entity primarily operating to create and retain jobs in the state's industrial base and maximize the economic growth of the state through:

- (1) high-technology research and development capabilities;
- (2) product and process innovation and commercialization;
- (3) high-technology manufacturing capabilities;
- (4) science and technology business environment; or
- (5) science and technology workforce preparation.

Subd. 4. **Advisory commission.** "Advisory commission" means the advisory commission under section 116W.051.

Sec. 13. [116W.03] MINNESOTA SCIENCE AND TECHNOLOGY AUTHORITY.

Subdivision 1. **Membership.** The Minnesota Science and Technology Authority consists of the commissioner of employment and economic development, the commissioner of management and budget, the commissioner of revenue, the commissioner of commerce, and the commissioner of agriculture.

Subd. 2. **Chair; other officers.** The commissioner of employment and economic development shall serve as the chair and chief executive officer of the authority. The authority shall rotate the position of vice chair annually among its members. The commissioner of employment and economic development shall convene the first meeting of the authority no later than July 1, 2010. In the absence of the chair or vice chair at meetings of the authority members may elect a chair for the meeting, and may elect other officers as necessary from its members.

Subd. 3. **Delegation.** In addition to any powers to delegate that members of the authority have as commissioners, they may delegate to the chair, vice chair, or executive director their responsibilities as members of the authority for reviewing and approving financing of eligible projects, projects that have been authorized by law, or programs specifically authorized by resolution of the authority.

Subd. 4. **Actions.** (a) A majority of the authority, excluding vacancies, constitutes a quorum to conduct its business, to exercise its powers, and for all other purposes.

(b) The authority may conduct its business by any technological means available, including teleconference calls or interactive video, that allows for an interaction between members. If a meeting is conducted under this paragraph, a specific location must be available for the public to attend the meeting and at least one member must be present at that location.

Subd. 5. **Executive director; staffing.** The authority shall employ an executive director in the unclassified service. The initial executive director must be the individual in the position of director of the Office of Science and Technology as of January 1, 2010, under section 116J.657. The executive

director is responsible for hiring staff necessary to assist the executive director to carry out the duties and responsibilities of the authority. The executive director shall perform duties that the authority may require in carrying out its responsibilities to manage and implement the funds and programs in this chapter, and comply with all state and federal program requirements, and state and federal securities and tax laws and regulations. The executive director shall assist the advisory board in fulfilling its duties under this chapter.

Subd. 6. **Administrative services.** The authority shall enter into agreements for administrative and professional services and technical support.

Subd. 7. **Expiration.** This section expires June 30, 2018. Section 15.059, subdivision 5, does not apply to the authority.

Sec. 14. [116W.04] POWERS AND DUTIES.

Subdivision 1. **Duties.** The Science and Technology Authority shall:

(1) coordinate public and private efforts to procure federal funding for collaborative research and development projects of primary benefit to small-sized and medium-sized businesses;

(2) promote contractual relationships between Minnesota businesses that are recipients of federal grants and prime contractors, and Minnesota-based subcontractors;

(3) work with Minnesota nonprofit institutions including the University of Minnesota, Minnesota State Colleges and Universities, and the Mayo Clinic in promoting collaborative efforts to respond to federal funding opportunities;

(4) develop a framework for Minnesota companies to establish sole-source relationships with federal agencies;

(5) provide grants or other forms of financial assistance to eligible recipients for purposes of this chapter;

(6) coordinate workshops, assistance with business proposals, licensing, intellectual property protection, commercialization, and government auditing with the University of Minnesota and Minnesota State Colleges and Universities; and

(7) develop and implement a comprehensive science and technology economic development strategy for the state.

Subd. 2. **Technology matchmaking.** The authority must assist businesses in identifying qualified suppliers and vendors through a program to serve as a conduit for Minnesota-based companies to network with firms able to support their success. Firms outside Minnesota can participate in the technology matchmaking network if one of the participating companies is located in Minnesota.

Subd. 3. **Commercialization assistance.** The authority must provide commercialization assistance to Minnesota firms that have received a Phase I Small Business Innovation Research (SBIR) or a Phase I Small Business Technology Transfer (STTR) award and are submitting a Phase II proposal. Local service providers must assist the applicant with developing and reviewing the required commercialization plan prior to Phase II submission. The authority may provide SBIR Phase I proposal technical review.

Subd. 4. **Power to sue; enter contracts.** The authority may sue and be sued. The authority may make and enter into contracts, leases, and agreements necessary to perform its duties and exercise its powers.

Subd. 5. **Gifts; grants.** The authority may apply for, accept, and disburse gifts, grants, loans, or other property from the United States, the state, private sources, or any other source for any of its purposes. Money received by the authority under this subdivision must be deposited in the state treasury and is appropriated to the authority to carry out its duties.

Subd. 6. **Contract for services.** The authority may retain or contract for the services of accountants, financial advisors, and other consultants or agents needed to perform its duties and exercise its powers.

Subd. 7. **Fees.** The authority may set and collect fees for costs incurred by the authority, the Department of Employment and Economic Development, the Department of Management and Budget, the Department of Revenue, the Department of Commerce, the Department of Labor and Industry, and the Department of Agriculture, including costs for personnel, professional, and administrative services.

Subd. 8. **Reports.** (a) The authority shall report by February 1 each year to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over finance and economic development on its progress to design, coordinate, and administer a strategic science and technology program for the state to promote the welfare of the people of the state, maximize the economic growth of the state, and create and retain jobs in the state's industrial base through enhancement of Minnesota's:

- (1) high-technology research and development capabilities;
- (2) product and process innovation and commercialization;
- (3) high-technology manufacturing capabilities;
- (4) science and technology business environment; and
- (5) science and technology workforce preparation.

(b) The report must include a complete operating and financial statement covering the authority's operations during the year, including amounts of income from all sources. Books and records of the authority are subject to audit by the legislative auditor in the manner prescribed for state agencies.

Subd. 9. **Consultative and technical services.** The authority may provide general consultative and technical services to assist eligible projects and enter into agreements or other transactions concerning the receipt or provision of those services.

Subd. 10. **Financial information.** Financial information, including credit reports, financial statements, and net worth calculations, received or prepared by the authority regarding financial assistance, is private data with regard to data on individuals as defined in section 13.02, subdivision 12, and nonpublic data with regard to data not on individuals as defined in section 13.02, subdivision 9.

Subd. 11. **General.** The authority shall have all powers necessary and appropriate to fulfill its responsibilities under this chapter.

Sec. 15. **[116W.05] PROJECT FINANCIAL ASSISTANCE.**

Subdivision 1. **Determination of financial assistance.** The authority shall assist eligible recipients in identifying grants or other sources of financial assistance available to finance projects and may assist eligible recipients in applying for and obtaining grants and other forms of assistance.

Subd. 2. **Financial feasibility review.** (a) The authority shall review the proposed financing for each project submitted to the authority to determine whether: (1) the proposed project and financing plan is an eligible use of the money; and (2) the proposal is in compliance with applicable state and federal tax and securities laws and regulations. Grants in excess of \$50,000 must be approved by the authority. Grants of \$50,000 or less may be authorized by the executive director. All grant approvals or disapprovals must be completed within 30 days of submission to the authority. Grants approved by the executive director must be reviewed by the authority each month.

(b) Unless a project is specifically authorized by law, the authority may reject the proposed financing for a project meeting the requirements in paragraph (a) if there are not sufficient funds available or if a majority of members believe the financing of the project would not be in the best interests of the state or would be detrimental to the authority's funds or programs. A determination to reject a proposed project must not be made in an arbitrary and capricious manner and must be supported by substantive evidence and documented by a resolution of the authority stating its findings.

Sec. 16. **[116W.051] ADVISORY COMMISSION.**

Subdivision 1. **Advisory commission membership.** A Science and Technology Initiative Advisory Commission of 18 members is established and is comprised of:

(1) two representatives of the University of Minnesota, selected by the president of the university, including a faculty member actively involved in science and technology research;

(2) two representatives of the Minnesota State Colleges and Universities, selected by the chancellor, including a faculty member actively involved in science and technology research;

(3) the chief executive officer of Mayo Clinic or a designee;

(4) six chief executive officers or designees from science-oriented or technology-oriented companies;

(5) four representatives from science-oriented and technology-oriented organizations;

(6) one representative of organized labor;

(7) a venture capital representative; and

(8) a representative of angel investors.

A member must have experience in science or technology in order to serve on the commission.

Members of the commission listed in clauses (4) to (8) shall be appointed by the authority.

Subd. 2. **Advisory commission duties.** The advisory commission must assist the authority in developing a comprehensive science and technology economic development plan to be presented to the chairs and ranking minority members of the legislative committees and divisions

with jurisdiction over economic development and higher education by January 15, 2011. The plan must include recommendations in strategic areas for science and technology investments, recommendations on additional programs to support science and technology focused economic development activities in the state, selection of specific programs and grantees for support from program funds authorized by the advisory commission and ongoing assessment of the effectiveness of programmatic elements according to metrics to be developed by the authority in consultation with the advisory commission. The advisory commission may also advise and assist the authority in fulfilling its duties under section 116W.04.

Subd. 3. **Membership terms; vacancies; compensation.** The membership terms, removal of members, and filling of vacancies are as provided under section 15.059. The executive director may provide compensation to members if funds are available.

Subd. 4. **Expiration.** The advisory commission expires June 30, 2013.

Subd. 5. **Convening of meetings; staffing.** The executive director of the authority must convene the first meeting of the commission by August 1, 2010. The executive director must provide administrative support and staff to the commission.

Sec. 17. [116W.20] MONEY OF THE AUTHORITY.

Subdivision 1. **Functions of commissioner of management and budget.** Except as otherwise provided in this section, money of the authority must be paid to the commissioner of management and budget as agent of the authority and the commissioner shall not commingle the money with other money. The money in the accounts of the authority must be paid out only on warrants drawn by the commissioner of management and budget on requisition of the executive director of the authority or of another officer or employee as the authority authorizes. Deposits of the authority's money must, if required by the commissioner or the authority, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give security for the deposits. All money paid to the commissioner as agent of the authority is appropriated to the authority. The commissioner must annually report to the committees of the legislature with responsibility for economic development and management and budget on the use of appropriations under this section.

Subd. 2. **System of accounts.** The commissioner of management and budget shall prescribe a system of accounts.

Sec. 18. [116W.21] NONLIABILITY.

Subdivision 1. **Nonliability of individuals.** No member of the authority, staff of the authority, or other person executing other agreements or contracts of the authority is liable personally or is subject to any personal liability or accountability by reason of their issuance, execution, delivery, or performance.

Subd. 2. **Nonliability of state.** The state is not liable on loans or other agreements or contracts of the authority issued or entered into under this chapter and the loans or other agreements or contracts of the authority are not a debt of the state. The loans or other agreements or contracts of the authority must contain on their face a statement to that effect.

Sec. 19. [116W.23] STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.

The state pledges and agrees with parties to any loans or other agreements or contracts of the authority that the state will not: (1) limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the parties to any loans or other agreements or contracts of the authority; or (2) in any way impair the rights and remedies of the parties to any loans or other agreements or contracts of the authority. The authority may include this pledge and agreement of the state in any agreement with the parties in any loans or other agreements or contracts of the authority.

Sec. 20. [116W.24] RESERVES; FUNDS; ACCOUNTS.

The authority may establish reserves, funds, or accounts necessary to carry out the purposes of the authority or to comply with any agreement made by or any resolution passed by the authority.

Sec. 21. Minnesota Statutes 2008, section 136F.06, is amended by adding a subdivision to read:

Subd. 4. **Workforce focus.** The board must identify colleges offering flexible academic programs that accommodate the needs of laid-off workers and assist its other institutions in determining whether to offer similar programs. Colleges must increase the number of certificate programs available to meet the needs of unemployed Minnesotans.

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

Sec. 22. Minnesota Statutes 2008, section 363A.42, as added by Laws 2010, chapter 271, section 2, is amended to read:

363A.42 PUBLIC RECORDS; ACCESSIBILITY.

Subdivision 1. **Definitions.** For purposes of this section, "records" means any publicly available recorded information that is collected, created, received, maintained or disseminated by the executive, judicial or legislative branches of the state, the Minnesota State Colleges and Universities, the University of Minnesota, cities, towns, counties, school districts and all other political subdivisions of the state, regardless of physical form or method of storage.

Subd. 2. **Accessibility.** ~~All~~ Upon request by an individual, records must be made available within a reasonable time period to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made in any policies, practices and procedures that might otherwise deny equal access to records to individuals with disabilities.

Subd. 2a. **Exemptions.** Notwithstanding any law to the contrary except Laws 2009, chapter 131, this section does not apply to: (1) technology procured or developed prior to January 1, 2013, unless substantially modified or substantially enhanced after January 1, 2013; or (2) records that cannot be reasonably modified to be accessible without an undue burden as defined in section 16E.015, subdivision 4, to the public entity.

Subd. 3. **Penalties.** Violation of this section is subject to a penalty of \$500 per violation, plus reasonable attorney fees, costs and disbursements, payable to a qualified disabled person under section 363A.03, subdivision 36, who sought the accessible record under subdivision 2, by the public entity in violation of this section. The total amount of penalties payable to any individual or class regardless of the number of violations is limited to \$15,000. In any class action or series of class actions which arise from a violation of this section, the amount of attorney fees awarded against the violating public entity may not exceed \$15,000. Any action must be commenced within

one year of the occurrence of the alleged violation.

Sec. 23. Minnesota Statutes 2008, section 363A.43, as added by Laws 2010, chapter 271, section 3, is amended to read:

363A.43 CONTINUING EDUCATION; ACCESSIBILITY.

Subdivision 1. **Accessibility.** Any Upon request by an individual, any continuing education or professional development course, offering, material or activity approved or administered by the state, political subdivisions of the state, the University of Minnesota or the Minnesota State Colleges and Universities, must be made available within a reasonable time period to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made in any policies, practices and procedures that might otherwise deny equal access to continuing education or professional development to individuals with disabilities.

Subd. 2. **Penalties.** Violation of this section is subject to a penalty of \$500 per violation, plus reasonable attorney fees, costs and disbursements, payable to a qualified disabled person under section 363A.03, subdivision 36, who sought the accessible format under subdivision 1, by the public entity or the entity offering the course, material, or activity under a contract with a public entity. The total amount of penalties payable to any individual or class regardless of the number of violations is limited to \$15,000. In any class action or series of class actions which arise from a violation of this section, the amount of attorney fees awarded against the violating public entity may not exceed \$15,000. Any action must be commenced within one year of the occurrence of the alleged violation.

Sec. 24. Minnesota Statutes 2008, section 462.355, subdivision 3, is amended to read:

Subd. 3. **Adoption by governing body.** A proposed comprehensive plan or an amendment to it may not be acted upon by the governing body until it has received the recommendation of the planning agency or until 60 days have elapsed from the date an amendment proposed by the governing body has been submitted to the planning agency for its recommendation. Unless otherwise provided by charter, the governing body may by resolution ~~by a two-thirds vote of all of its members~~ adopt and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance. Except for amendments to permit affordable housing development, a resolution to amend or adopt a comprehensive plan must be approved by a two-thirds vote of all of the members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members. For purposes of this subdivision, "affordable housing development" means a development in which at least 20 percent of the residential units are restricted to occupancy for at least ten years by residents whose household income at the time of initial occupancy does not exceed 60 percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development, and with respect to rental units, the rents for affordable units do not exceed 30 percent of 60 percent of area median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

Sec. 25. Minnesota Statutes 2008, section 469.1082, subdivision 5, is amended to read:

Subd. 5. **Area of operation.** The area of operation of a county economic development service provider created under this section shall include all cities and townships within a county that have

adopted resolutions electing to participate. A city or township may adopt a resolution electing to withdraw participation. The withdrawal election may be made every fifth year following adoption of the resolution electing participation. The withdrawal election is effective on the anniversary date of the original resolution provided notice is given to the county economic development authority not less than 90 nor more than 180 days prior to that anniversary date. The city or township electing to withdraw retains any rights, obligations, and liabilities it obtained or incurred during its participation. Any city or township within the county shall have the option to adopt a resolution to prohibit the county economic development service provider created under this section from operating within its boundaries and (1) within an agreed upon urban service area, or (2) within the distance approved in the committee report referenced in subdivision 3. If a city or township prohibits a county economic development service provider created under this section from operating within its boundaries, the city's or township's property taxpayers shall not be subject to the property tax levied for the county economic development service provider.

Sec. 26. Minnesota Statutes 2008, section 471.59, subdivision 10, is amended to read:

Subd. 10. Services performed by governmental units; commonality of powers. Notwithstanding the provisions of subdivision 1 requiring commonality of powers between parties to any agreement, the governing body of any governmental unit as defined in subdivision 1 may enter into agreements with any other governmental unit to perform on behalf of that unit any service or function which the governmental unit providing the service or function is authorized to provide for itself. If the agreement has the effect of eliminating or replacing a public employee who is part of a collective bargaining agreement represented by an exclusive representative, and there is no provision in the collective bargaining agreement detailing the effect of the action on the affected public employee, negotiations on the effects to the employee of the job elimination or restructuring must be conducted between the exclusive representative and the employer.

Sec. 27. Laws 2009, chapter 78, article 1, section 3, subdivision 2, is amended to read:

Subd. 2. Business and Community Development	8,980,000	8,980,000
Appropriations by Fund		
General	7,941,000	7,941,000
Remediation	700,000	700,000
Workforce Development	339,000	339,000

(a) \$700,000 the first year and \$700,000 the second year are from the remediation fund for contaminated site cleanup and development grants under Minnesota Statutes, section 116J.554. This appropriation is available until expended.

(b) \$200,000 each year is from the general fund for a grant to WomenVenture for women's business development programs and for programs that encourage and assist women to enter nontraditional careers in the

trades; manual and technical occupations; science, technology, engineering, and mathematics-related occupations; and green jobs. This appropriation may be matched dollar for dollar with any resources available from the federal government for these purposes with priority given to initiatives that have a goal of increasing by at least ten percent the number of women in occupations where women currently comprise less than 25 percent of the workforce. The appropriation is available until expended.

(c) \$105,000 each year is from the general fund and \$50,000 each year is from the workforce development fund for a grant to the Metropolitan Economic Development Association for continuing minority business development programs in the metropolitan area. This appropriation must be used for the sole purpose of providing free or reduced fee business consulting services to minority entrepreneurs and contractors.

(d)(1) \$500,000 each year is from the general fund for a grant to BioBusiness Alliance of Minnesota for bioscience business development programs to promote and position the state as a global leader in bioscience business activities. This appropriation is added to the department's base. These funds may be used to create, recruit, retain, and expand biobusiness activity in Minnesota; implement the destination 2025 statewide plan; update a statewide assessment of the bioscience industry and the competitive position of Minnesota-based bioscience businesses relative to other states and other nations; and develop and implement business and scenario-planning models to create, recruit, retain, and expand biobusiness activity in Minnesota.

(2) The BioBusiness Alliance must report each year by February 15 to the committees of the house of representatives and the senate having jurisdiction over bioscience industry

activity in Minnesota on the use of funds; the number of bioscience businesses and jobs created, recruited, retained, or expanded in the state since the last reporting period; the competitive position of the biobusiness industry; and utilization rates and results of the business and scenario-planning models and outcomes resulting from utilization of the business and scenario-planning models.

(e)(1) Of the money available in the Minnesota Investment Fund, Minnesota Statutes, section 116J.8731, to the commissioner of the Department of Employment and Economic Development, up to \$3,000,000 is appropriated in fiscal year 2010 for a loan to an aircraft manufacturing and assembly company, associated with the aerospace industry, for equipment utilized to establish an aircraft completion center at the Minneapolis-St. Paul International Airport. The finishing center must use the state's vocational training programs designed specifically for aircraft maintenance training, and to the extent possible, work to recruit employees from these programs. The center must create at least 200 new manufacturing jobs within 24 months of receiving the loan, and create not less than 500 new manufacturing jobs over a five-year period in Minnesota.

(2) This loan is not subject to loan limitations under Minnesota Statutes, section 116J.8731, subdivision 5. Any match requirements under Minnesota Statutes, section 116J.8731, subdivision 3, may be made from current resources. This is a onetime appropriation and is effective the day following final enactment.

(f) \$65,000 each year is from the general fund for a grant to the Minnesota Inventors Congress, of which at least \$6,500 must be used for youth inventors.

(g) \$200,000 the first year and \$200,000 the second year are for the Office of Science and Technology. This is a onetime appropriation.

(h) \$500,000 the first year and \$500,000 the second year are for a grant to Enterprise Minnesota, Inc., for the small business growth acceleration program under Minnesota Statutes, section 116O.115. This is a onetime appropriation and is available until expended.

(i)(1) \$100,000 each year is from the workforce development fund for a grant under Minnesota Statutes, section 116J.421, to the Rural Policy and Development Center at St. Peter, Minnesota. The grant shall be used for research and policy analysis on emerging economic and social issues in rural Minnesota, to serve as a policy resource center for rural Minnesota communities, to encourage collaboration across higher education institutions, to provide interdisciplinary team approaches to research and problem-solving in rural communities, and to administer overall operations of the center.

(2) The grant shall be provided upon the condition that each state-appropriated dollar be matched with a nonstate dollar. Acceptable matching funds are nonstate contributions that the center has received and have not been used to match previous state grants. Any funds not spent the first year are available the second year.

(j) Notwithstanding Minnesota Statutes, section 268.18, subdivision 2, \$414,000 of funds collected for unemployment insurance administration under this subdivision is appropriated as follows: \$250,000 to Lake County for ice storm damage; \$64,000 is for the city of Green Isle for reimbursement of fire relief efforts and other expenses incurred as a result of the fire in the city of Green Isle; and \$100,000 is to develop the construction mitigation pilot program to make grants ~~for up to five projects statewide available~~ to local government units to mitigate the impacts of transportation construction on local small business. These are onetime appropriations and are available until expended.

(k) Up to \$10,000,000 is appropriated from the Minnesota minerals 21st century fund to the commissioner of Iron Range resources and rehabilitation to make a grant or forgivable loan to a manufacturer of windmill blades at a facility to be located within the taconite tax relief area defined in Minnesota Statutes, section 273.134. Of this amount, \$2,000,000 is for a grant to the Mountain Iron Economic Development Authority for renewable energy projects.

(l) \$1,000,000 is appropriated from the Minnesota minerals 21st century fund to the Board of Trustees of the Minnesota State Colleges and Universities for a grant to the Northeast Higher Education District for planning, design, and construction of classrooms and housing facilities for upper division students in the engineering program.

(m)(1) \$189,000 each year is appropriated from the workforce development fund for grants of \$63,000 to eligible organizations each year to assist in the development of entrepreneurs and small businesses. Each state grant dollar must be matched with \$1 of nonstate funds. Any balance in the first year does not cancel but is available in the second year.

(2) Three grants must be awarded to continue or to develop a program. One grant must be awarded to the Riverbend Center for Entrepreneurial Facilitation in Blue Earth County, and two to other organizations serving Faribault and Martin Counties. Grant recipients must report to the commissioner by February 1 of each year that the organization receives a grant with the number of customers served; the number of businesses started, stabilized, or expanded; the number of jobs created and retained; and business success rates. The commissioner must report to the house of representatives and senate committees with jurisdiction over economic development finance on the effectiveness of these programs for assisting in the

development of entrepreneurs and small businesses.

Sec. 28. REPORT ON AT-RISK BUSINESSES; CREATION OF FAST-ACTION ECONOMIC RESPONSE TEAM.

Not later than 30 days after the effective date of this section, the commissioner of employment and economic development shall submit to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over jobs and employment and economic development a report that identifies retention methods the department currently uses, and retention methods the department could use in the future, to identify businesses at risk for relocation or expansion outside of this state. The report must also include a proactive plan to identify businesses outside of this state that are seeking to relocate or expand, or that could be encouraged to relocate or expand through the use of incentives. In developing the plan, the commissioner shall collaborate with economic development stakeholders from state government, business, and nongovernmental organizations.

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

Sec. 29. CUSTOMER SERVICE.

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

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

(c) The commissioner is authorized and encouraged to maximize the use of existing employees and federal dollars to accomplish paragraph (a), including, but not limited to, paying portions of existing employees' salaries from more than one source of funding, ensuring that employees are cross-trained to perform functions beyond that required by paragraph (b) when such employees are stationed in workforce centers, and implementing need-based scheduling of employees to ensure that each workforce center is adequately staffed during peak demand hours for the services contemplated by paragraph (a).

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

representatives having jurisdiction over economic and workforce development issues by January 15, 2011.

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

Sec. 30. WORKFORCE SERVICES REPORT AND RECOMMENDATIONS.

By January 15, 2011, the governor's Workforce Development Council executive committee shall submit a report to the senate and house of representatives committees with jurisdiction over workforce development programs on the performance and outcomes of the workforce centers, as required by Minnesota Statutes, section 116L.665, subdivision 4. This report must contain recommendations for an ongoing process to identify local gaps in workforce services and ways to fill the gaps. The Department of Employment and Economic Development and the workforce councils should be included in the process for identifying service gaps. The governor's Workforce Development Council executive committee must submit draft-guiding principles to the legislature for review and feedback by August 12, 2010.

Sec. 31. DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT BLOCK GRANT REPORT.

The commissioner of employment and economic development shall study and report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over economic development and workforce issues on the use of block grant funding to be administered by the Workforce Development Division and the Business and Community Development Division. The report must include recommendations for the use of block grant funding including goals, grant award criteria, RFP procedures, priorities for target populations and the services to be provided, and inclusion of all pass-through grants administered by the department including those receiving direct state appropriations. The recommendations must contain specific proposals on providing grant oversight, evaluation, and administration of allocated funds in order to maximize services to target populations.

Sec. 32. STUDY OF DIVISION OF STATE DEPOSITORY ACCOUNTS AND GENERAL FUND REVENUE ACCOUNT.

(a) The Carlson School of Management at the University of Minnesota is requested to study:

(1) the feasibility of dividing the state's general fund revenue account among community financial institutions and transferring the state's major and minor accounts to community financial institutions in order to ensure that state money benefits Minnesota residents;

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

(3) the potential economic benefit and cost to governmental entities as defined by Minnesota Statutes, section 118A.01, subdivision 2, from an increase in their use of community financial institutions as defined in clause (1).

(b) The results of the study must be reported to the legislature by December 1, 2010.

For purposes of this section, "community financial institution" means a federally insured bank

or credit union, chartered as a bank or credit union by the state of Minnesota or the United States, that is headquartered in Minnesota and has no more than \$2,500,000,000 in assets.

Sec. 33. COMPARATIVE STUDY OF STATE REGULATION AFFECTING SMALL BUSINESS START-UPS.

(a) \$65,000 is appropriated for fiscal year 2011 from the general fund to the Legislative Coordinating Commission to fund a comparative study of the effects of state regulation on the cost and delay associated with starting a typical small business in Minnesota, Iowa, North Dakota, South Dakota, and Wisconsin. The Legislative Coordinating Commission must also apply for a grant to fund the study. This is a onetime appropriation.

(b) The study, to be conducted by a higher education institution, must examine the typical cost and delay required by state regulation in the five states to start a typical small services business, small retail business, and small manufacturing business. Within each of those three categories, the study must choose to study similar types of businesses and follow the start-up process in the five states from beginning to end, including formation, financing, licensing, permits, reporting requirements, employment laws, and state and local taxes. The study must result in a written report submitted to the Legislative Coordinating Commission no later than December 1, 2011.

(c) The Legislative Coordinating Commission shall request proposals and choose the recipient of the grant from among higher education institutions that have a graduate program in business, business administration, or a similar field. The Legislative Coordinating Commission shall periodically monitor the recipient's progress on the study and written report. The Legislative Coordinating Commission shall submit the written report as a report to the legislature in compliance with Minnesota Statutes, sections 3.195 and 3.197.

(d) If the funds appropriated in this section are unexpended, the remaining balance must be transferred to the Science and Technology Authority.

Sec. 34. APPROPRIATION.

(a) \$107,000 is appropriated from the general fund in fiscal year 2011 to the Minnesota Science and Technology Authority for the purposes of Minnesota Statutes, chapter 116W.

(b) The general fund appropriation in Laws 2009, chapter 78, article 1, section 3, subdivision 2, is reduced by \$107,000 beginning in fiscal year 2011.

(c) Of the appropriation to the commissioner of employment and economic development under section 115C.08, subdivision 4, paragraph (c), in fiscal year 2011 only, \$300,000 is for a grant to the Minneapolis Park and Recreation Board for cleanup of contaminated soils related to construction of the East Phillips Cultural and Community Center. This is a onetime appropriation and is available until expended.

Sec. 35. TRANSFER.

The commissioner of management and budget must transfer any remaining balance of the appropriation made in Laws 2009, chapter 78, article 1, section 3, subdivision 2, paragraph (g), to the Minnesota Science and Technology Authority.

Sec. 36. REPEALER.

Minnesota Statutes 2008, section 116J.657, is repealed.

ARTICLE 2

UNEMPLOYMENT INSURANCE

Section 1. Minnesota Statutes 2009 Supplement, section 268.035, subdivision 19a, is amended to read:

Subd. 19a. **Immediate family member.** "Immediate family member" means ~~the applicant's~~ an individual's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

Sec. 2. Minnesota Statutes 2008, section 268.035, subdivision 20, is amended to read:

Subd. 20. **Noncovered employment.** "Noncovered employment" means:

(1) employment for the United States government or an instrumentality thereof, including military service;

(2) employment for a state, other than Minnesota, or a political subdivision or instrumentality thereof;

(3) employment for a foreign government;

(4) employment for an instrumentality wholly owned by a foreign government, if the employment is of a character similar to that performed in foreign countries by employees of the United States government or an instrumentality thereof and the United States Secretary of State has certified that the foreign government grants an equivalent exemption to similar employment performed in the foreign country by employees of the United States government and instrumentalities thereof;

(5) employment covered under United States Code, title 45, section 351, the Railroad Unemployment Insurance Act;

(6) employment covered by a reciprocal arrangement between the commissioner and another state or the federal government that provides that all employment performed by an individual for an employer during the period covered by the reciprocal arrangement is considered performed entirely within another state;

(7) employment for a church or convention or association of churches, or an organization operated primarily for religious purposes that is operated, supervised, controlled, or principally supported by a church or convention or association of churches described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(8) employment of a duly ordained or licensed minister of a church in the exercise of a ministry or by a member of a religious order in the exercise of duties required by the order, for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(9) employment of an individual receiving rehabilitation of "sheltered" work in a facility

conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or a program providing "sheltered" work for individuals who because of an impaired physical or mental capacity cannot be readily absorbed in the competitive labor market. This clause applies only to services performed for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a) in a facility certified by the Rehabilitation Services Branch of the department or in a day training or habilitation program licensed by the Department of Human Services;

(10) employment of an individual receiving work relief or work training as part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. This clause applies only to employment for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a). This clause does not apply to programs that require unemployment benefit coverage for the participants;

(11) employment for Minnesota or a political subdivision as an elected official, a member of a legislative body, or a member of the judiciary;

(12) employment as a member of the Minnesota National Guard or Air National Guard;

(13) employment for Minnesota, a political subdivision, or instrumentality thereof, as an employee serving only on a temporary basis in case of fire, flood, tornado, or similar emergency;

(14) employment as an election official or election worker for Minnesota or a political subdivision, but only if the compensation for that employment was less than \$1,000 in a calendar year;

(15) employment for Minnesota that is a major policy-making or advisory position in the unclassified service, including those positions established under section 43A.08, subdivision 1a;

(16) employment for a political subdivision of Minnesota that is a nontenured major policy making or advisory position;

(17) domestic employment in a private household, local college club, or local chapter of a college fraternity or sorority performed for a person, only if the wages paid in any calendar quarter in either the current or prior calendar year to all individuals in domestic employment totaled less than \$1,000.

"Domestic employment" includes all service in the operation and maintenance of a private household, for a local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade or business;

(18) employment of an individual by a son, daughter, or spouse, and employment of a child under the age of 18 by the child's father or mother;

(19) employment for a personal care assistance provider agency by an immediate family member of a recipient who provides the direct care to the recipient through the personal care assistance program under section 256B.0659;

(20) employment of an inmate of a custodial or penal institution;

~~(20)~~ (21) employment for a school, college, or university by a student who is enrolled and is regularly attending classes at the school, college, or university;

~~(21)~~ (22) employment of an individual who is enrolled as a student in a full-time program at a nonprofit or public educational institution that maintains a regular faculty and curriculum and has a regularly organized body of students in attendance at the place where its educational activities are carried on, taken for credit at the institution, that combines academic instruction with work experience, if the employment is an integral part of the program, and the institution has so certified to the employer, except that this clause does not apply to employment in a program established for or on behalf of an employer or group of employers;

~~(22)~~ (23) employment of university, college, or professional school students in an internship or other training program with the city of St. Paul or the city of Minneapolis under Laws 1990, chapter 570, article 6, section 3;

~~(23)~~ (24) employment for a hospital by a patient of the hospital. "Hospital" means an institution that has been licensed by the Department of Health as a hospital;

~~(24)~~ (25) employment as a student nurse for a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in an accredited nurses' training school;

~~(25)~~ (26) employment as an intern for a hospital by an individual who has completed a four-year course in an accredited medical school;

~~(26)~~ (27) employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission. The word "insurance" includes an annuity and an optional annuity;

~~(27)~~ (28) employment as an officer of a township mutual insurance company or farmer's mutual insurance company operating under chapter 67A;

~~(28)~~ (29) employment of a corporate officer, if the officer owns 25 percent or more of the employer corporation, and employment of a member of a limited liability company, if the member owns 25 percent or more of the employer limited liability company;

~~(29)~~ (30) employment as a real estate salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission;

~~(30)~~ (31) employment as a direct seller as defined in United States Code, title 26, section 3508;

~~(31)~~ (32) employment of an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

~~(32)~~ (33) casual employment performed for an individual, other than domestic employment under clause (17), that does not promote or advance that employer's trade or business;

~~(33)~~ (34) employment in "agricultural employment" unless considered "covered agricultural employment" under subdivision 11; or

~~(34)~~ (35) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period is considered covered employment; but if during more than

one-half of any pay period the employment was noncovered employment, then all of the employment for the pay period is considered noncovered employment. "Pay period" means a period of not more than a calendar month for which a payment or compensation is ordinarily made to the employee by the employer.

Sec. 3. Minnesota Statutes 2008, section 268.035, is amended by adding a subdivision to read:

Subd. 21d. **Staffing service.** A "staffing service" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary assignment workers to clients of the staffing service.

Sec. 4. Minnesota Statutes 2009 Supplement, section 268.035, subdivision 23a, is amended to read:

Subd. 23a. **Suitable employment.** (a) Suitable employment means employment in the applicant's labor market area that is reasonably related to the applicant's qualifications. In determining whether any employment is suitable for an applicant, the degree of risk involved to the health and safety, physical fitness, prior training, experience, length of unemployment, prospects for securing employment in the applicant's customary occupation, and the distance of the employment from the applicant's residence is considered.

(b) In determining what is suitable employment, primary consideration is given to the temporary or permanent nature of the applicant's separation from employment and whether the applicant has favorable prospects of finding employment in the applicant's usual or customary occupation at the applicant's past wage level within a reasonable period of time.

If prospects are unfavorable, employment at lower skill or wage levels is suitable if the applicant is reasonably suited for the employment considering the applicant's education, training, work experience, and current physical and mental ability.

The total compensation must be considered, including the wage rate, hours of employment, method of payment, overtime practices, bonuses, incentive payments, and fringe benefits.

(c) When potential employment is at a rate of pay lower than the applicant's former rate, consideration must be given to the length of the applicant's unemployment and the proportion of difference in the rates. Employment that may not be suitable because of lower wages during the early weeks of the applicant's unemployment may become suitable as the duration of unemployment lengthens.

(d) For an applicant seasonally unemployed, suitable employment includes temporary work in a lower skilled occupation that pays average gross weekly wages equal to or more than 150 percent of the applicant's weekly unemployment benefit amount.

(e) If a majority of the applicant's weeks of employment in the base period includes part-time employment, part-time employment in a position with comparable skills and comparable hours that pays comparable wages is considered suitable employment.

Full-time employment is not considered suitable employment for an applicant if a majority of the applicant's weeks of employment in the base period includes part-time employment.

(f) To determine suitability of employment in terms of shifts, the arrangement of hours in addition

to the total number of hours is to be considered. Employment on a second, third, rotating, or split shift is suitable employment if it is customary in the occupation in the labor market area.

(g) Employment is not considered suitable if:

- (1) the position offered is vacant because of a labor dispute;
- (2) the wages, hours, or other conditions of employment are substantially less favorable than those prevailing for similar employment in the labor market area; ~~or~~
- (3) as a condition of becoming employed, the applicant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; or
- (4) the employment is with a staffing service and less than 45 percent of the applicant's wage credits are from a job assignment with the client of a staffing service.

(h) A job assignment with a staffing service is considered suitable only if 45 percent or more of the applicant's wage credits are from job assignments with clients of a staffing service and the job assignment meets the definition of suitable employment under paragraph (a).

Sec. 5. Minnesota Statutes 2008, section 268.046, subdivision 1, is amended to read:

Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a taxpaying employer to have that person obtain the taxpaying employer's workforce and provide workers to the taxpaying employer for a fee is, as of the effective date of the contract, assigned for the duration of the contract the taxpaying employer's account under section 268.045. That tax account must be maintained by the person separate and distinct from every other tax account held by the person and identified in a manner prescribed by the commissioner. The tax account is, for the duration of the contract, considered that person's account for all purposes of this chapter. The workers obtained from the taxpaying employer and any other workers provided by that person to the taxpaying employer, including officers of the taxpaying employer as defined in section 268.035, subdivision 20, clause (28), whose wages paid by the person are considered paid in covered employment under section 268.035, subdivision 24, for the duration of the contract between the taxpaying employer and the person, must, under section 268.044, be reported on the wage detail report under that tax account, and that person must pay any taxes due at the tax rate computed for that account under section 268.051, subdivision 2.

(b) Any workers of the taxpaying employer who are not covered by the contract under paragraph (a) must be reported by the taxpaying employer as a separate unit on the wage detail report under the tax account assigned under paragraph (a). Taxes and any other amounts due on the wages reported by the taxpaying employer under this paragraph may be paid directly by the taxpaying employer.

(c) If the taxpaying employer that contracts with a person under paragraph (a) does not have a tax account at the time of the execution of the contract, an account must be registered for the taxpaying employer under section 268.042 and the new employer tax rate under section 268.051, subdivision 5, must be assigned. The tax account is then assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a taxpaying employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner by electronic transmission, in a format prescribed by the commissioner, of that execution or termination. The taxpaying employer's name, the account number assigned, and any other information required by

the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the taxpaying employer of the assignment of the tax account under this section and the taxpaying employer's obligation under paragraph (b). If there is a termination of the contract, the tax account is, as of the date of termination, immediately assigned to the taxpaying employer.

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

Sec. 6. Minnesota Statutes 2008, section 268.051, subdivision 2, is amended to read:

Subd. 2. **Computation of tax rates; additional assessments.** (a) For each calendar year the commissioner ~~shall~~ must compute the tax rate of each taxpaying employer that qualifies for an experience rating by adding the base tax rate to the employer's experience rating along with assigning any appropriate additional assessment under paragraph ~~(d)~~ (c).

(b) The base tax rate for the calendar year and any additional assessments under this subdivision are determined based upon the amount in the trust fund on March 31 of the prior year as a percentage of total wages paid in covered employment. The base tax rate is:

- (1) one-tenth of one percent if the trust fund is equal to or more than 0.75 percent;
- (2) two-tenths of one percent if the trust fund is less than 0.75 percent but equal to or more than 0.65 percent;
- (3) three-tenths of one percent if the trust fund is less than 0.65 percent but equal to or more than 0.55 percent; ~~or~~
- (4) four-tenths of one percent if the trust fund is less than 0.55 percent, but has a positive balance;
or
- (5) five-tenths of one percent if the trust fund has a negative balance and is borrowing from the federal unemployment trust fund in order to pay unemployment benefits as provided for under section 268.194, subdivision 6.

~~(c) There is a "falling trust fund adjustment" to the base tax rate for the calendar year if the amount in the trust fund on March 31 of the prior year is less than 0.75 percent of total wages paid in covered employment and:~~

~~(1) the amount in the trust fund on March 31 of the prior year is ten percent or more below the amount in the trust fund on March 31 of the year before that; or~~

~~(2) the amount in the trust fund on March 31 of the prior year is greater than the amount in the trust fund on June 30 of that same year.~~

~~If a "falling trust fund adjustment" is applicable, then the base tax rate is one-tenth of one percent greater than otherwise provided for under paragraph (b).~~

~~(d)~~ In addition to the base tax rate, there is an additional assessment for the calendar year on the quarterly unemployment taxes due from every taxpaying employer if the amount in the trust fund on March 31 of the prior year is less than 0.55 percent of total wages paid in covered employment. The assessment is as follows:

(1) a five percent assessment if the trust fund is less than 0.55 percent but equal to or more than 0.45 percent;

(2) a ten percent assessment if the trust fund is less than 0.45 percent but equal to or more than 0.35 percent; or

(3) a 14 percent assessment if the trust fund is less than 0.35 percent.

~~(e)~~(d) For the purposes of this subdivision, the trust fund does not include any money borrowed from the federal unemployment trust fund provided for in section 268.194, subdivision 6.

~~(f)~~(e) For the purposes of this subdivision, total wages paid in covered employment are those wages paid to all employees in covered employment during the calendar year before the March 31 date used in paragraph (b).

~~(g)~~(f) The base tax rate and any additional assessments are assessed on all taxpaying employers to cover a portion of the costs to the trust fund for unemployment benefits paid that do not affect any single employer's future experience rating because:

(1) the employer's experience rating is limited by the maximum under subdivision 3, paragraph (b);

(2) the employer has ceased doing business; or

(3) the unemployment benefits paid have been determined not to be used in computing the employer's experience rating under section 268.047, subdivision 2 or 3.

Sec. 7. Minnesota Statutes 2008, section 268.051, subdivision 5, is amended to read:

Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does not qualify for an experience rating under subdivision 3, except new employers in a high experience rating industry, must be assigned, for a calendar year, a tax rate the higher of (1) one percent, or (2) the tax rate computed, to the nearest ~~one hundredth~~ 1/100 of a percent, by dividing the total amount of unemployment benefits paid all applicants during the 48 calendar months ending on June 30 of the prior calendar year by the total taxable wages of all taxpaying employers during the same period, plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

(b) Each new taxpaying employer in a high experience rating industry that does not qualify for an experience rating under subdivision 3, must be assigned, for a calendar year, a tax rate the higher of ~~8.00 percent~~, (1) that assigned under paragraph (a), or (2) the tax rate, computed to the nearest 1/100 of a percent, by dividing the total amount of unemployment benefits paid to all applicants from high experience rating industry employers during the 48 calendar months ending on June 30 of the prior calendar year by the total taxable wages of all high experience rating industry employers during the same period, to a maximum provided for under subdivision 3, paragraph (b), plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

(c) An employer is considered to be in a high experience rating industry if:

(1) the employer is engaged in residential, commercial, or industrial construction, including general contractors;

(2) the employer is engaged in sand, gravel, or limestone mining;

(3) the employer is engaged in the manufacturing of concrete, concrete products, or asphalt; or

(4) the employer is engaged in road building, repair, or resurfacing, including bridge and tunnels and residential and commercial driveways and parking lots.

~~(e)~~ (d) The commissioner ~~shall~~ must send to the new employer, by mail or electronic transmission, notice of the tax rate assigned. An employer may appeal the assignment of a tax rate in accordance with the procedures in subdivision 6, paragraph (c).

Sec. 8. Minnesota Statutes 2008, section 268.051, subdivision 7, is amended to read:

Subd. 7. **Tax rate buydown.** (a) Any taxpaying employer that has been assigned a tax rate based upon an experience rating, and has no amounts past due under this chapter, may, upon the payment of an amount equivalent to any portion or all of the unemployment benefits used in computing the experience rating plus a surcharge of 25 percent, obtain a cancellation of unemployment benefits used equal to the payment made, less the surcharge. The payment is applied to the most recent unemployment benefits paid that are used in computing the experience rating. Upon the payment, the commissioner ~~shall~~ must compute a new experience rating for the employer, and compute a new tax rate.

(b) Payments for a tax rate buydown may be made only by electronic payment and must be received within 120 calendar days from the beginning of the calendar year for which the tax rate is effective.

(c) For calendar years 2011, 2012, and 2013, the surcharge of 25 percent provided for in paragraph (a) does not apply.

Sec. 9. Minnesota Statutes 2009 Supplement, section 268.052, subdivision 2, is amended to read:

Subd. 2. **Election by state or political subdivision to be taxpaying employer.** (a) The state or political subdivision may elect to be a taxpaying employer ~~for any calendar year~~ if a notice of election is filed ~~within 30 calendar days following January 1 of that calendar year.~~ The election is effective at the beginning of the next calendar quarter. Upon election, the state or political subdivision must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.

~~(b)~~ An election is for a minimum period of ~~two 24 calendar years~~ months following the effective date of the election and continue unless a notice terminating the election is filed ~~not later than 30 calendar days before the beginning of the calendar year.~~ The termination is effective at the beginning of the next calendar ~~year~~ quarter.

~~(e)~~ (b) The method of payments to the trust fund under subdivisions 3 and 4 applies to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

~~(d)~~ (c) A notice of election or a notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 268.053, subdivision 1, is amended to

read:

Subdivision 1. **Election.** (a) Any nonprofit organization that has employees in covered employment must pay taxes on a quarterly basis in accordance with section 268.051 unless it elects to make reimbursements to the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

The organization may elect to make reimbursements for a period of not less than ~~two~~ 24 calendar ~~years~~ months beginning with the date that the organization was determined to be an employer with covered employment by filing a notice of election not later than 30 calendar days after the date of the determination.

(b) Any nonprofit organization that makes an election will continue to be liable for reimbursements until it files a notice terminating its election ~~not later than 30 calendar days~~ before the beginning of the calendar year quarter the termination is to be effective.

~~(e)~~ A nonprofit organization that has been making reimbursements that files a notice of termination of election must be assigned the new employer tax rate under section 268.051, subdivision 5, ~~for the calendar year of the termination of election and unless or until it qualifies for an experience rating under section 268.051, subdivision 3.~~

~~(d)~~ (c) Any nonprofit organization that has been paying taxes may elect to make reimbursements by filing ~~no less than 30 calendar days before January 1 of any calendar year~~ a notice of election. The election is effective at the beginning of the next calendar quarter. The election is not terminable by the organization for ~~that and the next 24 calendar year months.~~

~~(e)~~ (d) The commissioner may for good cause extend the period that a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive.

~~(f)~~ (e) A notice of election or notice terminating election must be filed by electronic transmission in a format prescribed by the commissioner.

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

Sec. 11. Minnesota Statutes 2008, section 268.07, as amended by Laws 2009, chapter 15, sections 5 and 6, and chapter 78, article 3, section 6, and article 4, sections 19 to 21, is amended to read:

268.07 BENEFIT ACCOUNT.

Subdivision 1. **Application for unemployment benefits; determination of benefit account.**

(a) An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the commissioner may require. The applicant must be unemployed at the time the application is filed and must provide all requested information in the manner required. If the applicant is not unemployed at the time of the application or fails to provide all requested information, the communication is not considered an application for unemployment benefits.

(b) The commissioner must examine each application for unemployment benefits to determine the base period and the benefit year, and based upon all the covered employment in the base period the commissioner ~~shall~~ must determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination, which is a

document separate and distinct from a document titled a determination of eligibility or determination of ineligibility issued under section 268.101, must be titled determination of benefit account. A determination of benefit account must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage detail information for the applicant as required under section 268.044, or provided erroneous information, or wage detail is not yet due and the applicant is using an alternate base period under section 268.035, subdivision 4, paragraph (d), the commissioner may accept an applicant certification of wage credits, based upon the applicant's records, and issue a determination of benefit account.

(d) An employer must provide wage detail information on an applicant within five calendar days of request by the commissioner, in a manner and format requested, when:

(1) the applicant is using an alternate base period under section 268.035, subdivision 4, paragraph (d); and

(2) wage detail under section 268.044 is not yet required to have been filed by the employer.

(e) The commissioner may, at any time within 24 months from the establishment of a benefit account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the wage credits listed in the determination was were incorrect for any reason. An amended determination of benefit account must be promptly sent to the applicant and all base period employers, by mail or electronic transmission. This subdivision does not apply to documents titled determinations of eligibility or determinations of ineligibility issued under section 268.101.

(f) If an amended determination of benefit account reduces the weekly unemployment benefit amount or maximum amount of unemployment benefits available, any unemployment benefits that have been paid greater than the applicant was entitled is considered an overpayment of unemployment benefits. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

Subd. 2. **Benefit account requirements and ~~weekly unemployment benefit amount and maximum amount of unemployment benefits.~~** (a) Unless paragraph (b) applies, to establish a benefit account:

(1) using the primary base period under section 268.035, subdivision 4, paragraph (a), an applicant must have:

~~(1)~~ (i) wage credits in the high quarter of \$1,000 or more; and

~~(2)~~ (ii) wage credits, in other than the high quarter, of \$250 or more.

~~To establish a benefit account; or~~

(2) using the secondary base period under section 268.035, subdivision 4, paragraph (b), an applicant must have wage credits in the high quarter of \$1,000 or more.

(b) To establish a new benefit account within 52 calendar weeks following the expiration of the

benefit year on a prior benefit account, an applicant must meet the requirements of paragraph (a) and must have performed services in covered employment in a calendar quarter that started after the effective date of the prior benefit account. The wage credits for those services must be at least eight times the weekly benefit amount on the prior benefit account. One of the reasons for this paragraph is to prevent an applicant from establishing a second benefit account as a result of one loss of employment.

Subd. 2a. Weekly unemployment benefit amount and maximum amount of unemployment benefits available. ~~(b)~~ (a) If an applicant has established a benefit account under subdivision 2, the weekly unemployment benefit amount available during the applicant's benefit year is the higher of:

- (1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 percent of the state's average weekly wage; or
- (2) 50 percent of the applicant's average weekly wage during the high quarter, to a maximum of 43 percent of the state's average weekly wage.

The applicant's average weekly wage under clause (1) is computed by dividing the total wage credits by 52. The applicant's average weekly wage under clause (2) is computed by dividing the high quarter wage credits by 13.

~~(e)~~ (b) The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, applies to a benefit account established effective on or after the last Sunday in October. Once established, an applicant's weekly unemployment benefit amount is not affected by the last Sunday in October change in the state's maximum weekly unemployment benefit amount.

~~(d)~~ (c) The maximum amount of unemployment benefits available on any benefit account is the lower of:

- (1) 33-1/3 percent of the applicant's total wage credits; or
- (2) 26 times the applicant's weekly unemployment benefit amount.

Subd. 3. Second benefit account requirements. ~~To establish a second benefit account following the expiration of a benefit year on a prior benefit account, an applicant must meet the requirements of subdivision 2 and must have performed services in covered employment after the effective date of the prior benefit account. The wages paid for those services must be at least eight times the weekly unemployment benefit amount of the prior benefit account. Part of the reason for this subdivision is to prevent an applicant from establishing more than one benefit account as a result of one loss of employment.~~

Subd. 3a. Right of appeal. (a) A determination or amended determination of benefit account is final unless an applicant or base period employer within 20 calendar days after the sending of the determination or amended determination files an appeal. Every determination or amended determination of benefit account must contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

(b) Any applicant or base period employer may appeal from a determination or amended determination of benefit account on the issue of whether services performed constitute employment

and, whether the employment is considered covered employment, and whether money paid constitutes wages. Proceedings on the appeal are conducted in accordance with section 268.105.

Subd. 3b. **Limitations on applications and benefit accounts.** (a) An application for unemployment benefits is effective the Sunday of the calendar week that the application was filed. An application for unemployment benefits may be backdated one calendar week before the Sunday of the week the application was actually filed if the applicant requests the backdating at the time the application is filed. An application may be backdated only if the applicant had no employment during the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the application is effective the Sunday of the calendar week the individual first attempted to file an application.

(b) A benefit account established under subdivision 2 is effective the date the application for unemployment benefits was effective.

(c) A benefit account, once established, may later be withdrawn only if:

- (1) the applicant has not been paid any unemployment benefits on that benefit account; and
- (2) a new application for unemployment benefits is filed and a new benefit account is established at the time of the withdrawal.

A determination or amended determination of eligibility or ineligibility issued under section 268.101, that was sent before the withdrawal of the benefit account, remains in effect and is not voided by the withdrawal of the benefit account. A determination of ineligibility requiring subsequent earnings to satisfy the period of ineligibility under section 268.095, subdivision 10, applies to the weekly unemployment benefit amount on the new benefit account.

(d) An application for unemployment benefits is not allowed before the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph (c), an applicant may establish only one benefit account each 52 calendar weeks.

EFFECTIVE DATE. This section is effective for benefit accounts filed effective on or after the first Sunday following final enactment.

Sec. 12. Minnesota Statutes 2009 Supplement, section 268.085, subdivision 1, is amended to read:

Subdivision 1. **Eligibility conditions.** An applicant may be eligible to receive unemployment benefits for any week if:

- (1) the applicant has filed a continued request for unemployment benefits for that week under section 268.0865;
- (2) the week for which unemployment benefits are requested is in the applicant's benefit year;
- (3) the applicant was unemployed as defined in section 268.035, subdivision 26;
- (4) the applicant was available for suitable employment as defined in subdivision 15. The applicant's weekly unemployment benefit amount is reduced one-fifth for each day the applicant is unavailable for suitable employment. This clause does not apply to an applicant who is in

reemployment assistance training, or each day the applicant is on jury duty or serving as an election judge;

(5) the applicant was actively seeking suitable employment as defined in subdivision 16. This clause does not apply to an applicant who is in reemployment assistance training or who was on jury duty throughout the week;

(6) the applicant has served a nonpayable ~~waiting~~ period of one week that the applicant is otherwise entitled to some amount of unemployment benefits. This clause does not apply if the applicant would have been entitled to federal disaster unemployment assistance because of a disaster in Minnesota, but for the applicant's establishment of a benefit account under section 268.07; and

(7) the applicant has been participating in reemployment assistance services, such as job search and resume writing classes, if the applicant has been determined in need of reemployment assistance services by the commissioner, unless the applicant has good cause for failing to participate.

Sec. 13. Minnesota Statutes 2008, section 268.085, subdivision 9, is amended to read:

Subd. 9. **Business owners.** (a) Wage credits from an employer may not be used for unemployment benefit purposes by any applicant who:

(1) individually, jointly, or in combination with the applicant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employer; or

(2) is the spouse, parent, or ~~minor~~ child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employer.

This subdivision is effective when the applicant has been paid five times the applicant's weekly unemployment benefit amount in the current benefit year. This subdivision does not apply if the applicant had wages paid in covered employment of \$7,500 or more from the employer covered by this subdivision in each of the 16 calendar quarters prior to the effective date of the benefit account and all taxes due on those wages have been paid.

(b) An officer of a taxpaying employer referred to in section 268.046, subdivision 1, is subject to the limitations of this subdivision.

Sec. 14. Minnesota Statutes 2008, section 268.085, subdivision 16, is amended to read:

Subd. 16. **Actively seeking suitable employment defined.** (a) "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment."

(b) To be considered "actively seeking suitable employment" an applicant must, when reasonable, contact those employers from whom the applicant was laid off because of lack of work and request suitable employment.

(c) If reasonable prospects of suitable employment in the applicant's usual or customary occupation do not exist, the applicant must actively seek other suitable employment to be considered "actively seeking suitable employment." This applies to an applicant who is seasonally

unemployed.

(d) Actively seeking a suitable job assignment or other employment with a staffing service is considered actively seeking suitable employment.

(e) An applicant who is seeking employment only through a union is considered actively seeking suitable employment if the applicant is in an occupation where hiring in that locality is done through the union. If the applicant is a union member who is restricted to obtaining employment among signatory contractors in the construction industry, seeking employment only with those signatory contractors is considered actively seeking employment. The applicant must be a union member in good standing, registered with the union for employment, and in compliance with other union rules to be considered "actively seeking suitable employment."

Sec. 15. Minnesota Statutes 2009 Supplement, section 268.095, subdivision 2, is amended to read:

Subd. 2. **Quit defined.** (a) A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's.

(b) An employee who has been notified that the employee will be discharged in the future, who chooses to end the employment while employment in any capacity is still available, is considered to have quit the employment.

(c) An employee who seeks to withdraw a previously submitted notice of quitting is considered to have quit the employment if the employer does not agree that the notice may be withdrawn.

(d) An applicant who, within five calendar days after completion of a suitable ~~temporary~~ job assignment from a staffing service ~~employer~~, (1) fails without good cause to affirmatively request an additional suitable job assignment, (2) refuses without good cause an additional suitable job assignment offered, or (3) accepts employment with the client of the staffing service, is considered to have quit employment with the staffing service. Accepting employment with the client of the staffing service meets the requirements of the exception to ineligibility under subdivision 1, clause (2).

This paragraph applies only if, at the time of beginning of employment with the staffing service ~~employer~~, the applicant signed and was provided a copy of a separate document written in clear and concise language that informed the applicant of this paragraph and that unemployment benefits may be affected.

For purposes of this paragraph, "good cause" is a reason that is significant and would compel an average, reasonable worker, who would otherwise want an additional ~~temporary suitable~~ job assignment with the staffing service ~~employer~~, (1) to fail to contact the staffing service ~~employer~~, or (2) to refuse an offered assignment.

~~For purposes of this paragraph, a "staffing service employer" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary job assignment workers to clients of the staffing service.~~

Sec. 16. Minnesota Statutes 2008, section 268.095, subdivision 5, is amended to read:

Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any words or actions

by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity. A layoff because of lack of work is considered a discharge. A suspension from employment without pay of more than 30 calendar days is considered a discharge.

(b) An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period is considered discharged from the employment as of the date the employer will no longer allow the employee to work. If the discharge occurs within 30 calendar days before the intended date of quitting, then, as of the intended date of quitting, the separation from employment is considered a quit from employment subject to subdivision 1.

(c) The end of a job assignment with the client of a staffing service is considered a discharge from employment with the staffing service unless section 268.095, subdivision 2, paragraph (d), applies.

Sec. 17. Minnesota Statutes 2009 Supplement, section 268.095, subdivision 6, is amended to read:

Subd. 6. Employment misconduct defined. (a) Employment misconduct means any intentional, negligent, or indifferent conduct, on the job or off the job that displays clearly:

(1) a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee; or

(2) a substantial lack of concern for the employment.

(b) Regardless of paragraph (a), the following is not employment misconduct:

(1) conduct that was a consequence of the applicant's mental illness or impairment;

(2) conduct that was a consequence of the applicant's inefficiency or inadvertence;

(3) simple unsatisfactory conduct;

(4) conduct an average reasonable employee would have engaged in under the circumstances;

(5) ~~poor performance because of~~ conduct that was a consequence of the applicant's inability or incapacity;

(6) good faith errors in judgment if judgment was required;

(7) absence because of illness or injury of the applicant, with proper notice to the employer;

(8) absence, with proper notice to the employer, in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant;

(9) conduct that was a ~~direct result~~ consequence of the applicant's chemical dependency, unless the applicant was previously diagnosed chemically dependent or had treatment for chemical dependency, and since that diagnosis or treatment has failed to make consistent efforts to control the chemical dependency; or

(10) conduct that was a ~~result~~ consequence of the applicant, or an immediate family member of the applicant, being a victim of domestic abuse as defined under section 518B.01. Domestic abuse

must be shown as provided for in subdivision 1, clause (9).

(c) Regardless of paragraph (b), clause (9), conduct in violation of sections 169A.20, 169A.31, or 169A.50 to 169A.53 that interferes with or adversely affects the employment is employment misconduct.

(d) If the conduct for which the applicant was discharged involved only a single incident, that is an important fact that must be considered in deciding whether the conduct rises to the level of employment misconduct under paragraph (a).

(e) The definition of employment misconduct provided by this subdivision is exclusive and no other definition applies.

EFFECTIVE DATE. This section is effective for determinations under section 268.101, subdivision 2, and appeal decisions under section 268.105, subdivision 1, issued on and after the Sunday following final enactment.

Sec. 18. Minnesota Statutes 2008, section 268.101, is amended by adding a subdivision to read:

Subd. 2a. Telephone number. Every determination issued under subdivision 2 must include a prominently displayed telephone number that an applicant or involved employer can call to speak with an unemployment insurance specialist and obtain further explanation about the determination and have any questions answered. The specialist must, when appropriate, issue an amended determination as provided for in subdivision 4. The listed telephone number must be unique to a specialized call group trained to handle calls involving determinations.

EFFECTIVE DATE. This section is effective October 3, 2010, and expires September 30, 2012.

Sec. 19. Minnesota Statutes 2009 Supplement, section 268.105, subdivision 1, is amended to read:

Subdivision 1. **Evidentiary hearing by unemployment law judge.** (a) Upon a timely appeal having been filed, the department must send, by mail or electronic transmission, a notice of appeal to all involved parties that an appeal has been filed, and that a de novo due process evidentiary hearing will be scheduled. The notice must set out the parties' rights and responsibilities regarding the hearing. The notice must explain that the facts will be determined by the unemployment law judge based upon a preponderance of the evidence. The notice must explain in clear and simple language the meaning of the term "preponderance of the evidence." The department must set a time and place for a de novo due process evidentiary hearing and send notice to any involved applicant and any involved employer, by mail or electronic transmission, not less than ten calendar days before the date of the hearing.

(b) The evidentiary hearing is conducted by an unemployment law judge as an evidence gathering inquiry. At the beginning of the hearing the unemployment law judge must fully explain how the hearing will be conducted, that the applicant has the right to request that the hearing be rescheduled so that documents or witnesses can be subpoenaed, that the facts will be determined based on a preponderance of the evidence, and, in clear and simple language, the meaning of the term "preponderance of the evidence." The unemployment law judge must ensure that all relevant facts are clearly and fully developed. The department may adopt rules on evidentiary hearings. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. The department has discretion regarding the method by which the evidentiary hearing

is conducted. A report of any employee of the department, except a determination, made in the regular course of the employee's duties, is competent evidence of the facts contained in it. An affidavit or written statement based on personal knowledge and signed under penalty of perjury is competent evidence of the facts contained in it; however, the veracity of statements contained within the document or the credibility of the witness making the statement may be disputed with other documents or testimony and production of such documents or testimony may be compelled by subpoena.

(c) After the conclusion of the hearing, upon the evidence obtained, the unemployment law judge must make findings of fact and decision and send those, by mail or electronic transmission, to all involved parties. When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony. The unemployment law judge's decision is final unless a request for reconsideration is filed under subdivision 2.

(d) Regardless of paragraph (c), if the appealing party fails to participate in the evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal by summary order. By failing to participate, the appealing party is considered to have failed to exhaust available administrative remedies unless the appealing party files a request for reconsideration under subdivision 2 and establishes good cause for failing to participate in the evidentiary hearing under subdivision 2, paragraph (d). Submission of a written statement does not constitute participation. The applicant must participate personally and appearance solely by a representative does not constitute participation.

(e) Only employees of the department who are attorneys licensed to practice law in Minnesota may serve as the chief unemployment law judge, senior unemployment law judges who are supervisors, or unemployment law judges. The commissioner must designate a chief unemployment law judge. The chief unemployment law judge may transfer to another unemployment law judge any proceedings pending before an unemployment law judge.

(f) A full-time unemployment law judge must be paid a salary within a range directly tied to the salary set under section 15A.083, subdivision 7, for a workers' compensation judge. The salary paid within that range to any single unemployment law judge is based on experience and performance.

Sec. 20. Minnesota Statutes 2009 Supplement, section 268.136, subdivision 1, is amended to read:

Subdivision 1. **Shared work agreement requirements.** (a) An employer may submit a proposed shared work plan for an employee group to the commissioner for approval in a manner and format set by the commissioner. The proposed agreement must include:

(1) a certified statement that the normal weekly hours of work of all of the proposed participating employees were full time but are now reduced, or will be reduced, with a corresponding reduction in pay, in order to prevent layoffs;

(2) the name and Social Security number of each participating employee;

(3) a certified statement of when each participating employee was first hired by the employer, which must be at least one year before the proposed agreement is submitted;

(4) the hours of work each participating employee will work each week for the duration of the

agreement, which must be at least 20 hours and no more than 32 hours per week, except that the agreement may provide for a uniform vacation shutdown of up to two weeks;

(5) the proposed duration of the agreement, which must be at least two months and not more than one year, although an agreement may be extended for up to an additional year upon approval of the commissioner;

(6) a starting date beginning on a Sunday at least 15 calendar days after the date the proposed agreement is submitted; and

(7) a signature of an owner or officer of the employer who is listed as an owner or officer on the employer's account under section 268.045.

(b) An agreement may not be approved for an employer that:

(1) has any unemployment tax or reimbursements, including any interest, fees, or penalties, due but unpaid; or

(2) has the maximum experience rating provided for under section 268.051, subdivision 3; ~~or~~

~~(3) is in a high experience rating industry as defined in section 268.051, subdivision 5.~~

Sec. 21. Minnesota Statutes 2008, section 268.184, subdivision 1, is amended to read:

Subdivision 1. **Administrative penalties.** (a) The commissioner shall penalize an employer if that employer or any employee, officer, or agent of that employer, is in collusion with any applicant for the purpose of assisting the applicant to receive unemployment benefits fraudulently. The penalty is \$500 or the amount of unemployment benefits determined to be overpaid, whichever is greater.

(b) The commissioner shall penalize an employer if that employer or any employee, officer, or agent of that employer (1) made a false statement or representation knowing it to be false, (2) made a false statement or representation without a good faith belief as to correctness of the statement or representation, ~~or~~ (3) knowingly failed to disclose a material fact; or (4) made an offer of employment to an applicant when, in fact, the employer had no employment available, but only if the employer's action:

(i) was taken to prevent or reduce the payment of unemployment benefits to any applicant;

(ii) was taken to reduce or avoid any payment required from an employer under this chapter or section 116L.20; or

(iii) caused an overpayment of unemployment benefits to an applicant.

The penalty is \$500, or 50 percent of the overpaid or reduced unemployment benefits or payment required, whichever is greater.

(c) The commissioner shall penalize an employer if that employer failed or refused to honor a subpoena issued under section 268.105, subdivision 4, or section 268.188. The penalty is \$500 and any costs of enforcing the subpoena, including attorney fees.

(d) Penalties under this subdivision are in addition to any other penalties and subject to the same collection procedures that apply to past due taxes. Penalties must be paid within 30 calendar days of assessment and credited to the contingent account.

(e) The assessment of the penalty is final unless the employer files an appeal within 20 calendar days after the sending of notice of the penalty to the employer by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

Sec. 22. SPECIAL STATE EXTENDED UNEMPLOYMENT INSURANCE PROGRAM.

Subdivision 1. Eligibility. (a) Special state extended unemployment insurance benefits are payable under this section to an applicant who does not qualify for extended unemployment insurance benefits under Minnesota Statutes, section 268.115, solely because the applicant does not have wage credits of at least 40 times the applicant's weekly benefit amount.

(b) Except as provided in paragraph (a), all requirements for extended unemployment benefits under Minnesota Statutes, section 268.115, and all other requirements of Minnesota Statutes, chapter 268, must be met in order for an applicant to be eligible for special state extended unemployment insurance benefits under this section.

(c) Except as provided for in paragraph (d), special state extended unemployment insurance benefits are payable in the same amounts, for the same duration, and for the same time period as provided for under Minnesota Statutes, section 268.115.

(d) The maximum amount of special state extended unemployment insurance benefits under this section available to an applicant is reduced by the amount of special state emergency unemployment insurance benefits paid the applicant under Laws 2009, chapter 1, section 2.

Subd. 2. Payment from trust fund. Special state extended unemployment insurance benefits are payable from the Minnesota unemployment insurance trust fund. Special state extended unemployment insurance benefits must not be used in computing the future unemployment insurance tax rate of a taxpaying employer, and they must not be charged to the reimbursing account of government or nonprofit employers.

Subd. 3. Expiration. This section expires on March 26, 2011, and no benefits may be paid under this section for a week beginning after that date.

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

Sec. 23. LEAVES OF ABSENCE.

Minnesota Statutes, section 268.088, applies to leaves of absence taken by workers at the New Ulm location of 3M during 2009. The department must, notwithstanding any prior determination or appeal decision, redetermine an applicant's entitlement to unemployment benefits under this section.

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

Sec. 24. SPECIAL STATE EMERGENCY UNEMPLOYMENT COMPENSATION.

Notwithstanding the June 30, 2010, expiration date of Laws 2009, chapter 1, section 2, subdivision 4, if an applicant has filed for special state emergency unemployment compensation under that law for a week beginning prior to June 30, 2010, but has not exhausted the maximum amount available to the applicant under that law, the applicant may continue to receive special state emergency unemployment compensation under that law up to the applicant's determined maximum under that law. This section expires March 26, 2011, and no benefits may be paid pursuant to this section for a week beginning after that date.

Sec. 25. **NEW BENEFIT ACCOUNTS.**

If an applicant establishes a new benefit account under Minnesota Statutes, section 268.07, subdivision 2, paragraph (b), within 39 weeks of the expiration of the benefit year on a prior benefit account, notwithstanding Minnesota Statutes, section 268.07, subdivision 2a, paragraph (a), the weekly benefit amount on the new benefit account will not be less than 80 percent of the weekly benefit amount on the prior benefit account.

EFFECTIVE DATE. This section applies to benefit accounts effective on or after the first Sunday following enactment and expires the earlier of: (1) the effective date of any federal legislation allowing an applicant to continue to collect federal emergency unemployment compensation, notwithstanding the applicant qualifying for a new regular state benefit account under Minnesota Statutes, section 268.07, subdivision 2, paragraph (b); or (2) June 30, 2011.

Sec. 26. **VACATION PAY AND UNEMPLOYMENT BENEFITS.**

An individual who received unemployment benefits in 2009 shall not be determined overpaid under Minnesota Statutes, section 268.18, subdivision 1, because of receipt of vacation pay in 2009 which was earned in 2008 under a collective bargaining agreement with an employer located in Hibbing that had layoffs in May 2009 of over 400 workers.

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

Sec. 27. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number in column B.

<u>Column A</u>	<u>Column B</u>
<u>268.035, subdivision 12b</u>	<u>268.035, subdivision 12d</u>
<u>268.035, subdivision 21a</u>	<u>268.035, subdivision 21c</u>
<u>268.035, subdivision 20a</u>	<u>268.035, subdivision 21b</u>
<u>268.035, subdivision 25a</u>	<u>268.035, subdivision 25c</u>

ARTICLE 3

LABOR STANDARDS AND WAGES; LICENSING AND FEES

Section 1. Minnesota Statutes 2008, section 181.723, subdivision 5, is amended to read:

Subd. 5. **Application.** To obtain an independent contractor exemption certificate, the individual must submit, in the manner prescribed by the commissioner, a complete application and the certificate fee required under subdivision 14.

(a) A complete application must include all of the following information:

- (1) the individual's full name;
- (2) the individual's residence address and telephone number;

- (3) the individual's business name, address, and telephone number;
- (4) the services for which the individual is seeking an independent contractor exemption certificate;
- (5) the individual's Social Security number;
- (6) the individual's or the individual's business federal employer identification number, if a number has been issued to the individual or the individual's business;
- (7) any information or documentation that the commissioner requires by rule that will assist the department in determining whether to grant or deny the individual's application; and
- (8) the individual's sworn statement that the individual meets all of the following conditions:
 - (i) maintains a separate business with the individual's own office, equipment, materials, and other facilities;
 - (ii) holds or has applied for a federal employer identification number or has filed business or self-employment income tax returns with the federal Internal Revenue Service if the person has performed services in the previous year for which the individual is seeking the independent contractor exemption certificate;
 - (iii) operates under contracts to perform specific services for specific amounts of money and under which the individual controls the means of performing the services;
 - (iv) incurs the main expenses related to the service that the individual performs under contract;
 - (v) is responsible for the satisfactory completion of services that the individual contracts to perform and is liable for a failure to complete the service;
 - (vi) receives compensation for service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;
 - (vii) may realize a profit or suffer a loss under contracts to perform service;
 - (viii) has continuing or recurring business liabilities or obligations; and
 - (ix) the success or failure of the individual's business depends on the relationship of business receipts to expenditures.
- (b) Individuals who are applying for or renewing a residential building contractor or residential remodeler license under sections 326B.197, 326B.802, 326B.805, 326B.81, 326B.815, 326B.821 to 326B.86, 326B.87 to 326B.885, and 327B.041, and any rules promulgated pursuant thereto, may simultaneously apply for or renew an independent contractor exemption certificate. The commissioner shall create an application form that allows for the simultaneous application for both a residential building contractor or residential remodeler license and an independent contractor exemption certificate. If individuals simultaneously apply for or renew a residential building contractor or residential remodeler license and an independent contractor exemption certificate using the form created by the commissioner, individuals shall only be required to provide, in addition to the information required by section 326B.83 and rules promulgated pursuant thereto, the sworn statement required by paragraph (a), clause (8), and any additional information required

by this subdivision that is not also required by section 326B.83 and any rules promulgated thereto. When individuals submit a simultaneous application on the form created by the commissioner for both a residential building contractor or residential remodeler license and an independent contractor exemption certificate, the application fee shall be \$150. An independent contractor exemption certificate that is in effect before March 1, 2009, shall remain in effect until March 1, ~~2011~~ 2013, unless revoked by the commissioner or canceled by the individual.

(c) Within 30 days of receiving a complete application and the certificate fee, the commissioner must either grant or deny the application. The commissioner may deny an application for an independent contractor exemption certificate if the individual has not submitted a complete application and certificate fee or if the individual does not meet all of the conditions for holding the independent contractor exemption certificate. The commissioner may revoke an independent contractor exemption certificate if the commissioner determines that the individual no longer meets all of the conditions for holding the independent contractor exemption certificate, commits any of the actions set out in subdivision 7, or fails to cooperate with a department investigation into the continued validity of the individual's certificate. Once issued, an independent contractor exemption certificate remains in effect for ~~two~~ four years unless:

- (1) revoked by the commissioner; or
- (2) canceled by the individual.

(d) If the department denies an individual's original or renewal application for an independent contractor exemption certificate or revokes an independent contractor exemption certificate, the commissioner shall issue to the individual an order denying or revoking the certificate. The commissioner may issue an administrative penalty order to an individual or person who commits any of the actions set out in subdivision 7.

(e) An individual or person to whom the commissioner issues an order under paragraph (d) shall have 30 days after service of the order to request a hearing. The request for hearing must be in writing and must be served on or faxed to the commissioner at the address or facsimile number specified in the order by the 30th day after service of the order. If the individual does not request a hearing or if the individual's request for a hearing is not served on or faxed to the commissioner by the 30th day after service of the order, the order shall become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. If the individual serves or faxes a timely request for hearing, the hearing shall be a contested case hearing and shall be held in accordance with chapter 14.

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

Sec. 2. [184B.20] INFLATABLE AMUSEMENT EQUIPMENT.

Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Commercial use" means regular use of an inflatable for profit by an owner at a permanently located facility:

- (1) to which the general public is invited; or

(2) which the owner makes available at that facility for private parties or other events.

"Commercial use" does not include use of an inflatable (i) at a carnival, festival, fair, private party, or similar venue at a location other than the permanently located facility, or (ii) at a facility where the use of the inflatable is incidental to the primary use of the facility.

(c) "Inflatable" means an amusement device, used to bounce or otherwise play on, that incorporates a structural and mechanical system and employs a high-strength fabric or film that achieves its strength, shape, and stability by tensioning from internal air pressure.

(d) "Owner" means a person who owns, leases as lessee, or controls the operation of an inflatable for commercial use.

(e) "Person" has the meaning given in section 302A.011, subdivision 22.

(f) "Supervisor" means an individual stationed within close proximity to an inflatable during its use, for the purpose of supervising its safe use.

(g) "Trained" means that an individual has received instruction in how to supervise the safe use of inflatables in accordance with industry and ASTM standards.

Subd. 2. **Prohibition.** No owner shall provide an inflatable for commercial use in this state by others unless the owner complies with this section.

Subd. 3. **Protection against injuries from falls.** An inflatable that is in commercial use must be placed in a manner that complies with ASTM Standard F 2374.07, adopted by the American Society for Testing and Materials, including any future updates to that standard.

Subd. 4. **Supervision by trained person required.** No owner of an inflatable shall allow commercial use of the inflatable unless a trained supervisor is present in close proximity to the inflatable and is actively supervising its use. The ratio of supervisors to inflatables must comply with ASTM Standard F 2374.07, as referenced under subdivision 3.

Subd. 5. **Insurance required; waiver of liability limited.** (a) An owner of an inflatable that is subject to subdivision 2 shall maintain liability insurance covering liability for a death or injury resulting from commercial use of the inflatable with limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate per year. The insurance shall also include medical payments coverage of no less than \$5,000 per occurrence, which may be limited to injuries incurred while using an inflatable, including getting on or off of the inflatable. The insurance must be issued by an insurance company authorized to issue the coverage in this state by the commissioner of commerce, and must be kept in force during the entire period of registration. In the event of a policy cancellation, the insurer will send written notice to the commissioner of labor and industry at the same time that a cancellation request is received from or a notice is sent to the insured.

(b) A waiver of liability signed by or on behalf of a minor for injuries arising out of the negligence of the owner or the owner's employee or designee is void.

Subd. 6. **Registration required.** An owner of an inflatable that is subject to subdivision 2 must obtain and maintain a current registration with the commissioner of labor and industry. The registration information must include the name, address, telephone number, and e-mail address of the owner, the street address of each facility at which the owner regularly provides inflatables for

commercial use in this state by others, and a current insurance certificate of coverage proving full compliance with subdivision 5. The commissioner shall issue and renew a certificate of registration only to owners who comply with this section. The commissioner shall charge a registration fee of \$100 for a two-year registration designed to cover the cost of registration and enforcement. Fee receipts must be deposited in the state treasury and credited to the construction code fund. The registration certificate shall be issued and renewed for a two-year period. The registrant shall promptly notify the commissioner in writing of any changes in the registration information required in this subdivision.

Subd. 7. **Enforcement.** The commissioner of labor and industry shall enforce this section and may use for that purpose section 326B.082 and any powers otherwise available to the commissioner for enforcement purposes, including suspension or revocation of the person's registration and assessment of fines.

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

Sec. 3. **[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. 4. **[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. 5. [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. 6. [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. 7. [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. 8. [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. 9. [326B.097] PROHIBITION OF TRANSFER.

A licensee shall not transfer or sell any license.

Sec. 10. [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. 11. Minnesota Statutes 2008, section 326B.106, subdivision 9, is amended to read:

Subd. 9. **Accessibility.** (a) **Public buildings.** The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by persons with disabilities, although this does not require the remodeling of public buildings solely to provide accessibility and usability to persons with disabilities when remodeling would not otherwise be undertaken.

(b) **Leased space.** No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the State Building Code for accessibility by persons with disabilities, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) **Meetings or conferences.** Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the State Building Code requirements relating to accessibility for persons with disabilities. This subdivision does not apply to any classes, seminars, or training programs offered by the Minnesota State Colleges and Universities or the University of Minnesota. Meetings or conferences intended for specific individuals none of whom need the accessibility features for persons with disabilities specified in the State Building Code need not comply with this subdivision unless a person with a disability gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) **Exemptions.** The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for persons with disabilities. Exemptions shall be granted using criteria developed by the commissioner in consultation with the Council on Disability.

(e) **Symbol indicating access.** The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by persons with disabilities. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the Council on Disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the State Building Code.

~~(f) **Municipal enforcement.** Municipalities which have not adopted the State Building Code may enforce the building code requirements for persons with disabilities by either entering into a joint powers agreement for enforcement with another municipality which has adopted the State Building Code; or contracting for enforcement with an individual certified under section 326B.133, subdivision 3, to enforce the State Building Code.~~

Sec. 12. 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. 13. 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. 14. 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. 15. 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 (b). 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. 16. 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. 17. 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. 18. Minnesota Statutes 2008, section 326B.16, is amended to read:

326B.16 ENFORCEMENT OF REQUIREMENTS FOR ~~DISABLED~~ PERSONS WITH DISABILITIES.

Subdivision 1. **Application.** The State Building Code's requirements for persons with disabilities apply statewide. A statutory or home rule charter city that does not have in effect an ordinance adopting the State Building Code is responsible for enforcement in the city of the State Building Code's requirements for disabled persons with disabilities. In all other areas where there is no ordinance in effect adopting the State Building Code, the county is responsible for enforcement of the State Building Code's requirements for disabled persons with disabilities.

Subd. 2. **Municipal enforcement.** Municipalities which have not adopted the State Building Code shall enforce the State Building Code's requirements for persons with disabilities by: (1) entering into a joint powers agreement for enforcement with another municipality which has adopted the State Building Code; (2) contracting for enforcement with an individual certified under section 326B.133, subdivision 3, to enforce the State Building Code; or (3) hiring or training their own staff.

Subd. 3. **Responsibilities.** Municipalities shall fulfill code responsibilities including duties and responsibilities for code administration, plan review, and inspection in accordance with the procedures established in the State Building Code.

Subd. 4. **Enforcement by state building official.** If the commissioner determines that a municipality is not properly administering and enforcing the State Building Code's requirements for persons with disabilities, the commissioner may have the administration and enforcement in the involved municipality undertaken by the state building official or by another building official certified by the state. The commissioner shall notify the affected municipality in writing immediately upon making the determination, and the municipality may challenge the determination as a contested case before the commissioner pursuant to the Administrative Procedure Act. The commissioner shall charge the fees set by section 326B.153 for the administration and enforcement service rendered. Any cost to the state arising from the state administration and enforcement of the State Building Code shall be borne by the subject municipality.

Sec. 19. 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. 20. 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. 21. 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. 22. 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. 23. 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. 24. 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. 25. 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. 26. 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. 27. 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. 28. 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~~ 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. 29. 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.

Subd. 6. **Well contractor exempt from licensing and bond; conditions.** No license, registration, or bond under sections 326B.42 to 326B.49 is required of a well contractor or a limited well/boring contractor who is licensed and bonded under section 103I.525 or 103I.531 and is engaged in the work or business of installing (1) water service pipe from a well to a pressure tank or a frost-free water hydrant with an antisiphon device which is located entirely outside of a structure requiring potable water, or (2) a temporary shut-off valve on a well water service pipe. For the purposes of this subdivision, "temporary" means a time period not to exceed six months. This subdivision expires one year after the date of enactment.

Sec. 30. 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. 31. 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. 32. 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. 33. 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. 34. 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. 35. 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. 36. 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. 37. 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. 38. 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. 39. Minnesota Statutes 2008, section 326B.55, as amended by Laws 2010, chapter 183, section 13, 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. The scope of work that a master plumber, restricted master plumber, journeyman plumber, or restricted journeyman plumber is authorized to perform as an employee of a licensed water conditioning contractor shall be limited to the scope of work that the licensed water conditioning contractor is licensed to perform.

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 sections 326B.50 to 326B.59, 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. 40. 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. 41. 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. 42. 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. 43. 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. 44. 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. 45. 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. 46. 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. 47. 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. 48. 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. 49. 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. 50. 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. 51. 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. 52. 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. 53. 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. 54. 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. 55. 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. 56. 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; and 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. 57. Minnesota Statutes 2008, section 327.31, subdivision 17, is amended to read:

Subd. 17. **Installation.** "Installation" of a manufactured home means assembly installation or reinstallation, at the site of occupancy, of all portions of a manufactured home, connection of the manufactured home to existing utility connections and installation of support and/or anchoring systems.

Sec. 58. Minnesota Statutes 2008, section 327.31, is amended by adding a subdivision to read:

Subd. 21. **Used manufactured home.** "Used manufactured home" means a home being offered for sale not less than 24 months after the first purchaser took legal ownership or possession of the home.

Sec. 59. Minnesota Statutes 2008, section 327.31, is amended by adding a subdivision to read:

Subd. 22. **Seller.** "Seller" means either the homeowner, manufactured home retailer or dealer, broker, or limited dealer or retailer.

Sec. 60. Minnesota Statutes 2008, section 327.32, subdivision 1, is amended to read:

Subdivision 1. **Requirement; new manufactured homes.** No person shall sell, or offer for sale, in this state, any new manufactured home ~~manufactured after July 1, 1972, or~~ manufacture any manufactured home in this state ~~or install for occupancy any manufactured home manufactured after July 1, 1972, in any manufactured home park in this state~~ unless the manufactured home complies with the Manufactured Home Building Code and bears a label as required by the secretary.

~~(a) bears a seal issued by the commissioner, and is, whenever possible, accompanied by a certificate by the manufacturer or dealer, both evidencing that it complies with the Manufactured Home Building Code; or~~

~~(b) if manufactured after June 14, 1976, bears a label as required by the secretary.~~

Sec. 61. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1a. **Requirement; used manufactured homes.** No person shall sell or offer for sale in this state any used manufactured home manufactured after June 14, 1976, or install for occupancy any used manufactured home manufactured after June 14, 1976, unless the used manufactured home complies with the Notice of Compliance Form as provided in this subdivision. If manufactured after June 14, 1976, the home must bear a label as required by the secretary. The Notice of Compliance Form shall be signed by the seller and purchaser indicating which party is responsible for either making or paying for any necessary corrections prior to the sale and transferring ownership of the manufactured home.

The Notice of Compliance Form shall be substantially in the following form:

"Notice of Compliance Form as required in Minnesota Statutes, section 327.32, subdivision 1.

This notice must be completed and signed by the purchaser(s) and the seller(s) of the used

manufactured home described in the purchase agreement and on the bottom of this notice before the parties transfer ownership of a used manufactured home constructed after June 14, 1976.

Electric ranges and clothes dryers must have required four-conductor cords and plugs.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

Solid fuel-burning fireplaces or stoves must be listed for use in manufactured homes, Code of Federal Regulations, title 24, section 3280.709(g), and installed correctly in accordance with their listing or standards (i.e., chimney, doors, hearth, combustion, or intake, etc., Code of Federal Regulations, title 24, section 3280.709(g)).

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

Gas water heaters and furnaces must be listed for manufactured home use, Code of Federal Regulations, title 24, section 3280.709(a) and (d)(1) and (2), and installed correctly, in accordance with their listing or standards.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

Smoke alarms are required to be installed and operational in accordance with Code of Federal Regulations, title 24, section 3280.208.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

Carbon monoxide alarms or CO detectors that are approved and operational are required to be installed within ten feet of each room lawfully used for sleeping purposes.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

Egress windows are required in every bedroom with at least one operable window with a net clear opening of 20 inches wide and 24 inches high, five square feet in area, with the bottom of windows opening no more than 36 inches above the floor. Locks, latches, operating handles, tabs, or other operational devices shall not be located more than 54 inches above the finished floor.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

The furnace compartment of the home is required to have interior finish with a flame spread rating not exceeding 25 feet, as specified in the 1976 United States Department of Housing and Urban Development Code governing manufactured housing construction.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

The water heater enclosure in this home is required to have interior finish with a flame spread rating not exceeding 25 feet, as specified in the 1976 United States Department of Housing and Urban Development Code governing manufactured housing construction.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

The home complies with the snowload and heat zone requirements for the state of Minnesota as indicated by the data plate.

Complies

Correction required

Initialed by Responsible Party: Buyer

Seller

The parties to this agreement have initialed all required sections and agree by their signature to complete any necessary corrections prior to the sale or transfer of ownership of the home described below as listed in the purchase agreement. The state of Minnesota or a local building official has the authority to inspect the home in the manner described in Minnesota Statutes, section 327.33, prior to or after the sale to ensure compliance was properly executed as provided under the Manufactured Home Building Code.

Signature of Purchaser(s) of Home

.....date.....

.....date.....

.....

.....

Print name as appears on purchase agreement

Print name as appears on purchase agreement

Signature of Seller(s) of Home

.....date.....

.....date.....

.....

.....

Print name and license number, if applicable

Print name and license number, if applicable

(Street address of home at time of sale)

.....

(City/State/Zip).....

Name of manufacturer of home.....

Model and Year.....

Serial Number....."

Sec. 62. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1b. **Alternative design plan.** An alternative frost-free design slab that is submitted to the department, stamped by a licensed professional engineer or architect, and is in compliance with

either the federal installation standards in effect at the date of manufacture or the Minnesota State Building Code, when applicable, shall be issued a permit by the department within ten days.

Sec. 63. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1c. **Manufacturer's installation instructions; new home.** All new single-section manufactured homes and new multisection manufactured homes shall be installed in compliance with either the manufacturer's installation instructions in effect at the date of manufacture or, when applicable, the Minnesota State Building Code.

Sec. 64. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1d. **Manufacturer's installation instructions; used multisection homes.** All used multisection manufactured homes shall be installed in compliance with the manufacturer's installation instructions in effect at the date of manufacture, approved addenda or, when applicable, the Minnesota State Building Code.

Sec. 65. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1e. **Reinstallation requirements for single-section used manufactured homes.** (a) All single-section used manufactured homes reinstalled less than 24 months from the date of installation by the first purchaser must be reinstalled in compliance with subdivision 1c. All single-section used manufactured homes reinstalled more than 24 months from the date of installation by the first purchaser may be reinstalled without a frost-protected foundation if the home is reinstalled in compliance with Minnesota Rules, chapter 1350, for above frost-line installations and the notice requirement of subdivision 1f is complied with by the seller and the purchaser of the single-section used manufactured home.

(b) The installer shall affix an installation seal issued by the department to the outside of the home as required by the Minnesota State Building Code. The certificate of installation issued by the installer of record shall clearly state that the home has been reinstalled with an above frost-line foundation. Fees for inspection of a reinstallation and for issuance of reinstallation seals shall follow the requirements of sections 326B.802 to 326B.885. Fees for review of plans, specifications, and on-site inspections shall be those as specified in section 326B.153, subdivision 1, paragraph (c). Whenever an installation certificate for an above frost-line installation is issued to a single-section used manufactured home being listed for sale, the purchase agreement must disclose that the home is installed on a nonfrost-protected foundation and recommend that the purchaser have the home inspected to determine the effects of frost on the home.

Sec. 66. Minnesota Statutes 2008, section 327.32, is amended by adding a subdivision to read:

Subd. 1f. **Notice requirement.** The seller of the single-section used manufactured home being reinstalled under subdivision 1e shall provide the following notice to the purchaser and secure signatures of all parties to the purchase agreement on or before signing a purchase agreement prior to submitting an application for an installation certificate. Whenever a current owner of a manufactured home reinstalls the manufactured home under subdivision 1e, the current owner is not required to comply with the notice requirement under this subdivision. The notice shall be in at least 14-point font, except the heading, "WHICH MAY VOID WARRANTY," must be in capital letters, in 20-point font. The notice must be printed on a separate sheet of paper in a color different than the paper on which the purchase agreement is printed. The notice becomes a part of the purchase agreement and

shall be substantially in the following form:

**"Notice of Reinstalling of a Single-Section Used Manufactured Home Above Frost-Line;
WHICH MAY VOID WARRANTY**

It is recommended that the single-section used manufactured home being reinstalled follow the instructions in the manufacturer's installation manual. By signing this notice, the purchaser(s) are acknowledging they have elected to use footings placed above the local frost line in accordance with the Minnesota State Building Code.

The seller has explained the differences between the manufacturer's installation instructions and the installation system selected by the purchaser(s) with respect to possible effects of frost on the manufactured home.

The purchaser(s) acknowledge by signing this notice that there is no manufacturer's original warranty remaining on the home and recognize that any other extended or ancillary warranty could be adversely affected if any applicable warranty stipulates that the home be installed in accordance with the manufacturer's installation manual to remain effective.

After the reinstallation of the manufactured home, it is highly recommended that the purchaser(s) have a licensed manufactured home installer recheck the home's installation for any releveing needs or anchoring system adjustments each freeze-thaw cycle.

The purchaser(s) of the used manufactured home described below that is being reinstalled acknowledge they have read this notice and have been advised to contact the manufacturer of the home and/or the Department of Labor and Industry if they desire additional information before signing this notice. It is the intent of this notice to inform the purchaser(s) that the purchaser(s) elected not to use a frost-protected foundation system for the reinstallation of the manufactured home as originally required by the home's installation manual.

Plain language notice.

I understand that because this home will be installed with footings placed above the local frost line, this home may be subject to adverse effects from frost heave that may damage this home. Purchaser(s) initials:

I understand that the installation of this home with footings placed above the local frost line could affect my ability to obtain a mortgage or mortgage insurance on this home. Purchaser(s) initials:

I understand that the installation of this home with footings placed above the local frost line could void my warranty on the home if any warranty is still in place on this home. Purchaser(s) initials:

Signature of Purchaser(s)

.....date.....

.....date.....

.....

.....

Print name

Print name

(Street address of location where
manufactured home is being reinstalled)

.....

(City/State/Zip).....

Name of manufacturer of home.....

Model and year.....

Serial number.....

Name of licensed installer and license number or homeowner responsible for the installation of the home as described above.

Installer name:.....

License number:....."

Sec. 67. Minnesota Statutes 2008, section 327.34, subdivision 1, is amended to read:

Subdivision 1. **Generally.** It shall be a misdemeanor for any person,

(a) to sell, lease, or offer to sell or lease, any manufactured home manufactured after ~~July 1, 1972~~ June 14, 1976, which does not comply with the Manufactured Home Building Code or which does not bear a seal or label as required by sections 327.31 to 327.34, unless the action is subject to the provisions of section 327.35;

(b) to affix a seal or label, or cause a seal or label to be affixed, to any manufactured home which does not comply with the Manufactured Home Building Code unless the action is subject to the provisions of section 327.35;

(c) to alter a manufactured home manufactured after ~~July 1, 1972~~ June 14, 1976, in a manner prohibited by sections 327.31 to 327.34; or

(d) to fail to correct a Manufactured Home Building Code violation in a manufactured home manufactured after ~~July 1, 1972~~ June 14, 1976, which is owned, manufactured, or sold by that person, within 40 days of being ordered to do so in writing by an authorized representative of the commissioner, unless the correction is subject to the provisions of section 327.35; ~~or,~~

~~(e) to interfere with, obstruct, or hinder any authorized representative of the commissioner in the performance of duties relating to manufactured homes manufactured after July 1, 1972, and prior to June 15, 1976.~~

Sec. 68. 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. 69. 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. 70. 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. 71. 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. 72. 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. 73. **WATER-FREE URINALS.**

The Plumbing Board shall have expedited rulemaking authority provided under section 14.389 for expedited rules regarding water-free urinals that meet the Minnesota Plumbing Board standards. This authority expires December 31, 2010.

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

Sec. 74. **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.

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

Sec. 75. **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; 326B.976; 327.32, subdivision 4; and 327C.07, subdivisions 3a and 8, are repealed.

(b) Minnesota Statutes 2009 Supplement, sections 326B.56, subdivision 4; and 326B.986, subdivision 2, are 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.

EFFECTIVE DATE. Paragraphs (a) to (c) are effective January 1, 2012, except that the repeal of Minnesota Statutes, sections 327.32, subdivision 4, and 327C.07, subdivisions 3a and 8, are effective July 1, 2010.

Sec. 76. **EFFECTIVE DATE.**

Sections 3 to 10, 12 to 17, and 19 to 56 are effective January 1, 2012.

ARTICLE 4

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 person who merely assists, without advising, the consumer in locating or understanding a loan application, and does not do anything that would be considered to be acting as a mortgage loan originator under federal or state laws. This clause is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

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. 9a. **Offers or negotiates terms of a residential mortgage loan for compensation or gain.** "Offers or negotiates terms of a residential mortgage loan for compensation or gain" means an individual:

(1)(i) presents for acceptance by a borrower or prospective borrower residential mortgage loan terms;

(ii) communicates directly or indirectly with a borrower or prospective borrower for the purpose of reaching an understanding about prospective residential mortgage loan terms; or

(iii) recommends, refers, or steers a borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower; and

(2) receives or expects to receive payment of money or anything of value in connection with the activities described in clause (1) or as a result of any residential mortgage loan terms entered into as a result of such activities.

This subdivision is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

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. 14a. **Takes a residential mortgage loan application.** "Takes a residential mortgage loan application" means the individual receives a residential mortgage loan application for the purpose of deciding, or influencing or soliciting the decision of another, whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower, or to accept the terms offered by a borrower or prospective borrower in response to a solicitation, whether the application is received directly or indirectly from the borrower or prospective borrower. This subdivision is subject to final approval by the United States Department of Housing and Urban Development, and is severable to the extent that the department determines that it is not compliant with federal law.

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;

(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; and

(5) an employee of a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or a local unit of government, that is not otherwise engaged in the mortgage loan business, engaged in the financing of housing for low- and moderate-income households or housing counseling under programs designed specifically for those purposes, to the extent exempted by the commissioner by rule, advisory ruling, or interpretation, after taking into consideration any law, rule, advisory ruling, or interpretation by the United States Department of

Housing and Urban Development.

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, \$90; 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, 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. 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. [58A.22] INCORPORATION BY REFERENCE.

The final rules adopted by the United States Department of Housing and Urban Development under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and subsequent amendments, are incorporated by reference.

Sec. 22. EFFECTIVE DATE.

This article is effective July 31, 2010.

ARTICLE 5

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) (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. 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 according to the table in this paragraph. A licensee may decrease its surety bond according to 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. 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 2008, 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. 8. REPEALER.

Minnesota Statutes 2009 Supplement, section 58.126, is repealed.

Sec. 9. EFFECTIVE DATE.

This article is effective July 31, 2010.

**ARTICLE 6
COMMERCE**

Section 1. Minnesota Statutes 2008, section 60K.36, subdivision 2, is amended to read:

Subd. 2. **Examination not required.** A resident individual applying for a limited lines credit insurance, title insurance, travel baggage insurance, ~~mobile telephone insurance~~, or bail bonds license is not required to take a written examination.

Sec. 2. Minnesota Statutes 2008, section 60K.38, subdivision 1, is amended to read:

Subdivision 1. **Issuance.** (a) Unless denied a license under section 60K.43, a person who has met the requirements of sections 60K.36 and 60K.37 must be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the lines of authority in paragraphs (b) and (c).

(b) An individual insurance producer may receive qualification for a license in one or more of the following major lines:

(1) life insurance: coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) accident and health or sickness insurance: coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) property insurance: coverage for the direct or consequential loss or damage to property of every kind;

(4) casualty insurance: coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(5) variable life and variable annuity products insurance: coverage provided under variable life insurance contracts and variable annuities; and

(6) personal lines: property and casualty insurance coverage sold to individuals and families for

primarily noncommercial purposes.

(c) An individual insurance producer may receive qualification for a license in one or more of the following limited lines:

- (1) limited line credit insurance;
- (2) farm property and liability insurance;
- (3) title insurance;
- (4) travel baggage insurance; and
- ~~(5) mobile telephone insurance; and~~
- ~~(6)~~ (5) bail bonds.

Sec. 3. **[60K.381] SALE OF PORTABLE ELECTRONICS INSURANCE.**

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

- (a) "Customer" means a person who purchases portable electronics or services.
- (b) "Covered customer" means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.
- (c) "Portable electronics" means electronic devices that are portable in nature, their accessories, and services related to the use of the device.
- (d)(1) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics, which may cover portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils.
- (2) "Portable electronics insurance" does not include:
 - (i) a service contract governed by chapter 59B;
 - (ii) a policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or
 - (iii) a homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policy that covers loss or theft of portable electronics.
- (e) "Portable electronics transaction" means:
 - (1) the sale or lease of portable electronics by a vendor to a customer; or
 - (2) the sale of a service related to the use of portable electronics by a vendor to a customer.
- (f) "Supervising agency" means a business entity that is a licensed insurance producer.
- (g) "Vendor" means a business entity in the business of engaging in portable electronics transactions, directly or indirectly.

Subd. 2. **Licensure of vendors.** (a) A vendor is required to hold a limited lines license issued under this section to sell or offer coverage under a policy of portable electronics insurance in connection with, and incidental to, a portable electronics transaction with a customer.

(b) A limited lines license issued under this section shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer in connection with, and incidental to, a portable electronics transaction at each location at which the vendor engages in portable electronics transactions. The application for such a limited lines license shall set forth each location at which the vendor offers coverage under a policy of portable electronics insurance. The vendor shall notify the commissioner within 30 days of adding or eliminating such a location.

(c) Notwithstanding any other provision of law, a license issued pursuant to this section shall authorize the licensee and its employees or authorized representatives to engage only in those activities that are expressly permitted in this section.

Subd. 3. **Requirements for sale of portable electronics insurance.** (a) At every location where portable electronics insurance is offered to customers, brochures, or other written materials must be made available to a prospective customer which:

(1) disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(2) state that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(3) summarize the material terms of the insurance coverage, including:

(i) the identity of the insurer;

(ii) the identity of the supervising agency;

(iii) the amount of any applicable deductible and how it is to be paid;

(iv) benefits of the coverage;

(v) the terms for terminating or modifying coverage as set forth in the policy of portable electronics insurance; and

(vi) any material exclusions, conditions, or other limitations of coverage including whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(4) describe the process for filing a claim, including a description of any requirements:

(i) to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(ii) any proof of loss requirements; and

(5) state that the customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and any unearned premium will be refunded on a pro rata basis.

(b) Portable electronics insurance may be offered on a month to month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics under which individual customers may elect to enroll for coverage.

(c) Notwithstanding any other provision of Minnesota law regarding the termination or modification of coverage under a policy of insurance, the terms for the termination or modification of coverage under a policy of portable electronics insurance issued in compliance with this chapter shall be as set forth in the policy.

(d) Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program.

Subd. 4. **Authority of vendors of portable electronics.** (a) The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under this chapter provided that:

(1) the vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this section;

(2) the insurer issuing the portable electronics insurance appoints a supervising agency to supervise the administration of the program including development of a training program for employees and authorized representatives of the vendors. The training required by this subdivision shall comply with the following:

(i) the training shall be delivered to all employees and authorized representatives of the vendors who sell or offer portable electronics insurance;

(ii) the training may be provided in electronic form. However, if conducted in an electronic form, the supervising agency shall implement a program of in-person training conducted by licensed employees of the supervising agency to supplement the electronic training; and

(iii) each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under subdivision 3; and

(3) no employee or authorized representative of a vendor of portable electronics shall advertise, represent, or otherwise hold himself or herself out as a nonlimited lines licensed insurance producer.

(b) The charges for insurance coverage may be billed and collected by the vendor of portable electronics. If billed and collected by the vendor, the charges shall be separately itemized from the charges for the purchase or lease of portable electronics or services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising agency within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

Sec. 4. Minnesota Statutes 2009 Supplement, section 60K.55, subdivision 2, is amended to read:

Subd. 2. **Licensing fees.** (a) In addition to fees provided for examinations and the technology

surcharge required under paragraph (d), each insurance producer licensed under this chapter shall pay to the commissioner a fee of:

(1) \$50 for an initial life, accident and health, property, or casualty license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(2) \$50 for an initial variable life and variable annuity license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(3) \$50 for an initial personal lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(4) \$50 for an initial limited lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(5) \$200 for an initial license issued to a business entity, and a fee of \$200 for each renewal; and

(6) \$500 for an initial surplus lines license, and a fee of \$500 for each renewal;

(7) \$100 per location for the initial and renewal of a portable electronics insurance limited lines license issued to a vendor, as defined in section 60K.381, subdivision 1, paragraph (g), engaged in portable electronics transactions at ten or fewer locations in this state as set forth in its application and any subsequent notice under section 60K.381, subdivision 2, paragraph (b); and

(8) \$6,500 for the initial and renewal of a portable electronics insurance limited lines license issued to a vendor, as defined in section 60K.381, subdivision 1, paragraph (g), engaged in portable electronics transactions at more than ten locations in this state as set forth in its application and any subsequent notice under section 60K.381, subdivision 2, paragraph (b).

(b) Initial licenses issued to a business entity under this chapter and section 60K.381 are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Initial licenses issued to an individual insurance producer under this chapter before August 1, 2010, are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each individual license initially issued or renewed on or after August 1, 2010, expires on the last day of the birth month of the producer in the year that will result in the term of the license being at least 12 months, but no more than 24 months. Beginning with the first license expiration on the last day of the birth month of an individual producer as set forth in this paragraph, all such licenses must after this date expire biennially on the last day of the birth month of the individual producer that is two years subsequent to the preceding expiration date. Each renewal insurance producer license is valid for a period of 24 months.

(c) All fees are nonreturnable, except that an overpayment of any fee may be refunded upon proper application.

(d) In addition to the fees required under paragraph (a), individual insurance producers shall pay, for each initial license and renewal, a technology surcharge of up to \$40 under section 45.24, unless the commissioner has adjusted the surcharge as permitted under that section.

Sec. 5. Minnesota Statutes 2009 Supplement, section 82B.05, subdivision 1, is amended to read:

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. Each of the three categories of members must include at least one member who lives or works outside of the seven-county metropolitan area. The board is governed by section 15.0575.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 82B.05, subdivision 5, is amended to read:

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 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 months as determined by a majority vote of the members or a call of the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 7. Minnesota Statutes 2008, section 82B.05, is amended by adding a subdivision to read:

Subd. 7. **Enforcement data.** The commissioner shall, on a regular basis, provide the board with the commissioner's public enforcement data.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 82B.06, is amended to read:

82B.06 POWERS OF THE BOARD.

The board shall make recommendations to the commissioner as the commissioner requests or at the board's own initiative on:

(1) rules with respect to each category of licensed real estate appraiser, the type of educational experience, appraisal experience, and equivalent experience that will meet the requirements of this chapter;

(2) examination specifications for each category of licensed real estate appraiser, to assist in providing or obtaining appropriate examination questions and answers, and procedures for grading examinations;

(3) rules with respect to each category of licensed real estate appraiser, the continuing education

requirements for the renewal of licensing that will meet the requirements provided in this chapter;

(4) periodic review of the standards for the development and communication of real estate appraisals provided in this chapter and rules explaining and interpreting the standards; and

(5) other matters necessary in carrying out the provisions of this chapter.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 9. **[82C.01] TITLE.**

This chapter shall be known as the Minnesota Appraisal Management Company Licensing and Regulation Act.

Sec. 10. **[82C.02] DEFINITIONS.**

Subdivision 1. **Terms.** As used in this chapter, the terms in this section have the meanings given them.

Subd. 2. **Appraisal.** In conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), "appraisal" is defined as: (noun) the act or process of developing an opinion of value; an opinion of value; (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services. For purposes of this chapter, all appraisals or assignments that are referred to involve one to four unit single-family properties.

Subd. 3. **Appraisal assignment.** "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, as a disinterested third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.

Subd. 4. **Appraisal management company.** "Appraisal management company" means a corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services:

(1) administers networks of independent contractors and/or employee appraisers to perform residential real estate appraisal assignments for clients;

(2) receives requests for residential real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or

(3) serves as a third-party broker of appraisal management services between clients and appraisers.

Subd. 5. **Appraisal management services.** "Appraisal management services" means the process of directly or indirectly performing any of the following functions on behalf of a lender, financial institution, client, or any other person to:

(1) administer an appraiser panel;

(2) recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(3) receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(4) track and determine the status of orders for appraisals;

(5) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or

(6) provide a completed appraisal performed by an appraiser to one or more clients.

Subd. 6. **Appraiser.** "Appraiser" means a person who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective, and who is licensed under chapter 82B.

Subd. 7. **Appraiser panel.** "Appraiser panel" means a network of licensed or certified appraisers who are independent contractors to the appraisal management company that have:

(1) responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company; and

(2) been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.

Subd. 8. **Appraisal review.** "Appraisal review" means the act of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors that do not make a substantive valuation change shall not be an appraisal review.

Subd. 9. **Client.** "Client" means any person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the performance of real estate appraisal services or appraisal management services. For purposes of this chapter, the appraisal management company is the party engaging the independent appraiser and can be the appraiser's client. However, this does not preclude an appraisal management company from acting as a duly authorized agent for a lender.

Subd. 10. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 11. **Controlling person.** "Controlling person" means:

(1) any owner, officer, or director of an appraisal management company seeking to offer appraisal management services in this state;

(2) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals;

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction

of the management or policies of an appraisal management company; or

(4) an individual who enters into:

(i) contractual relationships with clients for the performance of appraisal management services; and

(ii) agreements with employed and independent appraisers for the performance of real estate appraisal services.

Subd. 12. **Employee.** "Employee" means an individual who is treated as an employee for purposes of compliance with federal income tax laws.

Subd. 13. **Person.** "Person" means a natural person, firm, partnership, limited liability partnership, corporation, association, limited liability company, or other form of business organization and the officers, directors, employees, or agents of that person.

Subd. 14. **USPAP.** "USPAP" means the Uniform Standards of Professional Appraisal Practice as established by the Appraisal Foundation. State and federal regulatory authorities enforce the content of the current or applicable edition of USPAP.

Sec. 11. **[82C.03] LICENSING.**

Subdivision 1. **Requirement.** It is unlawful for a person, corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the commissioner under the provisions of this chapter.

Subd. 2. **Owner requirements.** (a) An appraisal management company applying to the commissioner for a license in this state may not be more than ten percent owned by any person that is currently subject to any cease and desist order or injunctive order that would preclude involvement with an appraisal management company, or that has ever:

(1) voluntarily surrendered in lieu of disciplinary action an appraiser certification, registration or license, or an appraisal management company license;

(2) been the subject of a final order revoking or denying an appraiser certification, registration or license, or an appraisal management company license; or

(3) a final order barring involvement in any industry or profession issued by this or another state or federal regulatory agency.

(b) A person that owns more than ten percent of an appraisal management company in this state shall:

(1) be of good moral character, as determined by the commissioner;

(2) submit to a background investigation, as determined by the commissioner; and

(3) certify to the commissioner that the person has never been the subject of an order of certificate, registration or license suspension, revocation, or denial; cease and desist order;

injunctive order; or order barring involvement in an industry or profession issued by this or another state or federal regulatory agency.

Subd. 3. **Designated controlling person requirements.** (a) **Designation.** Each appraisal management company applying to the commissioner for a license in this state shall designate a controlling person that will be the main contact for all communication between the commissioner and the appraisal management company.

(b) **Requirements.** In order to serve as a designated controlling person of an appraisal management company, a person must:

(1) certify to the commissioner that the person is not currently subject to any cease and desist order or injunctive order that would preclude involvement with an appraisal management company, and has never been the subject of an order suspending, revoking, or denying a certification, registration, or license for real estate services, or a final order barring involvement in any industry or profession issued by this or another state or federal regulatory agency;

(2) be of good moral character, as determined by the commissioner; and

(3) submit to a background investigation, as determined by the commissioner.

Subd. 4. **Application for license.** Application for an appraisal management company license must be submitted on a form prescribed by the commissioner.

Subd. 5. **Minimum information.** The application must, at a minimum, include the following information:

(1) the name of the entity seeking registration;

(2) the business address or addresses of the entity seeking registration;

(3) telephone contact and e-mail information of the entity seeking registration;

(4) if the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(5) the name, address, and contact information for an individual or corporation, partnership, limited liability company, association, or other business entity that owns ten percent or more of the appraisal management company;

(6) the name, address, and contact information for a controlling person or persons;

(7) a certification that the entity has a system and process in place to verify that a person being added to the employment or appraiser panel of the appraisal management company for appraisal services within this state holds an active appraisal license in this state pursuant to chapter 82B if a license is required to perform appraisals;

(8) a certification that the entity has a system in place to review the work of all employed and independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to verify that the real estate appraisal assignments are being conducted in accordance with USPAP and chapter 82B;

(9) a certification that the entity maintains a detailed record of each service request that it

receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company, pursuant to section 82C.13;

(10) a certification that the employees of the appraisal management company will be appropriately trained and familiar with the appraisal process;

(11) a certification that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to chapter 82B; and

(12) an irrevocable Uniform Consent to Service of Process, pursuant to section 82C.07.

Subd. 6. **Effective date of license.** Initial licenses issued under this chapter are effective upon issuance and remain valid, subject to denial, suspension, or revocation under this chapter, until the following August 31.

Sec. 12. **[82C.04] TERM OF LICENSE.**

Initial licenses issued under this chapter are valid for a period not to exceed one year. Each initial license must expire on August 31 of the expiration year assigned by the commissioner.

Sec. 13. **[82C.05] LICENSE RENEWAL.**

Subdivision 1. **Term.** Licenses renewed under this chapter are valid for a period of 12 months.

Subd. 2. **Timely renewal.** (a) Application for timely renewal of a license is considered timely filed if received by the commissioner before the date of the license expiration.

(b) An application for renewal is considered properly filed if made upon a form prescribed by the commissioner, accompanied by fees prescribed by this chapter, and containing any information the commissioner requires.

(c) A licensee failing to make timely application for renewal of the license is unlicensed until the renewal license has been issued by the commissioner and is received by the licensee.

Subd. 3. **Contents of renewal application.** Application for the renewal of an existing license must contain the information specified in section 82C.03. 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.

Sec. 14. **[82C.06] EXEMPTIONS.**

This chapter does not apply to:

(1) a person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals, and:

(i) the employer is responsible for ensuring that the appraisals are performed by employees in accordance with USPAP; and

(ii) the employer accepts all liability associated with the performance of the appraisal by the

employee;

(2) a department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is an independent contractor to the institution, except that an appraisal management company that is a wholly owned subsidiary of a financial institution shall not be considered a department or unit within a financial institution to which the provisions of this chapter do not apply;

(3) a person that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirements of this chapter by requiring that an employee of the appraisal management company that is an appraiser to sign an appraisal that is completed by an appraiser that is part of the appraisal panel of the appraisal management company; or

(4) any governmental agency performing appraisals on behalf of that level of government or any agency performing ad valorem tax appraisals for county assessors.

Sec. 15. [82C.07] CONSENT TO SERVICE OF PROCESS.

Each entity applying for a license as an appraisal management company in this state shall complete an irrevocable Uniform Consent to Service of Process as prescribed by the commissioner.

Sec. 16. [82C.08] LICENSING FEES.

Subdivision 1. **Establishment and retention.** The fees shall be retained by the commissioner for the sole purpose of administering this licensing and regulation program.

Subd. 2. **Amounts.** (a) Each application for initial licensure shall be accompanied by a fee of \$5,000.

(b) Each application for renewal of the license must be received prior to the two-year expiration period with the renewal fee of \$2,500.

Subd. 3. **Forfeiture.** All fees are nonrefundable except that an overpayment of a fee must be refunded upon proper application.

Sec. 17. [82C.09] INVESTIGATIONS AND SUBPOENAS.

The commissioner has under this chapter the same powers with respect to chapter 45.027, including the authority to impose a civil penalty not to exceed \$10,000 per violation.

Sec. 18. [82C.10] EMPLOYEE REQUIREMENTS.

An employee of the appraisal management company that has the responsibility to review the work of employed and independent appraisers where the subject properties are located within this state, which include the reviewer's opinion of value or concurrence with the original appraiser's value, must be licensed according to chapter 82B and perform the review assignments in compliance with USPAP and chapter 82B. This requirement does not apply to employees who review appraisals

for completeness and compliance in connection with an appraisal management company's internal quality control processes, but who do not perform appraisal reviews that are subject to Standard 3 of USPAP.

Sec. 19. [82C.11] LIMITATIONS.

An appraisal management company licensed in this state pursuant to this chapter may enter into contracts or agreements for appraisal assignments in this state only with an employee or independent appraiser holding an active Minnesota real estate appraiser license pursuant to chapter 82B.

Sec. 20. [82C.12] ADHERENCE TO STANDARDS.

An appraisal management company must have a system in place to review the work of all employed and independent appraisers that are performing real estate appraisal assignments for the appraisal management company on a periodic basis to verify that the real estate appraisal services are being conducted in accordance with USPAP and chapter 82B. An appraisal management company is required to make referrals directly to state appraiser regulatory authorities when a state licensed or certified appraiser violates USPAP, applicable state law, or engages in other unethical or unprofessional conduct.

Sec. 21. [82C.13] RECORD KEEPING.

An appraisal management company must maintain a detailed record of each service request that it receives and the employee appraiser or independent appraiser that performs the appraisal assignment for the appraisal management company.

Records must be kept for a period of at least five years after the appraisal assignment request is sent to the independent appraiser or completion of the appraisal report, whichever period expires later.

Sec. 22. [82C.14] APPRAISER INDEPENDENCE; PROHIBITIONS.

(a) It is unlawful for any employee, director, officer, or agent of an appraisal management company licensed in this state pursuant to this chapter to influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, or bribery, including but not limited to:

- (1) withholding or threatening to withhold timely payment for an appraisal;
- (2) withholding or threatening to withhold future business or assignments for an employed or independent appraiser, or demoting or terminating or threatening to demote or terminate an employed or independent appraiser;
- (3) expressly or impliedly promising future business, assignments, promotions, or increased compensation for an employed or independent appraiser;
- (4) conditioning the request for an appraisal assignment on the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an employed or independent appraiser;
- (5) requesting that an employed or independent appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any

time prior to the completion of an appraisal assignment;

(6) providing to an employed or independent appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;

(7) providing to an employed or independent appraiser, or any entity or person related to the appraiser, stock, or other financial or nonfinancial benefits;

(8) allowing the removal of an employed or independent appraiser from a list of qualified appraisers used by any entity, without prior written notice to the appraiser, which notice must include documented evidence of the appraiser's violation of USPAP, chapter 82B, substandard performance, or otherwise improper or unprofessional behavior;

(9) request or require any employed or independent appraiser to provide the appraisal management company or any of its employees, or any of its clients, with the appraiser's digital signature;

(10) alter, amend, or change an appraisal report submitted by an appraiser, to include removing or applying a signature, adding or deleting information from the appraisal report;

(11) require the appraiser to collect the fee from a borrower, homeowner, or other person;

(12) require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser;

(13) use an appraiser directly selected or referred by any member of a loan production staff for an individual assignment; or

(14) any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(b) Nothing in paragraph (a) prohibits the appraisal management company from requesting that an independent appraiser:

(1) consider additional appropriate property information;

(2) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(3) correct objective factual errors in an appraisal report.

Sec. 23. [82C.15] ADJUDICATION OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN INDEPENDENT APPRAISER.

Except within the first 30 days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without:

(1) notifying the appraiser in writing of the reasons why the appraiser is being removed from

the appraiser panel or is not receiving appraisal requests from the appraisal management company;

(2) if the appraiser is being removed from the panel for illegal conduct, having determined that the appraiser has violated USPAP, or chapter 82B, taking into account the nature of the alleged conduct or violation; and

(3) providing an opportunity for the appraiser to respond and appeal the notification of the appraisal management company.

Sec. 24. [82C.16] DENIAL, SUSPENSION, REVOCATION OF LICENSES.

Subdivision 1. **Powers of commissioner.** The commissioner may by order take any or all of the following actions:

(1) bar a person from serving as an officer, director, partner, controlling person, or any similar role at an appraisal management company, if such person has ever been the subject of a final order suspending, revoking or denying a certification, registration or license as a real estate agent, broker, or appraiser, or a final order barring involvement in any industry or profession issued by this or another state or federal regulatory agency;

(2) deny, suspend, or revoke an appraisal management company license;

(3) censure an appraisal management company license; and

(4) impose a civil penalty as provided for in chapter 45.027.

(b) In order to take the action in paragraph (a), the commissioner must find:

(1) that the order is in the public interest; and

(2) that an officer, director, partner, employee, agent, controlling person or persons, or any person occupying a similar status or performing similar functions, has:

(i) violated any provision of this chapter;

(ii) filed an application for a license that is incomplete in any material respect or contains a statement that, in light of the circumstances under which it is made, is false or misleading with respect to a material fact;

(iii) failed to maintain compliance with the affirmations made under section 80C.03, subdivision 5;

(iv) violated a standard of conduct or engaged in a fraudulent, coercive, deceptive, or dishonest act or practice, whether or not the act or practice involves the appraisal management company;

(v) engaged in an act or practice, whether or not the act or practice involves the business of appraisal management, appraisal assignments, or real estate mortgage related practices, that demonstrates untrustworthiness, financial irresponsibility, or incompetence;

(vi) pled guilty, with or without explicitly admitting guilt, pled nolo contendere, or been convicted of a felony, gross misdemeanor, or a misdemeanor involving moral turpitude;

(vii) paid a civil penalty or been the subject of disciplinary action by the commissioner, or an order of suspension or revocation, cease and desist order, or injunction order, or an order barring

involvement in an industry or profession issued by this or any other state or federal regulatory agency or government-sponsored enterprise, or by the secretary of Housing and Urban Development;

(viii) been found by a court of competent jurisdiction to have engaged in conduct evidencing gross negligence, fraud, misrepresentation, or deceit;

(ix) refused to cooperate with an investigation or examination by the commissioner;

(x) failed to pay any fee or assessment imposed by the commissioner; or

(xi) failed to comply with state and federal tax obligations.

Subd. 2. **Orders of the commissioner.** To begin a proceeding under this section, the commissioner shall issue an order requiring the subject of the proceeding to show cause why action should not be taken against the licensee according to this section. The order must be calculated to give reasonable notice of the time and place for the hearing and must state the reasons for entry of the order. The commissioner may by order summarily suspend a license pending a final determination of an order to show cause. If a license is summarily suspended, pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of summary suspension. All hearings must be conducted under chapter 14. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the subject of the order fails to appear at a hearing after having been duly notified of it, the subject is considered in default, and the proceeding may be determined against the subject of the order upon consideration of the order to show cause, the allegations of which may be considered to be true.

Subd. 3. **Actions against lapsed license.** If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective and enter a revocation or suspension order as of the last date which the license was in effect, and may impose a civil penalty as provided for in this section or section 45.027.

Sec. 25. Minnesota Statutes 2008, section 115C.08, subdivision 1, is amended to read:

Subdivision 1. **Revenue sources.** Revenue from the following sources must be deposited in the state treasury and credited to a petroleum tank fund:

(1) the proceeds of the fee imposed by subdivision 3;

(2) money recovered by the state under sections 115C.04, 115C.05, and 116.491, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement;

(3) interest attributable to investment of money in the fund;

(4) money received by the board and agency in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the fund;

(5) fees charged for the operation of the tank installer certification program established under section 116.491; ~~and~~

(6) money obtained from the return of reimbursements, civil penalties, or other board action

under this chapter; and

(7) the proceeds from the sales of all properties acquired by the agency under subdivision 4.

Sec. 26. Minnesota Statutes 2009 Supplement, section 115C.08, subdivision 4, is amended to read:

Subd. 4. **Expenditures.** (a) Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;

(6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093;

(9) for contamination cleanup grants, as provided in paragraph (c); ~~and~~

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report; and

(11) for property acquisition by the agency when the agency has determined that purchasing a property where a release has occurred is the most appropriate corrective action. The acquisition of all properties is subject to approval by the board.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) \$6,200,000 is annually appropriated from the fund to the commissioner of employment and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to \$225,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of employment and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01.

Sec. 27. [325E.3891] CADMIUM IN CHILDREN'S JEWELRY.

Subdivision 1. Definitions. (a) As used in this section, the term:

(1) "accessible" has the meaning given in section 3.1.2 of the ASTM International Safety Specification on Toy Safety, F-963;

(2) "child" means an individual who is six years of age or younger; and

(3) "children's jewelry" shall have the meaning set forth in section 325E.389, subdivision 1, paragraph (c).

Subd. 2. Prohibitions. Cadmium in any surface coating or accessible substrate material of metal or plastic components of children's jewelry shall not exceed 75 parts per million, as determined through solubility testing for heavy metals defined in the ASTM International Safety Specification on Toy Safety, ASTM standard F-963 and subsequent versions of this standard, if the product is sold in this state unless this requirement is superseded by a federal standard regulating cadmium in children's jewelry. This section shall not regulate any product category for which an existing federal standard regulates cadmium exposure in surface coatings and accessible substrate materials as required under ASTM F-963.

Subd. 3. Manufacturer or wholesaler. No manufacturer or wholesaler may sell or offer for sale in this state children's jewelry that fails to meet the requirements of subdivision 2.

Subd. 4. Retailer. No retailer may sell or offer for sale in this state children's jewelry that fails to meet the requirements of subdivision 2. This subdivision does not apply to sales or free distribution of jewelry by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code or to isolated and occasional sales of jewelry not made in the normal course of business.

Subd. 5. Enforcement. The attorney general shall enforce this section under section 8.31.

EFFECTIVE DATE. This section is effective January 1, 2011, except that subdivision 4 is effective March 1, 2011.

Sec. 28. APPROPRIATIONS.

Subdivision 1. Total appropriation. \$523,000 is appropriated from the general fund to the commissioner of commerce for the purposes indicated in the following subdivisions, to be available for the fiscal year ending June 30, 2011.

Subd. 2. **Mortgage originators and servicers.** \$261,000 in fiscal year 2011 is appropriated from the general fund to the commissioner of commerce for implementing articles 4 and 5. The base appropriation for this program is \$138,000 in fiscal year 2012 and \$142,000 in fiscal year 2013.

Subd. 3. **Appraisal management companies.** \$223,000 in fiscal year 2011 is appropriated from the general fund to the commissioner of commerce for implementing sections 9 to 24. The base appropriation for this program is \$119,000 in fiscal year 2012 and \$123,000 in fiscal year 2013.

Subd. 4. **Portable electronics insurance vendors.** \$39,000 is to license vendors of portable electronics insurance.

ARTICLE 7

IRON RANGE RESOURCES

Section 1. Laws 2010, chapter 216, section 58, is amended to read:

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

For distributions in 2010 only, a special fund is established to receive ~~28.757~~ 31.463 cents per ton that otherwise would be allocated under Minnesota Statutes, section 298.28, subdivision 6. The following amounts are allocated to St. Louis County acting as the fiscal agent for the recipients for the specific purposes:

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

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

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

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

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

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

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

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

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

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

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

(12) 0.159 cent per ton must be paid to the city of Grand Rapids for exhibits at the Children's Museum;

(13) 0.637 cent per ton must be paid to the city of Grand Rapids for Block 20/21 soil corrections. This amount must be matched by local sources;

(14) 0.605 cent per ton must be paid to the city of Aitkin for three water loops;

(15) 0.048 cent per ton must be paid to the city of Aitkin for signage;

(16) 0.159 cent per ton must be paid to Aitkin County for a trail;

(17) 0.637 cent per ton must be paid to the city of Cohasset for the Beiers Road railroad crossing;

(18) 0.088 cent per ton must be paid to the town of Clinton for expansion and striping of the community center parking lot;

(19) 0.398 cent per ton must be paid to the city of Kinney for water line replacement;

(20) 0.796 cent per ton must be paid to the city of Gilbert for infrastructure improvements, milling, and overlay for Summit Street between Alaska Avenue and Highway 135;

(21) 0.318 cent per ton must be paid to the city of Gilbert for sanitary sewer main replacements and improvements in the Northeast Lower Alley area;

(22) 0.637 cent per ton must be paid to the town of White for replacement of the Stepetz Road culvert;

(23) 0.796 cent per ton must be paid to the city of Buhl for reconstruction of Sharon Street and associated infrastructure;

(24) 0.796 cent per ton must be paid to the city of Mountain Iron for site improvements at the Park Ridge development;

(25) 0.796 cent per ton must be paid to the city of Mountain Iron for infrastructure and site preparation for its renewable and sustainable energy park;

(26) 0.637 cent per ton must be paid to the city of Biwabik for sanitary sewer improvements;

(27) 0.796 cent per ton must be paid to the city of Aurora for alley and road rebuilding for the Summit Addition;

(28) 0.955 cent per ton must be paid to the city of Silver Bay for bioenergy facility improvements;

(29) 0.318 cent per ton must be paid to the city of Grand Marais for water and sewer infrastructure improvements;

(30) 0.318 cent per ton must be paid to the city of Orr for airport, water, and sewer improvements;

(31) 0.716 cent per ton must be paid to the city of Cook for street and bridge improvements and land purchase, provided that if the city sells or otherwise disposes of any of the land purchased with the money provided under this clause within a period of ten years after it was purchased, the city must transfer a portion of the proceeds of the sale equal to the amount of the purchase price paid from the money provided under this clause to the commissioner of Iron Range Resources and

Rehabilitation for deposit in the taconite environmental protection fund to be used for the purposes of the fund under Minnesota Statutes, section 298.223;

- (32) 0.955 cent per ton must be paid to the city of Ely for street, water, and sewer improvements;
- (33) 0.318 cent per ton must be paid to the city of Tower for water and sewer improvements;
- (34) 0.955 cent per ton must be paid to the city of Two Harbors for water and sewer improvements;
- (35) 0.637 cent per ton must be paid to the city of Babbitt for water and sewer improvements;
- (36) 0.096 cent per ton must be paid to the township of Duluth for infrastructure improvements;
- (37) 0.096 cent per ton must be paid to the township of Tofte for infrastructure improvements;
- (38) 3.184 cents per ton must be paid to the city of Hibbing for sewer improvements;
- (39) 1.273 cents per ton must be paid to the city of Chisholm for NW Area Project infrastructure improvements;
- (40) 0.318 cent per ton must be paid to the city of Chisholm for health and safety improvements at the athletic facility;
- (41) 0.796 cent per ton must be paid to the city of Hoyt Lakes for residential street improvements;
- (42) 0.796 cent per ton must be paid to the Bois Forte Indian Reservation for infrastructure related to a housing development;
- (43) 0.159 cent per ton must be paid to Balkan Township for building improvements;
- (44) 0.159 cent per ton must be paid to the city of Grand Rapids for a grant to a nonprofit for a signage kiosk;
- (45) 0.318 cent per ton must be paid to the city of Crane Lake for sanitary sewer lines and adjacent development near County State-Aid Highway 24; ~~and~~
- (46) 0.159 cent per ton must be paid to the city of Chisholm to rehabilitate historic wall infrastructure around the athletic complex; and
- (47) 2.706 cents per ton must be paid to the Virginia Regional Medical Center for operating room equipment and renovations.

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

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

Sec. 2. **GRANT AGREEMENT.**

The 2008 Producer Grant and Loan Fund Grant Agreement between the state of Minnesota acting through the office of the commissioner of Iron Range resources and rehabilitation and St. Louis County for "The Pike River Road Project" and "St. Louis County Maintenance Garage Project" shall remain in effect until the project is completed and all obligations set forth in the agreement

have been satisfactorily fulfilled.

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

Sec. 3. REVISOR'S INSTRUCTION.

The revisor of statutes shall code section 1 as Minnesota Statutes, section 298.2961, subdivision 7.

Sec. 4. REPEALER.

Laws 2010, chapter 215, article 9, section 3, is repealed."

Delete the title and insert:

"A bill for an act relating to economic development; amending the definition of green economy to include the concept of green chemistry; creating a fast-action economic response team; expanding the Minnesota investment fund; removing a grant program restriction; expanding loan program to veteran-owned small businesses; creating the Minnesota Science and Technology Authority; providing for a comparative study of state laws affecting small business start-ups; modifying certain unemployment insurance administrative, benefit, and tax provisions; protecting customers from injuries resulting from use of inflatable play equipment; modifying labor and industry licensing and certain license fee provisions; modifying enforcement requirements of the State Building Code; modifying the requirements of the Manufactured Home Building Code; allowing expedited rulemaking; providing for licensing and regulation of individuals engaged in mortgage loan origination or mortgage loan business; providing for licensing and regulation of appraisal management companies; providing for property acquisition from petroleum tank fund proceeds; regulating cadmium in children's jewelry; regulating the sale and termination of portable electronics insurance; authorizing amendments to a municipal comprehensive plan for affordable housing; amending Iron Range resources provisions; requiring certain reports; appropriating money; amending Minnesota Statutes 2008, sections 58.04, subdivision 1; 58.08, by adding a subdivision; 58.09; 58.10, subdivision 1; 58.11; 60K.36, subdivision 2; 60K.38, subdivision 1; 82B.05, subdivision 5, by adding a subdivision; 82B.06; 115C.08, subdivision 1; 116J.437, subdivision 1; 116J.8731, subdivisions 1, 4; 116J.996; 116L.665, subdivisions 3, 6, by adding a subdivision; 136F.06, by adding a subdivision; 181.723, subdivision 5; 268.035, subdivision 20, by adding a subdivision; 268.046, subdivision 1; 268.051, subdivisions 2, 5, 7; 268.07, as amended; 268.085, subdivisions 9, 16; 268.095, subdivision 5; 268.101, by adding a subdivision; 268.184, subdivision 1; 326B.106, subdivision 9; 326B.133, subdivisions 1, 3, 8, 11, by adding subdivisions; 326B.16; 326B.197; 326B.33, subdivisions 18, 20, 21; 326B.42, by adding subdivisions; 326B.44; 326B.46, as amended; 326B.47; 326B.475, subdivision 2; 326B.50, by adding subdivisions; 326B.54; 326B.55, as amended; 326B.56, as amended; 326B.805, subdivision 6; 326B.83, subdivisions 1, 3, 6; 326B.865; 326B.921, subdivisions 2, 4, 7; 326B.922; 326B.978, subdivision 2, by adding a subdivision; 327.31, subdivision 17, by adding subdivisions; 327.32, subdivision 1, by adding subdivisions; 327.34, subdivision 1; 327B.04, subdivision 2; 363A.42, as added; 363A.43, as added; 462.355, subdivision 3; 469.1082, subdivision 5; 471.59, subdivision 10; Minnesota Statutes 2009 Supplement, sections 58.06, subdivision 2; 60K.55, subdivision 2; 82B.05, subdivision 1; 115C.08, subdivision 4; 116J.8731, subdivision 3; 268.035, subdivisions 19a, 23a; 268.052, subdivision 2; 268.053, subdivision 1; 268.085, subdivision 1; 268.095, subdivisions 2, 6; 268.105, subdivision 1; 268.136, subdivision 1; 326B.33, subdivision 19; 326B.475, subdivision 4; 326B.49, subdivision 1; 326B.58; 326B.815, subdivision 1; 326B.86,

subdivision 1; 326B.94, subdivision 4; 326B.986, subdivision 5; 327B.04, subdivisions 7, 7a, 8; 327B.041; Laws 2009, chapter 78, article 1, section 3, subdivision 2; Laws 2010, chapter 216, section 58; proposing coding for new law in Minnesota Statutes, chapters 60K; 116J; 116L; 184B; 325E; 326B; proposing coding for new law as Minnesota Statutes, chapters 58A; 82C; 116W; repealing Minnesota Statutes 2008, sections 116J.657; 326B.133, subdivisions 9, 10; 326B.37, subdivision 13; 326B.475, subdivisions 5, 6; 326B.56, subdivision 3; 326B.885, subdivisions 3, 4; 326B.976; 327.32, subdivision 4; 327C.07, subdivisions 3a, 8; Minnesota Statutes 2009 Supplement, sections 58.126; 326B.56, subdivision 4; 326B.986, subdivision 2; Laws 2010, chapter 215, article 9, section 3; Minnesota Rules, parts 1301.0500; 1301.0900; 1301.1100, subparts 2, 3, 4; 1350.7200, subpart 3; 1350.8000, subpart 2."

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

Senate Conferees: David Tomassoni, Dan Sparks, Kathy Saltzman, Kenneth Kelash, Katie Sieben

House Conferees: Mike Obermueller, Tom Rukavina, Tim Mahoney, Larry Haws, Bob Gunther

Senator Tomassoni moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2510 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2510 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 13, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dille	Ingebrigtsen	Limmer	Robling	Vandevveer
Gerlach	Johnson	Ortman	Rosen	
Hann	Jungbauer	Parry	Senjem	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2695 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2695

A bill for an act relating to health; modifying mandatory reporting requirements related to pregnant women; amending Minnesota Statutes 2008, section 626.5561, subdivision 1.

May 8, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2695 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2695 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 626.5561, subdivision 1, is amended to read:

Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(b) A health care professional or a social service professional who is mandated to report under section 626.556, subdivision 3, is exempt from reporting under paragraph (a) a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other healthcare services.

(c) Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.

(d) For purposes of this section, "prenatal care" means the comprehensive package of medical and psychological support provided throughout the pregnancy.

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

Senate Conferees: Kathy Sheran, Linda Higgins, Julianne Ortman

House Conferees: Maria Ruud, Debra Hilstrom, Jim Abeler

Senator Sheran moved that the foregoing recommendations and Conference Committee Report

on S.F. No. 2695 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2695 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 44 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Latz	Ortman	Scheid
Bakk	Fobbe	Lourey	Pappas	Sheran
Betzold	Foley	Lynch	Pariseau	Sieben
Carlson	Frederickson	Marty	Pogemiller	Skogen
Clark	Higgins	Metzen	Prettner Solon	Sparks
Cohen	Johnson	Moua	Rest	Tomassoni
Dahle	Kelash	Murphy	Rummel	Torres Ray
Dibble	Kubly	Olseen	Saltzman	Wiger
Dille	Langseth	Olson, M.	Saxhaug	

Those who voted in the negative were:

Berglin	Gerlach	Koch	Parry	Stumpf
Bonoff	Gimse	Koering	Robling	Vanderveer
Chaudhary	Hann	Limmer	Rosen	Vickerman
Doll	Ingebrigtsen	Michel	Senjem	
Fischbach	Jungbauer	Olson, G.	Skoe	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 271 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 271

A bill for an act relating to state government; providing additional whistleblower protection to state employees; amending Minnesota Statutes 2008, section 181.932, subdivision 1.

May 8, 2010

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 271 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 271 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [43A.015] CLASSIFIED EMPLOYEE COMMUNICATIONS WITH DECISION MAKERS.

State employees in the classified service are expected to provide objective information in a timely manner to both executive and legislative decision makers. State employees shall provide assistance to legislative decision makers in a manner that is consistent with the need to perform the employees' other duties. A classified state employee shall make a good-faith effort to maintain the confidentiality of budget or policy discussions with a member of the legislature or the member's staff person, unless otherwise directed by that member or staff person. This section does not authorize or require an employee to disclose data otherwise protected by law.

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

Sec. 2. Minnesota Statutes 2008, section 181.932, subdivision 1, is amended to read:

Subdivision 1. **Prohibited action.** An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because:

(1) the employee, or a person acting on behalf of an employee, in good faith, reports a violation or suspected violation of any federal or state law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official;

(2) the employee is requested by a public body or office to participate in an investigation, hearing, inquiry;

(3) the employee refuses an employer's order to perform an action that the employee has an objective basis in fact to believe violates any state or federal law or rule or regulation adopted pursuant to law, and the employee informs the employer that the order is being refused for that reason;

(4) the employee, in good faith, reports a situation in which the quality of health care services provided by a health care facility, organization, or health care provider violates a standard established by federal or state law or a professionally recognized national clinical or ethical standard and potentially places the public at risk of harm; or

(5) a public employee communicates the findings of a scientific or technical study that the employee, in good faith, believes to be truthful and accurate, including reports to a governmental body or law enforcement official; or

(6) an employee in the classified service of state government communicates information that the employee, in good faith, believes to be truthful and accurate, and that relates to state services, including the financing of state services to:

(i) a legislator or the legislative auditor; or

(ii) a constitutional officer.

The disclosures protected pursuant to this section do not authorize the disclosure of data otherwise protected by law.

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

Delete the title and insert:

"A bill for an act relating to state government; establishing expectations for classified employees as nonpartisan resources to all decision makers; providing additional whistleblower protection to state employees; amending Minnesota Statutes 2008, section 181.932, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 43A."

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

Senate Conferees: Mary Olson, D. Scott Dibble, Warren Limmer

House Conferees: Diane Loeffler, Phyllis Kahn, Tony Cornish

Senator Olson, M. moved that the foregoing recommendations and Conference Committee Report on S.F. No. 271 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Senator Gerlach moved that the recommendations and Conference Committee Report on S.F. No. 271 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion did not prevail.

The question recurred on the adoption of the Olson, M. motion. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 271 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 48 and nays 18, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dille	Ingebrigtsen	Koering	Pariseau	Senjem
Fischbach	Johnson	Michel	Parry	Vandever
Gerlach	Jungbauer	Olson, G.	Robling	
Hann	Koch	Ortman	Rosen	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Bakk from the Committee on Taxes, to which was referred

S.F. No. 2696: A bill for an act relating to taxation; making technical, administrative, and clarifying changes to individual income, corporate franchise, estate, sales and use, gross receipts, cigarette, tobacco, insurance, property, credits, payments, minerals, local government aid, job opportunity building zones, emergency debt certificates, and various taxes and tax-related provisions; amending Minnesota Statutes 2008, sections 60A.209, subdivision 1; 270C.34, subdivision 1; 270C.87; 272.029, subdivision 7; 275.71, subdivision 5; 279.37, subdivision 1; 289A.08, subdivision 7; 289A.12, subdivision 14; 289A.30, subdivision 2; 289A.60, subdivision 7; 290.067, subdivision 1; 290.0921, subdivision 3; 295.55, subdivisions 2, 3; 297A.62, by adding a subdivision; 297A.665; 297A.68, subdivision 39; 297A.70, subdivision 13; 297F.07, subdivision 4; 297I.30, subdivisions 1, 2, 7, 8; 297I.40, subdivisions 1, 5; 298.282, subdivision 1; 469.319, subdivision 5; 469.3193; Minnesota Statutes 2009 Supplement, sections 134.34, subdivision 4; 273.114, subdivision 2; 275.065, subdivision 3; 275.70, subdivision 5; 289A.18, subdivision 1; 290.01, subdivisions 19a, 19b, 19d; 290.06, subdivision 2c; 290.0671, subdivision 1; 290.091, subdivision 2; 297I.35, subdivision 2; 475.755; 477A.013, subdivision 8; Laws 2001, First Special Session chapter 5, article 3, section 50, as amended; Laws 2009, chapter 88, article 4, section 5; repealing Minnesota Statutes 2008, section 297I.30, subdivisions 4, 5, 6.

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

Senator Bakk from the Committee on Taxes, to which was referred

S.F. No. 2701: A bill for an act relating to taxation; making policy, technical, administrative, and clarifying changes to individual income, corporate franchise, sales and use, property, petroleum, cigarette, tobacco, insurance, local taxes, and other taxes and tax-related provisions; amending Minnesota Statutes 2008, sections 82B.035, subdivision 2; 270.41, subdivision 5; 270C.94, subdivision 3; 272.025, subdivisions 1, 3; 272.029, subdivision 4; 278.05, by adding a subdivision; 279.01, subdivision 3; 289A.09, subdivision 2; 289A.50, subdivisions 2, 4; 297A.995, subdivisions 10, 11; 297F.01, subdivision 22a; 297F.04, by adding a subdivision; 297F.25, subdivision 1; 297I.01, subdivision 9; 297I.05, subdivision 7; 297I.65, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 273.124, subdivision 3a; proposing coding for new law in Minnesota Statutes, chapters 296A; 645.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2696 and 2701 were read the second time.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 3046: Senators Sparks, Prettner Solon and Senjem.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

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. 3729:

H.F. No. 3729: A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, payment, enforcement, collection, refund, and other changes to individual income; corporate franchise, estate, sales and use, local taxes, gross receipts, gross revenues, cigarette, tobacco, insurance, property, minerals, petroleum, and other taxes and tax-related provisions; requiring sunset of new tax expenditures; property tax reform, accountability, value, and efficiency provisions; modifying certain payment schedules; making changes to tax-forfeited land, emergency debt certificate, local government aid, job opportunity building zone, special service district, agricultural preserve, tax increment financing, economic development authority, and special taxing district provisions; increasing and modifying certain borrowing authorities; modifying bond allocation provisions; specifying duties of assessors;

requiring studies; providing appointments; repealing political contribution refund; appropriating money; amending Minnesota Statutes 2008, sections 60A.209, subdivision 1; 82B.035, subdivision 2; 103D.335, subdivision 17; 270.075, subdivisions 1, 2; 270.41, subdivision 5; 270A.03, subdivision 7; 270C.11, subdivision 4; 270C.34, subdivision 1; 270C.52, subdivision 2; 270C.87; 270C.94, subdivision 3; 272.0213; 272.025, subdivisions 1, 3; 272.029, subdivisions 4, 7; 273.061, subdivisions 7, 8; 273.113, subdivision 3; 273.1231, subdivision 1; 273.1232, subdivision 1; 273.124, subdivisions 1, 8, 14; 273.13, subdivision 34; 273.1392; 275.71, subdivisions 4, 5; 275.75; 276.02; 276.112; 279.01, subdivision 3; 279.025; 279.37, subdivision 1; 282.01, subdivisions 1, 1a, 1b, 1c, 1d, 2, 3, 4, 7, 7a, by adding subdivisions; 289A.08, subdivision 7; 289A.09, subdivision 2; 289A.10, subdivision 1; 289A.12, subdivision 14; 289A.30, subdivision 2; 289A.50, subdivisions 1, 2, 4; 289A.60, subdivision 7, by adding a subdivision; 290.014, subdivision 2; 290.067, subdivision 1; 290.081; 290.0921, subdivision 3; 290.17, subdivision 2; 290.21, subdivision 4; 290A.04, subdivision 2; 290B.03, by adding a subdivision; 290B.04, subdivisions 3, 4; 290B.05, subdivision 1; 291.03, by adding a subdivision; 295.55, subdivisions 2, 3; 297A.62, as amended; 297A.665; 297A.68, subdivision 39; 297A.70, subdivision 13; 297A.71, subdivisions 23, 39; 297A.995, subdivisions 10, 11; 297F.01, subdivision 22a; 297F.04, by adding a subdivision; 297F.07, subdivision 4; 297F.25, subdivision 1; 297I.01, subdivision 9; 297I.05, subdivision 7; 297I.30, subdivisions 1, 2, 7, 8; 297I.40, subdivisions 1, 5; 297I.65, by adding a subdivision; 298.282, subdivision 1; 428A.12; 428A.18, subdivision 2; 469.101, subdivision 1; 469.319, subdivision 5; 469.3193; 473.39, by adding a subdivision; 473H.05, subdivision 1; 474A.04, subdivision 6; 474A.091, subdivision 3; Minnesota Statutes 2009 Supplement, sections 134.34, subdivision 4; 137.025, subdivision 1; 273.114, subdivision 2; 273.124, subdivision 3a; 273.13, subdivisions 23, 25; 275.065, subdivision 3; 275.70, subdivision 5, as amended; 276.04, subdivision 2; 279.01, subdivision 1; 289A.18, subdivision 1; 289A.20, subdivision 4; 290.01, subdivisions 19a, 19b, as amended, 19d; 290.06, subdivision 2c; 290.0671, subdivision 1; 290.091, subdivision 2; 290B.03, subdivision 1; 291.005, subdivision 1, as amended; 297I.35, subdivision 2; 475.755; 477A.011, subdivision 36, as amended; 477A.013, subdivision 8; Laws 2001, First Special Session chapter 5, article 3, section 50, as amended; Laws 2002, chapter 377, article 3, section 25, as amended; Laws 2009, chapter 88, article 2, section 49; article 4, sections 5; 23, subdivision 4; Laws 2010, chapter 216, sections 2, subdivision 3; 3, subdivision 6; by adding subdivisions; 4, subdivisions 1, 2, 4, 6, 7, 8; proposing coding for new law in Minnesota Statutes, chapters 3; 6; 270C; 273; 296A; 524; 645; repealing Minnesota Statutes 2008, sections 10A.322, subdivision 4; 13.4967, subdivision 2; 282.01, subdivisions 9, 10, 11; 290.06, subdivision 23; 297I.30, subdivisions 4, 5, 6; 383A.76.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Lenczewski, Marquart, Koenen, Loeffler and Urdahl have been appointed as such committee on the part of the House.

House File No. 3729 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 10, 2010

Senator Pogemiller, for Senator Bakk, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3729, 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. 3729: Senators Bakk, Skoe, Rest, Moua and Senjem.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senator Koering was excused from the Session of today from 12:10 to 1:30 p.m. Senator Berglin was excused from the Session of today from 2:30 to 3:00 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Tuesday, May 11, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

