

SIXTY-FOURTH DAY

St. Paul, Minnesota, Monday, May 23, 2011

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Hans Jorgenson.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America, led by military service veteran, Ms. Beth Kocian.

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

Bakk	Gerlach	Kubly	Nienow	Sieben
Benson	Gimse	Langseth	Olson	Skoe
Berglin	Goodwin	Latz	Ortman	Sparks
Bonoff	Hall	Lillie	Pappas	Stumpf
Brown	Hann	Limmer	Parry	Thompson
Carlson	Harrington	Lourey	Pederson	Tomassoni
Chamberlain	Higgins	Magnus	Pogemiller	Torres Ray
Cohen	Hoffman	Marty	Reinert	Vandever
Dahms	Howe	McGuire	Rest	Wiger
Daley	Ingebrigtsen	Metzen	Robling	Wolf
DeKruif	Jungbauer	Michel	Rosen	
Dibble	Kelash	Miller	Saxhaug	
Fischbach	Koch	Nelson	Senjem	
Gazelka	Kruse	Newman	Sheran	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 23, 2011

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

Pursuant to Senate Rule 8.2, the following appointments have been withdrawn from the following committees and placed on the Confirmation Calendar:

From the Committee on Jobs and Economic Growth, to which were referred the following appointments as reported in the Journal for January 13, 2011:

PLUMBING BOARD

Rebecca Ames

Chad Filek

John Flagg

James Kittelson

Allen J. Lamm

Gale Mount

Sincerely,
Cal R. Ludeman
Secretary of the Senate

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce the adoption by the House of the following Senate Concurrent Resolution, herewith returned:

Senate Concurrent Resolution No. 8: A Senate concurrent resolution relating to adjournment of the Senate and House of Representatives until 2012.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 22, 2011

RECESS

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

MOTIONS AND RESOLUTIONS**SPECIAL ORDERS**

Pursuant to Rule 26, Senator Michel, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

H.F. Nos. 1219, 753 and 1179.

SPECIAL ORDER

H.F. No. 1219: A bill for an act relating to taxation; omnibus policy bill; making policy, technical, administrative, and clarifying changes to income, withholding, estate, property, sales and use, mortgage registry, lodging, insurance, minerals, gasoline, and other various taxes and tax-related provisions; making changes to provisions related to horses, certain aids, payments, delinquent tax liabilities, and tax-forfeited lands; providing for inclusion of property in a tax increment financing district; providing a property tax exemption for certain fairgrounds property; making changes to certain housing and redevelopment authority; amending Minnesota Statutes 2010, sections 17.459, subdivision 2; 69.031, subdivision 1; 116J.8737, subdivisions 1, 2, 4; 270.87; 270A.03, subdivision 7; 270C.13, subdivision 2; 270C.30; 270C.32, subdivision 3, by adding a subdivision; 270C.34, subdivision 1; 270C.64; 270C.7101, subdivision 2; 270C.711; 272.029, by adding a subdivision; 273.1231, subdivision 4; 273.124, subdivisions 1, 8, 14; 273.13, subdivisions 22, 23; 273.33, subdivision 2; 273.37, subdivision 2; 273.3711; 274.175; 278.05, subdivision 6; 282.01, subdivisions 1a, 1c, 1d; 282.014; 282.12; 287.05, subdivision 2; 289A.08, subdivisions 1, 7; 289A.12, by adding a subdivision; 289A.18, subdivision 3; 289A.25, subdivisions 1, 6, by adding a subdivision; 289A.26, subdivision 1; 289A.35; 289A.50, subdivision 10; 289A.60, subdivision 31; 290.01, subdivisions 19a, 19b; 290.06, subdivision 2c; 290.091, subdivision 2; 290.0922, subdivisions 2, 3; 290.095, subdivision 11; 290.92, subdivision 26; 291.03, subdivision 1b; 296A.083, by adding a subdivision; 296A.18, subdivision 7, by adding a subdivision; 297A.61, subdivision 3; 297A.62, by adding a subdivision; 297A.63, by adding a subdivision; 297A.668, subdivision 7, by adding a subdivision; 297A.71, subdivision 23; 297A.89, subdivision 2; 297B.08; 297I.15, by adding a subdivision; 298.28, subdivision 2; 383C.16, subdivision 1; 469.176, subdivisions 4c, 4m; 469.1763, subdivision 2; 469.319, subdivision 5; Laws 1974, chapter 475, sections 1; 2, as amended; Laws 1986, chapter 462, section 31, as amended; Laws 2010, chapter 389, article 1, section 12; article 7, section 22; proposing coding for new law in Minnesota Statutes, chapters 270C; 383C; repealing Minnesota Statutes 2010, sections 17.459, subdivision 3; 272.02, subdivision 34; 273.124, subdivision 10; 281.37; 290.06, subdivision 10; 290A.27; 296A.18, subdivision 9.

Senator Metzen moved to amend H.F. No. 1219, as amended pursuant to Rule 45, adopted by the Senate May 21, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 869.)

Page 63, after line 15, insert:

"Section 1. Minnesota Statutes 2010, section 116J.8737, subdivision 1, is amended to read:

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

(b) "Qualified small business" means a business that has been certified by the commissioner under subdivision 2.

(c) "Qualified investor" means an investor who has been certified by the commissioner under subdivision 3.

(d) "Qualified fund" means a pooled angel investment network fund that has been certified by the commissioner under subdivision 4.

(e) "Qualified investment" means a cash investment in a qualified small business of a minimum of:

- (1) \$10,000 in a calendar year by a qualified investor; or
- (2) \$30,000 in a calendar year by a qualified fund.

A qualified investment must be made in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or an equivalent ownership interest as determined by the commissioner.

(f) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

(g) "Pass-through entity" means a corporation that for the applicable taxable year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable taxable year is not taxed as a corporation under chapter 290.

(h) "Intern" means a student of an accredited institution of higher education, or a former student who has graduated in the past six months from an accredited institution of higher education, who is employed by a qualified small business in a nonpermanent position for a duration of nine months or less that provides training and experience in the primary business activity of the business.

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

Sec. 2. Minnesota Statutes 2010, section 116J.8737, subdivision 2, is amended to read:

Subd. 2. **Certification of qualified small businesses.** (a) Businesses may apply to the commissioner for certification as a qualified small business for a calendar year. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$150. Application fees are deposited in the small business investment tax credit administration account in the special revenue fund. The application for certification for 2010 must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year.

(b) Within 30 days of receiving an application for certification under this subdivision, the commissioner must either certify the business as satisfying the conditions required of a qualified small business, request additional information from the business, or reject the application

for certification. If the commissioner requests additional information from the business, the commissioner must either certify the business or reject the application within 30 days of receiving the additional information. If the commissioner neither certifies the business nor rejects the application within 30 days of receiving the original application or within 30 days of receiving the additional information requested, whichever is later, then the application is deemed rejected, and the commissioner must refund the \$150 application fee. A business that applies for certification and is rejected may reapply.

(c) To receive certification, a business must satisfy all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) the business is engaged in, or is committed to engage in, innovation in Minnesota in one of the following as its primary business activity:

(i) using proprietary technology to add value to a product, process, or service in a qualified high-technology field;

(ii) researching or developing a proprietary product, process, or service in a qualified high-technology field; or

(iii) researching, developing, or producing a new proprietary technology for use in the fields of agriculture, tourism, forestry, mining, manufacturing, or transportation;

(4) other than the activities specifically listed in clause (3), the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees;

(6) the business must pay its employees annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four and must pay its interns annual wages of at least 175 percent of the federal minimum wage used for federally covered employers, except that this requirement must be reduced proportionately for employees and interns who work less than full-time, and does not apply to an executive, officer, or member of the board of the business, or to any employee who owns, controls, or holds power to vote more than 20 percent of the outstanding securities of the business;

(7) the business has not been in operation for more than ten years;

(8) the business has not previously received private equity investments of more than \$2,000,000 \$4,000,000; and

(9) the business is not an entity disqualified under section 80A.50, paragraph (b), clause (3).

(d) In applying the limit under paragraph (c), clause (5), the employees in all members of the unitary business, as defined in section 290.17, subdivision 4, must be included.

(e) In order for a qualified investment in a business to be eligible for tax credits, the business must have applied for and received certification for the calendar year in which the investment was made prior to the date on which the qualified investment was made.

(f) The commissioner must maintain a list of businesses certified under this subdivision for the calendar year and make the list accessible to the public on the department's Web site.

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

(1) "qualified high-technology field" includes aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry, veterinary science, and similar fields; and

(2) "proprietary technology" means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted.

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

Sec. 3. Minnesota Statutes 2010, section 116J.8737, subdivision 4, is amended to read:

Subd. 4. **Certification of qualified funds.** (a) A pass-through entity may apply to the commissioner for certification as a qualified fund for a calendar year. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$1,000. Application fees are deposited in the small business investment tax credit administration account in the special revenue fund. The application for certification for 2010 of qualified funds must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available by November 1 of the preceding year.

(b) Within 30 days of receiving an application for certification under this subdivision, the commissioner must either certify the fund as satisfying the conditions required of a qualified fund, request additional information from the fund, or reject the application for certification. If the commissioner requests additional information from the fund, the commissioner must either certify the fund or reject the application within 30 days of receiving the additional information. If the commissioner neither certifies the fund nor rejects the application within 30 days of receiving the original application or within 30 days of receiving the additional information requested, whichever is later, then the application is deemed rejected, and the commissioner must refund the \$1,000 application fee. A fund that applies for certification and is rejected may reapply.

(c) To receive certification, a fund must:

(1) invest or intend to invest in qualified small businesses;

(2) be organized as a pass-through entity; and

(3) have at least three separate investors, ~~all~~ of whom at least three whose investment is made in the certified business and who seek a tax credit allocation satisfy the conditions in subdivision 3, paragraph (c).

(d) Investments in the fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both.

(e) In order for a qualified investment in a qualified small business to be eligible for tax credits, a qualified fund that makes the investment must have applied for and received certification for the calendar year prior to making the qualified investment.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2011."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Ortman moved to amend H.F. No. 1219, as amended pursuant to Rule 45, adopted by the Senate May 21, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 869.)

Page 6, after line 33, insert:

"Sec. 9. Minnesota Statutes 2010, section 289A.50, subdivision 10, is amended to read:

Subd. 10. **Limitation on refund.** (a) If an addition to federal taxable income under section 290.01, subdivision 19a, clause (1), is judicially determined to discriminate against interstate commerce with respect to obligations of a certain character or type, the legislature intends that the discrimination be remedied by adding to federal taxable income interest on comparable obligations of Minnesota governmental units and Indian tribes ~~to federal taxable income~~. For purposes of this subdivision, "comparable obligation" means obligations of the character or type that the court found to be unconstitutionally favored by section 290.01, subdivision 19a, clause (1), whether based on the security for payment, use of the proceeds, or any other factor identified as determinative by the court.

(b) This subdivision applies beginning with the taxable years that begin during the calendar year in which the court's decision is final. Other remedies apply for previous taxable years.

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

Page 7, delete section 9

Page 12, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 2010, section 273.13, subdivision 22, is amended to read:

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$500,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a class rate of

1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by:

(1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse;

(2) any person who is permanently and totally disabled or by the disabled person and the disabled person's spouse; or

(3) the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008.

Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34.

Property is classified and assessed under paragraph (b) only if the commissioner of revenue or the county assessor certifies that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$50,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real and personal property that abuts public water as defined in section 103G.005, subdivision 15, and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this paragraph, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. Class 1c property must contain three or more rental units. A "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 1c property must provide recreational activities such as the rental of ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle. Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. A camping pad offered for rent by a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days. ~~If an owner of property that had been classified as class 1c ceases to use that property as a homestead but retains ownership of that property and continues to operate it as a resort, and begins to occupy a second property that is~~ If the same owner owns two separate parcels that

are located in the same township as the original class 1c property, and one of those properties is classified as a class 1c property and the other would be eligible to be classified as a class 1c property if it was used as the homestead of the owner, both properties will be assessed as a single class 1c property, provided that the second property would separately qualify to be assessed as class 1c property; for purposes of this sentence, properties are deemed to be owned by the same owner if each of them is owned by a limited liability company, and both limited liability companies have the same membership. The portion of the property used as a homestead is class 1a property under paragraph (a). The remainder of the property is classified as follows: the first \$600,000 of market value is tier I, the next \$1,700,000 of market value is tier II, and any remaining market value is tier III. The class rates for class 1c are: tier I, 0.50 percent; tier II, 1.0 percent; and tier III, 1.25 percent. Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes in which all or a portion of the property was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated as class 1c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located must be designated as class 3a commercial. The owner of property desiring designation as class 1c property must provide guest registers or other records demonstrating that the units for which class 1c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 1c.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

EFFECTIVE DATE. This section is effective for taxes levied in 2011, payable in 2012, and thereafter."

Page 27, delete section 1 and insert:

"Section 1. Minnesota Statutes 2010, section 290.01, subdivision 19a, as amended by Laws

2011, chapter 8, section 3, is amended to read:

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except:

(A) the portion of the exempt-interest dividends exempt from state taxation under the laws of the United States; and

(B) the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends, including any dividends exempt under subitem (A), that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income, sales and use, motor vehicle sales, or excise taxes are the last itemized deductions disallowed;

(3) the capital gain amount of a lump-sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and taxes based on net income paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10 other than expenses or interest used in computing net interest income for the subtraction allowed under

subdivision 19b, clause (1);

(6) 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;

(7) 80 percent of the depreciation deduction allowed under section 168(k) 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) 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)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) 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) is allowed;

(8) 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;

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

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

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

(12) for taxable years beginning before January 1, 2010, and after December 31, 2010, the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income;

(13) for taxable years beginning before January 1, 2010, and after December 31, 2010, the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income;

(14) the additional standard deduction for property taxes payable that is allowable under section 63(c)(1)(C) of the Internal Revenue Code;

(15) the additional standard deduction for qualified motor vehicle sales taxes allowable under section 63(c)(1)(E) of the Internal Revenue Code;

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

(17) the amount of unemployment compensation exempt from tax under section 85(c) of the Internal Revenue Code; and

(18) changes to federal taxable income attributable to a net operating loss that the taxpayer elected to carry back for more than two years for federal purposes but for which the losses can be carried back for only two years under section 290.095, subdivision 11, paragraph (c).

EFFECTIVE DATE. This section is effective retroactively for losses generated in taxable years

beginning after December 31, 2007."

Page 46, line 28, reinstate the stricken language and delete the new language

Page 46, line 29, delete the new language

Page 59, delete section 5

Page 63, after line 15, insert:

"Section 1. **[16C.082] CONTRACTS FOR TAX-RELATED ACTIVITIES.**

An agency may not enter into a contract for tax fraud prevention or detection, or tax audit-related activities, that compensates a vendor based on a percentage of taxes assessed or collected. This section does not apply to the commissioner's authority to contract for debt collection under Minnesota Statutes, section 16D.04.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to contracts entered into on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Marty requested division of the Ortman amendment as follows:

First portion:

Page 6, after line 33, insert:

"Sec. 9. Minnesota Statutes 2010, section 289A.50, subdivision 10, is amended to read:

Subd. 10. **Limitation on refund.** (a) If an addition to federal taxable income under section 290.01, subdivision 19a, clause (1), is judicially determined to discriminate against interstate commerce with respect to obligations of a certain character or type, the legislature intends that the discrimination be remedied by adding to federal taxable income interest on comparable obligations of Minnesota governmental units and Indian tribes ~~to federal taxable income.~~ For purposes of this subdivision, "comparable obligation" means obligations of the character or type that the court found to be unconstitutionally favored by section 290.01, subdivision 19a, clause (1), whether based on the security for payment, use of the proceeds, or any other factor identified as determinative by the court.

(b) This subdivision applies beginning with the taxable years that begin during the calendar year in which the court's decision is final. Other remedies apply for previous taxable years.

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

Page 7, delete section 9

Page 12, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 2010, section 273.13, subdivision 22, is amended to read:

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real

estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$500,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a class rate of 1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by:

(1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse;

(2) any person who is permanently and totally disabled or by the disabled person and the disabled person's spouse; or

(3) the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008.

Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34.

Property is classified and assessed under paragraph (b) only if the commissioner of revenue or the county assessor certifies that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$50,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real and personal property that abuts public water as defined in section 103G.005, subdivision 15, and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this paragraph, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. Class 1c property must contain three or more rental units. A "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 1c property must provide recreational activities such as the rental of ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle. Any unit

in which the right to use the property is transferred to an individual or entity by deeded interest, or the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. A camping pad offered for rent by a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days. ~~If an owner of property that had been classified as class 1c ceases to use that property as a homestead but retains ownership of that property and continues to operate it as a resort, and begins to occupy a second property that is~~ If the same owner owns two separate parcels that are located in the same township as the original class 1c property, and one of those properties is classified as a class 1c property and the other would be eligible to be classified as a class 1c property if it was used as the homestead of the owner, both properties will be assessed as a single class 1c property, provided that the second property would separately qualify to be assessed as class 1c property; for purposes of this sentence, properties are deemed to be owned by the same owner if each of them is owned by a limited liability company, and both limited liability companies have the same membership. The portion of the property used as a homestead is class 1a property under paragraph (a). The remainder of the property is classified as follows: the first \$600,000 of market value is tier I, the next \$1,700,000 of market value is tier II, and any remaining market value is tier III. The class rates for class 1c are: tier I, 0.50 percent; tier II, 1.0 percent; and tier III, 1.25 percent. Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes in which all or a portion of the property was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated as class 1c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located must be designated as class 3a commercial. The owner of property desiring designation as class 1c property must provide guest registers or other records demonstrating that the units for which class 1c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 1c.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under

paragraph (a).

EFFECTIVE DATE. This section is effective for taxes levied in 2011, payable in 2012, and thereafter."

Page 27, delete section 1 and insert:

"Section 1. Minnesota Statutes 2010, section 290.01, subdivision 19a, as amended by Laws 2011, chapter 8, section 3, is amended to read:

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except:

(A) the portion of the exempt-interest dividends exempt from state taxation under the laws of the United States; and

(B) the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends, including any dividends exempt under subitem (A), that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income, sales and use, motor vehicle sales, or excise taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid, sales and use, motor vehicle sales, or excise taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code, disregarding the amounts allowed under sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income, sales and use, motor vehicle sales, or excise taxes are the last itemized deductions disallowed;

(3) the capital gain amount of a lump-sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and taxes based on net income paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10 other than expenses or interest used in computing net interest income for the subtraction allowed under subdivision 19b, clause (1);

(6) 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;

(7) 80 percent of the depreciation deduction allowed under section 168(k) 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) 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)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) 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) is allowed;

(8) 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;

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

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

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

(12) for taxable years beginning before January 1, 2010, and after December 31, 2010, the amount deducted for qualified tuition and related expenses under section 222 of the Internal Revenue Code, to the extent deducted from gross income;

(13) for taxable years beginning before January 1, 2010, and after December 31, 2010, the amount deducted for certain expenses of elementary and secondary school teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted from gross income;

(14) the additional standard deduction for property taxes payable that is allowable under section 63(c)(1)(C) of the Internal Revenue Code;

(15) the additional standard deduction for qualified motor vehicle sales taxes allowable under section 63(c)(1)(E) of the Internal Revenue Code;

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

(17) the amount of unemployment compensation exempt from tax under section 85(c) of the Internal Revenue Code; and

(18) changes to federal taxable income attributable to a net operating loss that the taxpayer elected to carry back for more than two years for federal purposes but for which the losses can be carried back for only two years under section 290.095, subdivision 11, paragraph (c).

EFFECTIVE DATE. This section is effective retroactively for losses generated in taxable years beginning after December 31, 2007."

Page 46, line 28, reinstate the stricken language and delete the new language

Page 46, line 29, delete the new language

Page 59, delete section 5

The question was taken on the adoption of the first portion of the Ortman amendment. The motion prevailed. So the first portion of the amendment was adopted.

Second portion:

Page 63, after line 15, insert:

"Section 1. **[16C.082] CONTRACTS FOR TAX-RELATED ACTIVITIES.**

An agency may not enter into a contract for tax fraud prevention or detection, or tax audit-related activities, that compensates a vendor based on a percentage of taxes assessed or collected. This section does not apply to the commissioner's authority to contract for debt collection under Minnesota Statutes, section 16D.04.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to contracts entered into on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the second portion of the Ortman amendment. The motion prevailed. So the second portion of the amendment was adopted.

Senator Rest moved to amend H.F. No. 1219, as amended pursuant to Rule 45, adopted by the Senate May 12, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 869.)

Page 72, after line 33, insert:

"Sec. 9. Minnesota Statutes 2010, section 469.176, subdivision 4c, is amended to read:

Subd. 4c. **Economic development districts.** (a) Revenue derived from tax increment from an economic development district may not be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to developments consisting of buildings and ancillary facilities, if more than 15 percent of the buildings and facilities (determined on the basis of square footage) are used for a purpose other than:

(1) the manufacturing or production of tangible personal property, including processing resulting in the change in condition of the property;

(2) warehousing, storage, and distribution of tangible personal property, excluding retail sales;

(3) research and development related to the activities listed in clause (1) or (2);

(4) telemarketing if that activity is the exclusive use of the property;

(5) tourism facilities;

(6) qualified border retail facilities; or

(7) space necessary for and related to the activities listed in clauses (1) to (6).

(b) Notwithstanding the provisions of this subdivision, revenues derived from tax increment from an economic development district may be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form for up to 15,000 square feet of any separately owned commercial facility located within the municipal jurisdiction of a small city, if the revenues derived from increments are spent only to assist the facility directly or for administrative expenses, the assistance is necessary to develop the facility, and all of the increments, except those for administrative expenses, are spent only for activities within the district.

(c) A city is a small city for purposes of this subdivision if the city was a small city in the year in which the request for certification was made and applies for the rest of the duration of the district, regardless of whether the city qualifies or ceases to qualify as a small city.

(d) Notwithstanding the requirements of paragraph (a) and the finding requirements of section 469.174, subdivision 12, tax increments from an economic development district may be used to provide improvements, loans, subsidies, grants, interest rate subsidies, or assistance in any form to developments consisting of buildings and ancillary facilities, if all the following conditions are met:

(1) the municipality finds that the project will create or retain jobs in this state, including construction jobs, and that construction of the project would not have commenced before July 1, ~~2011~~ 2012, without the authority providing assistance under the provisions of this paragraph;

(2) construction of the project begins no later than July 1, ~~2011~~ 2012; and

(3) the request for certification of the district is made no later than June 30, ~~2011~~ 2012; and

(4) for development of housing under this paragraph, the construction must begin before January 1, 2012.

The provisions of this paragraph may not be used to assist housing that is developed to qualify under section 469.1761, subdivision 2 or 3, or similar requirements of other law, if construction of the project begins later than July 1, 2011.

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

Sec. 10. Minnesota Statutes 2010, section 469.176, subdivision 4m, is amended to read:

Subd. 4m. **Temporary authority to stimulate construction.** (a) Notwithstanding the restrictions in any other subdivision of this section or any other law to the contrary, except the

requirement to pay bonds to which the increments are pledged and the provisions of subdivisions 4g and 4h, the authority may spend tax increments for one or more of the following purposes:

(1) to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, if doing so will create or retain jobs in this state, including construction jobs, and that the construction commences before July 1, ~~2011~~ 2012, and would not have commenced before that date without the assistance; or

(2) to make an equity or similar investment in a corporation, partnership, or limited liability company that the authority determines is necessary to make construction of a development that meets the requirements of clause (1) financially feasible.

(b) The authority may undertake actions under the authority of this subdivision only after approval by the municipality of a written spending plan that specifically authorizes the authority to take the actions. The municipality shall approve the spending plan only after a public hearing after published notice in a newspaper of general circulation in the municipality at least once, not less than ten days nor more than 30 days prior to the date of the hearing.

(c) The authority to spend tax increments under this subdivision expires December 31, ~~2011~~ 2012.

(d) For a development consisting of housing, the authority to spend tax increments under this subdivision expires December 31, 2011, and construction must commence before July 1, 2011, except the authority to spend tax increments on market rate housing developments under this subdivision expires July 31, 2012, and construction must commence before January 1, 2012.

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

Sec. 11. Minnesota Statutes 2010, section 469.1763, subdivision 2, is amended to read:

Subd. 2. Expenditures outside district. (a) For each tax increment financing district, an amount equal to at least 75 percent of the total revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not more than 25 percent of the total revenue derived from tax increments paid by properties in the district may be expended, through a development fund or otherwise, on activities outside of the district but within the defined geographic area of the project except to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is 20 percent. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before calculating the percentages that must be expended within and without the district.

(b) In the case of a housing district, a housing project, as defined in section 469.174, subdivision 11, is an activity in the district.

(c) All administrative expenses are for activities outside of the district, except that if the only

expenses for activities outside of the district under this subdivision are for the purposes described in paragraph (d), administrative expenses will be considered as expenditures for activities in the district.

(d) The authority may elect, in the tax increment financing plan for the district, to increase by up to ten percentage points the permitted amount of expenditures for activities located outside the geographic area of the district under paragraph (a). As permitted by section 469.176, subdivision 4k, the expenditures, including the permitted expenditures under paragraph (a), need not be made within the geographic area of the project. Expenditures that meet the requirements of this paragraph are legally permitted expenditures of the district, notwithstanding section 469.176, subdivisions 4b, 4c, and 4j. To qualify for the increase under this paragraph, the expenditures must:

(1) be used exclusively to assist housing that meets the requirement for a qualified low-income building, as that term is used in section 42 of the Internal Revenue Code; and

(2) not exceed the qualified basis of the housing, as defined under section 42(c) of the Internal Revenue Code, less the amount of any credit allowed under section 42 of the Internal Revenue Code; and

(3) be used to:

(i) acquire and prepare the site of the housing;

(ii) acquire, construct, or rehabilitate the housing; or

(iii) make public improvements directly related to the housing; or

(4) be used to develop housing:

(i) if the market value of the housing does not exceed the lesser of:

(A) 150 percent of the average market value of single-family homes in that municipality; or

(B) \$200,000 for municipalities located in the metropolitan area, as defined in section 473.121, or \$125,000 for all other municipalities; and

(ii) if the expenditures are used to pay the cost of site acquisition, relocation, demolition of existing structures, site preparation, and pollution abatement on one or more parcels, if the parcel contains a residence containing one to four family dwelling units that has been vacant for six or more months and is in foreclosure as defined in section 325N.10, subdivision 7, but without regard to whether the residence is the owner's principal residence, and only after the redemption period stated in the notice provided under section 580.06 has expired.

(e) For a district created within a biotechnology and health sciences industry zone as defined in section 469.330, subdivision 6, or for an existing district located within such a zone, tax increment derived from such a district may be expended outside of the district but within the zone only for expenditures required for the construction of public infrastructure necessary to support the activities of the zone, land acquisition, and other redevelopment costs as defined in section 469.176, subdivision 4j. These expenditures are considered as expenditures for activities within the district.

(f) The authority under paragraph (d), clause (4), expires on December 31, 2016. Increments may continue to be expended under this authority after that date, if they are used to pay bonds or

binding contracts that would qualify under subdivision 3, paragraph (a), if December 31, 2016, is considered to be the last date of the five-year period after certification under that provision.

EFFECTIVE DATE. This section is effective for any district that is subject to the provisions of section 469.1763, regardless of when the request for certification of the district was made.

Sec. 12. Laws 2010, chapter 389, article 7, section 22, is amended to read:

Sec. 22. CITY OF RAMSEY; TAX INCREMENT FINANCING DISTRICT; SPECIAL RULES.

(a) If the city of Ramsey or an authority of the city elects upon the adoption of a tax increment financing plan for a district, the rules under this section apply to a redevelopment tax increment financing district established by the city or an authority of the city. The redevelopment tax increment district includes parcels within the area bounded on the east by Ramsey Boulevard, on the north by Bunker Lake Boulevard as extended west to Llama Street, on the west by Llama Street, and on the south by a line running parallel to and 600 feet south of the southerly right-of-way for U.S. Highway 10, but including Parcels 28-32-25-43-0007 and 28-32-25-34-0002 in their entirety, and excluding the Anoka County Regional Park property in its entirety. A parcel within this area that is included in a tax increment financing district that was certified before the date of enactment of this act may be included in the district created under this act if the initial district is decertified.

(b) The requirements for qualifying a redevelopment tax increment district under Minnesota Statutes, section 469.174, subdivision 10, do not apply to the parcels located within the district.

(c) In addition to the costs permitted by Minnesota Statutes, section 469.176, subdivision 4j, does not apply to the district. Eligible expenditures within the district include but are not limited to (1) the city's share of the costs necessary to provide for the construction of the Northstar Transit Station and related infrastructure, including structured parking, a pedestrian overpass, and roadway improvements, (2) the cost of land acquired by the city or the housing and redevelopment authority in and for the city of Ramsey within the district prior to the establishment of the district, and (3) the cost of public improvements installed within the tax increment financing district prior to the establishment of the district.

(d) The requirement of Minnesota Statutes, section 469.1763, subdivision 3, that activities must be undertaken within a five-year period from the date of certification of a tax increment financing district, is considered to be met for the district if the activities were undertaken within ten years from the date of certification of the district.

(e) Except for administrative expenses, the in-district percentage for purposes of the restriction on pooling under Minnesota Statutes, section 469.1763, subdivision 2, for this district is 100 percent.

(f) The requirement of Minnesota Statutes, section 469.177, subdivision 4, does not apply to Parcels 28-32-25-42-0021 and 28-32-25-41-0014, where development occurred after enactment of Laws 2010, chapter 389, article 7, section 22, and prior to adoption of the tax increment financing plan for the district.

EFFECTIVE DATE. This section is effective upon approval by the governing body of the city of Ramsey, and upon compliance by the city with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 13. CITY OF COHASSET; USE OF TAX INCREMENTS.

The authority operating tax increment financing districts No. 2-1 and No. 3-1 in the city of Cohasset may transfer tax increments from each of those districts to the city in an amount equal to the advances made by the city from its general fund to finance expenditures under Minnesota Statutes, section 469.176, subdivision 4, for the benefit of that district.

EFFECTIVE DATE. This section is effective the day following final enactment, upon approval by the governing body of the city of Cohasset and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 14. CITY OF LINO LAKES; TAX INCREMENT FINANCING.

Subdivision 1. **Duration of district.** Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1b, the city of Lino Lakes may collect tax increments from tax increment financing district no. 1-10 through December 31, 2023, subject to the conditions in subdivision 2.

Subd. 2. **Conditions for extension.** All tax increments remaining in the account for the district after February 1, 2011, and all tax increments collected thereafter, must be used only to pay debt service on bonds issued to finance the interchange of Anoka County Highway 23 and marked Interstate Highway 35W, bonds issued to finance public improvements serving the development known as Legacy at Woods Edge, and any bonds issued to refund those bonds. Minnesota Statutes, sections 469.176, subdivision 4c, and 469.1763, do not apply to expenditures made under this section.

EFFECTIVE DATE. This section is effective upon compliance by the governing body of the city of Lino Lakes with the requirements of Minnesota Statutes, sections 469.1782, subdivision 2, and 645.021, subdivision 3."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1219 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 49 and nays 16, as follows:

Those who voted in the affirmative were:

Benson	Gerlach	Kubly	Nienow	Sheran
Bonoff	Gimse	Langseth	Olson	Sieben
Brown	Hall	Lillie	Ortman	Sparks
Carlson	Hann	Limmer	Parry	Stumpf
Chamberlain	Harrington	Magnus	Pederson	Thompson
Dahms	Hoffman	Metzen	Rest	Tomassoni
Daley	Howe	Michel	Robling	Vandever
DeKruif	Ingebrigtsen	Miller	Rosen	Wiger
Fischbach	Jungbauer	Nelson	Saxhaug	Wolf
Gazelka	Kruse	Newman	Senjem	

Those who voted in the negative were:

Bakk	Goodwin	Lourey	Pogemiller
Berglin	Higgins	Marty	Reinert
Cohen	Kelash	McGuire	Skoe
Dibble	Latz	Pappas	Torres Ray

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

SPECIAL ORDER

H.F. No. 753: A bill for an act relating to local government; providing for concurrent detachment and annexation; amending Minnesota Statutes 2010, section 414.061, subdivisions 1, 2, 5.

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 59 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gimse	Kubly	Newman	Senjem
Benson	Goodwin	Langseth	Nienow	Sheran
Berglin	Hall	Latz	Ortman	Sieben
Brown	Hann	Lillie	Pappas	Skoe
Carlson	Harrington	Limmer	Parry	Sparks
Chamberlain	Higgins	Lourey	Pederson	Stumpf
Cohen	Hoffman	Magnus	Pogemiller	Thompson
Dahms	Howe	Marty	Reinert	Tomassoni
Dibble	Ingebrigtsen	McGuire	Rest	Torres Ray
Fischbach	Jungbauer	Metzen	Robling	Vanderveer
Gazelka	Kelash	Michel	Rosen	Wiger
Gerlach	Kruse	Miller	Saxhaug	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1179: A bill for an act relating to pupil transportation; modifying pupil transportation provisions; clarifying Department of Education's role in maintaining training programs; including use of certain lift buses in the category of revenue authorized for reimbursement; including actual contracted transportation costs as a method for allocating pupil transportation costs; amending Minnesota Statutes 2010, sections 123B.88, subdivision 13; 123B.90, subdivision 3; 123B.92, subdivision 1.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Carlson	DeKruif	Gimse	Higgins
Benson	Chamberlain	Dibble	Goodwin	Hoffman
Berglin	Cohen	Fischbach	Hall	Howe
Bonoff	Dahms	Gazelka	Hann	Ingebrigtsen
Brown	Daley	Gerlach	Harrington	Jungbauer

Kelash	Magnus	Nienow	Robling	Stumpf
Kruse	Marty	Olson	Rosen	Thompson
Kubly	McGuire	Pappas	Saxhaug	Tomassoni
Langseth	Metzen	Parry	Senjem	Torres Ray
Latz	Michel	Pederson	Sheran	Vandever
Lillie	Miller	Pogemiller	Sieben	Wiger
Limmer	Nelson	Reinert	Skoe	Wolf
Lourey	Newman	Rest	Sparks	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 232:

H.F. No. 232: A bill for an act relating to state government; expanding eligibility for gold star license plates to surviving legal guardians and siblings; regulating certain motor vehicle fees; regulating the Department of Veterans Affairs and veterans homes; amending Minnesota Statutes 2010, sections 168.1253, subdivision 1; 168.33, subdivision 7; 171.06, subdivision 2; 198.261; 299A.705, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 196.

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

Kriesel, Howes and Marquart have been appointed as such committee on the part of the House.

House File No. 232 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 23, 2011

Senator Ingebrigtsen moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 232, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1280 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1280

A bill for an act relating to employment; providing notice of sharing of gratuities and authorizing employers to safeguard and disburse shared gratuities; amending Minnesota Statutes 2010, section 177.24, subdivision 3.

May 23, 2011

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt Zellers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1280 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. 1280 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 177.24, subdivision 3, is amended to read:

Subd. 3. **Sharing of gratuities.** For purposes of this chapter, any gratuity received by an employee or deposited in or about a place of business for personal services rendered by an employee is the sole property of the employee. No employer may require an employee to contribute or share a gratuity received by the employee with the employer or other employees or to contribute any or all of the gratuity to a fund or pool operated for the benefit of the employer or employees. This section does not prevent an employee from voluntarily ~~and individually~~ sharing gratuities with other employees. The agreement to share gratuities must be made by the employees ~~free of any employer~~ without employer coercion or participation, except that an employer may:

(1) upon the request of employees, safeguard gratuities to be shared by employees and disburse shared gratuities to employees participating in the agreement;

(2) report the amounts received as required for tax purposes; and

(3) post a copy of this section for the information of employees.

The commissioner may require the employer to pay restitution in the amount of the gratuities diverted. If the records maintained by the employer do not provide sufficient information to determine the exact amount of gratuities diverted, the commissioner may make a determination of gratuities diverted based on available evidence and mediate a settlement with the employer."

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

Senate Conferees: Dave A. Thompson, Benjamin A. Kruse, David J. Tomassoni

House Conferees: Sarah Anderson, Tim O'Driscoll, Kirk Stensrud

Senator Thompson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1280 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. 1280 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Koch	Miller	Saxhaug
Benson	Gerlach	Kruse	Nelson	Senjem
Berglin	Gimse	Kubly	Newman	Sheran
Bonoff	Goodwin	Langseth	Nienow	Sieben
Brown	Hall	Latz	Olson	Skoe
Carlson	Hann	Lillie	Pappas	Sparks
Chamberlain	Harrington	Limmer	Parry	Stumpf
Cohen	Higgins	Lourey	Pederson	Thompson
Dahms	Hoffman	Magnus	Pogemiller	Tomassoni
Daley	Howe	Marty	Reinert	Torres Ray
DeKruif	Ingebrigtsen	McGuire	Rest	Wiger
Dibble	Jungbauer	Metzen	Robling	Wolf
Fischbach	Kelash	Michel	Rosen	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1045 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1045

A bill for an act relating to commerce; regulating continuing education requirements, insurance coverages, adjusters, and appraisers; amending Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding subdivisions; 45.30, subdivision 7, by adding a subdivision; 45.35; 60K.56, subdivision 6; 62A.095, subdivision 1; 62A.318, subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62L.03, subdivision 3; 72B.041, subdivision 5; 79A.06, subdivision 5; 79A.24, by adding subdivisions; 82.641, subdivision 1; 82B.11, subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 45; 72B; repealing Minnesota Statutes 2010, section 45.25, subdivision 3.

May 23, 2011

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt Zellers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1045 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. 1045 be further amended as

follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in chapters 45 to 80C, 80E to 83, 155A, 332, 332A, 332B, 345, and 359, and sections 123A.21, subdivision 7, paragraph (a), clause (23); 123A.25; 325D.30 to 325D.42; 326B.802 to 326B.885; 386.61 to 386.78; 471.617; and 471.982, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 2a. **Classroom course.** "Classroom course" means an educational process based on no geographical separation of instructor and learner.

Sec. 3. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 5a. **Distance learning course.** "Distance learning course" means an education process based on the geographical separation of instructor and learner. This includes, but is not limited to:

(1) an interactive Internet course; and

(2) a course taught live by the instructor via the Internet, video, or other electronic means.

Sec. 4. Minnesota Statutes 2010, section 45.25, is amended by adding a subdivision to read:

Subd. 14. **Self-study course.** "Self-study course" means a distance learning course that is not entirely taught by the instructor live via the Internet, video, or other electronic means.

Sec. 5. Minnesota Statutes 2010, section 45.30, is amended by adding a subdivision to read:

Subd. 6a. **Professional designation coursework.** Approved courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, qualify for continuing education.

Sec. 6. Minnesota Statutes 2010, section 45.30, subdivision 7, is amended to read:

Subd. 7. **Courses open to all.** (a) All course offerings must be open to any interested individuals. Access may be restricted by the education provider based on class size only, except that access to a course offering sponsored by, offered by, or affiliated with an insurance company or agency may be restricted to agents of the company or agency. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by statute.

(b) Notwithstanding paragraph (a), attendance at approved courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, may be limited to those producers seeking the professional designation or those producers who have met prerequisite coursework for the course offering. Courses leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, may require a prerequisite such as candidacy for the designation or sequential coursework relating to the attainment or maintenance of the designation. A course leading to the achievement or maintenance of a professional designation listed in section 60K.36, subdivision 4a, is not considered to be

company sponsored unless it is provided by an insurance company.

Sec. 7. **[45.304] VERIFICATION REQUIREMENTS.**

A self-study course must not be approved unless it is objectively verifiable that:

- (1) it includes a closed-book, end-of-course examination; and
- (2) successful completion of the end-of-course examination can be objectively documented.

Sec. 8. Minnesota Statutes 2010, section 45.35, is amended to read:

45.35 FACILITIES.

Each course of study, except self-study courses, must be conducted in a classroom or other facility that is adequate to comfortably accommodate the faculty and the number of students enrolled. The education provider may limit the number of students enrolled in a course. Approved courses must not be held on the premises of a company doing business in the regulated area, except for company-sponsored courses allowed by statute or noncompany sponsored courses offered by a bona fide trade association. A bona fide trade association may offer noncompany sponsored courses on the premises of an insurance company or agency so long as the course is not restricted to employees or appointed agents of the insurance company or agency.

Sec. 9. Minnesota Statutes 2010, section 60A.06, subdivision 3, is amended to read:

Subd. 3. **Limitation on combination policies.** (a) Unless specifically authorized by subdivision 1, clause (4), it is unlawful to combine in one policy coverage permitted by subdivision 1, clauses (4) and (5)(a). This subdivision does not prohibit the simultaneous sale of these products, but the sale must involve two separate and distinct policies.

(b) This subdivision does not apply to group policies.

(c) This subdivision does not apply to policies permitted by subdivision 1, clause (4), that contain benefits providing acceleration of life, endowment, or annuity benefits in advance of the time they would otherwise be payable, or to long-term care policies as defined in section 62A.46, subdivision 2, or chapter 62S.

(d) This subdivision does not prohibit combining life coverage with one or more of the following coverages:

- (1) specified disease or illness coverage;
- (2) other limited benefit health coverage;
- (3) hospital indemnity coverage;
- (4) other fixed indemnity products,

provided that the prescribed minimum standards applicable to those categories of coverage are met.

Sec. 10. Minnesota Statutes 2010, section 60A.19, subdivision 8, is amended to read:

Subd. 8. **Insurance from unlicensed foreign companies.** Any person, firm, or corporation ~~desiring to obtain insurance upon any property, interests, or risks of any nature other than life~~

~~insurance in this state in companies not authorized to do business in the state~~ whose home state is Minnesota, that procures insurance on any property, interests, or risks of any nature other than life insurance directly from a nonadmitted insurer, must agree to file with the commissioner of revenue all returns required under chapter 297I and pay to the commissioner of revenue any amounts required to be paid under chapter 297I. Upon that agreement, the commissioner of commerce shall issue a license, good for one year. Insurance procured under the license is valid and the provisions of the policies are considered to be in accordance, and construed as if identical in effect, with the standard policy prescribed by the laws of this state. The insurers may enter the state to perform any act necessary or proper in the conduct of the business.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 11. Minnesota Statutes 2010, section 60A.196, is amended to read:

60A.196 DEFINITIONS.

Unless the context otherwise requires, the following terms have the meanings given them for the purposes of sections 60A.195 to 60A.209:

~~(a) "Surplus lines insurance" means insurance placed with an insurer permitted to transact the business of insurance in this state only pursuant to sections 60A.195 to 60A.209.~~

~~(b) "Eligible surplus lines insurer" means an insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209 but not licensed by any other Minnesota law to transact the business of insurance.~~

~~(c) "Ineligible surplus lines insurer" means an insurer not recognized as an eligible surplus lines insurer pursuant to sections 60A.195 to 60A.209 and not licensed by any other Minnesota law to transact the business of insurance. "Ineligible surplus lines insurer" includes a risk retention group as defined under the Liability Risk Retention Act, Public Law 99-563.~~

~~(d) "Surplus lines licensee" or "licensee" means a person licensed under sections 60A.195 to 60A.209 to place insurance with an eligible or ineligible surplus lines insurer.~~

~~(e) "Association" means an association registered under section 60A.208.~~

~~(f) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.~~

~~(g) "Insurance laws" means chapters 60 to 79 inclusive.~~

~~(h) "Stamping" means electronically assigning a unique identifying number that is specific to a submitted policy, contract, or insurance document.~~

(a) "Affiliated group" means a group which includes the insured and any entity, or group of entities, that controls, is controlled by, or is under common control with the insured. An entity has control over another entity when: (1) the entity directly, indirectly, or acting through one or more persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or (2) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(b) "Alien insurer" means any insurer which is incorporated or otherwise organized outside of the United States.

(c) "Association" means an association registered under section 60A.208.

(d) "Eligible surplus lines insurer" means a nonadmitted insurer recognized as eligible to write insurance business under sections 60A.195 to 60A.209.

(e) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(1) the person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) the person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months;

(3) the person meets at least one of the following criteria:

(i) the person possesses a net worth in excess of \$20,000,000, as such amount is adjusted pursuant to clause (4);

(ii) the person generates annual revenues in excess of \$50,000,000, as such amount is adjusted pursuant to clause (4);

(iii) the person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate;

(iv) the person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000, as such amount is adjusted pursuant to clause (4); or

(v) the person is a municipality with a population in excess of 50,000 persons.

(4) Effective January 1, 2015, and every five years thereafter, the amounts in clause (3), items (i), (ii), and (iv), shall be adjusted to reflect the percentage change for the five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(f) "Home state" means the state in which an insured maintains its principal place of business, or in the case of an individual, the individual's principal residence. If 100 percent of the insured risk is located out of the state, the term means the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term means the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under that insurance contract.

(g) "Ineligible surplus lines insurer" means a nonadmitted insurer not recognized as an eligible surplus lines insurer under sections 60A.195 to 60A.209.

(h) "Insurance laws" means chapters 60 to 79 inclusive.

(i) "Nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer in this state only under sections 60A.195 to 60A.209.

(j) "Nonadmitted insurer" means an insurer not licensed to engage in the business of insurance in Minnesota, but does not include a risk retention group, as the term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986, United States Code, title 15, section 3901(a)(4).

(k) "Qualified risk manager" means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(1) the person is an employee of, or third-party consultant retained by, the commercial policyholder;

(2) the person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance;

(3) the person:

(i) has a bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate minimum competence in risk management and has three years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance;

(ii) has a designation as a Chartered Property and Casualty Underwriter (CPCU) issued by the American Institute for CPCU/Insurance Institute of America, an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America, a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education and Research, a RIMS Fellow (RF) issued by the Global Risk Management Institute, or any other designation, certification, or license determined by a state insurance commissioner or other state insurance regulatory official or entity to demonstrate minimum competency in risk management;

(iii) has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance and one of the designations specified in clause (ii);

(iv) has at least ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(v) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate minimum competence in risk management.

(l) "Stamping" means electronically assigning a unique identifying number that is specific to a submitted policy, contract, or insurance document.

(m) "Surplus lines broker" or "broker" means an individual, firm, or corporation which is licensed in this state to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in this state with nonadmitted insurers only under sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 12. Minnesota Statutes 2010, section 60A.198, is amended to read:

60A.198 TRANSACTION OF ~~SURPLUS LINES~~ NONADMITTED INSURANCE.

Subdivision 1. **License required.** A person, as defined in section 60A.02, subdivision 7, shall not act in any other manner as an agent or broker in the transaction of ~~surplus lines~~ nonadmitted insurance unless licensed under sections 60A.195 to 60A.209. A surplus lines license is not required for a licensed agent who assists in the placement of ~~surplus lines~~ nonadmitted insurance with a surplus lines ~~licensee~~ broker pursuant to sections 60A.195 to 60A.209. This subdivision does not apply to nonadmitted insurance procured by a surplus lines broker when an insured's home state is a state other than Minnesota.

Subd. 2. **Compliance with statutory provisions.** A person shall not offer, solicit, make a quotation on, sell, or issue a policy of insurance, binder, or any other evidence of insurance with ~~an eligible or ineligible surplus lines~~ a nonadmitted insurer, except in compliance with sections 60A.195 to 60A.209. This subdivision does not apply when an insured's home state is a state other than Minnesota.

Subd. 3. **Procedure for obtaining license.** A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) registering with the association created pursuant to section 60A.2085;

(d) agreeing to file with the commissioner of revenue all returns required by chapter 297I and paying to the commissioner of revenue all amounts required under chapter 297I;

(e) agreeing to file all documents required pursuant to section 60A.2086 and to pay the stamping fee assessed pursuant to section 60A.2085, subdivision 7; and

(f) paying a fee as prescribed by section 60K.55.

Subd. 4. **Licensee's Broker's powers.** A surplus lines ~~licensee~~ broker may do any or all of the following:

(a) place insurance on risks in this state with eligible surplus lines insurers;

(b) place insurance on risks in this state with ineligible surplus lines insurers in strict compliance with section 60A.209. If the insurance is provided through the participation of several ~~surplus lines nonadmitted insurers~~ and the licensee broker has reason to believe that a substantial portion of the insurance would be assumed by eligible surplus lines insurers, then with respect to the ineligible surplus lines insurers, the insured or the insured's representative shall be informed as provided in section 60A.209, subdivision 1, clause (a); or

(c) engage in any other acts expressly or implicitly authorized by sections 60A.195 to 60A.209 and the other insurance laws.

Subd. 5. **Disclosures.** Before placement of insurance with an eligible surplus lines insurer, a surplus lines ~~licensee~~ broker shall inform an insured or the insured's representative that coverage

may be placed in conformance with sections 60A.195 to 60A.209 with an insurer not licensed in this state and that payment of loss is not guaranteed in the event of insolvency of the eligible surplus lines insurer.

Subd. 7. **Participation in national producer database for surplus lines brokers.** For the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the commissioner is authorized to utilize the national insurance producer database of the National Association of Insurance Commissioners, or any other equivalent uniform national database, for the licensure of surplus lines brokers and for renewal of the licenses.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 13. Minnesota Statutes 2010, section 60A.199, subdivision 1, is amended to read:

Subdivision 1. **Examination of books and records.** If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines ~~licensee~~ broker to determine whether the ~~licensee~~ broker is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the ~~licensee~~ broker shall allow the commissioner free access at reasonable times to all of the ~~licensee's~~ broker's books and records relating to the transactions to which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the surplus line agent or agency.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 14. Minnesota Statutes 2010, section 60A.201, is amended to read:

60A.201 PLACEMENT OF INSURANCE BY ~~LICENSEE~~ BROKER.

Subdivision 1. **Restrictions.** Insurance shall not be placed by the surplus lines ~~licensee~~ broker with an ~~eligible or ineligible surplus lines~~ nonadmitted insurer when coverage is available from a licensed insurer.

Subd. 2. **Availability of other coverage; presumption.** There shall be a rebuttable presumption that the following coverages are available from a licensed insurer:

- (a) all mandatory automobile insurance coverages required by chapter 65B;
- (b) private passenger automobile physical damage coverage;
- (c) homeowners and property insurance on owner-occupied dwellings whose value is less than \$500,000. This figure shall be changed annually by the commissioner by the same percentage as the Consumer Price Index for the Minneapolis-St. Paul Metropolitan Area is changed;
- (d) any coverage readily available from three or more licensed insurers unless the licensed insurers quote a premium and terms not competitive with a premium and terms quoted by an eligible surplus lines insurer; and
- (e) workers' compensation insurance, except excess workers' compensation insurance which is not available from the Workers' Compensation Reinsurance Association.

Subd. 3. **Unavailability of other coverage; presumption.** There shall be a rebuttable presumption that the following coverages are unavailable from a licensed insurer:

(a) coverages where one portion of the risk is acceptable to licensed insurers but another portion of the same risk is not acceptable. The entire coverage may be placed with eligible surplus lines insurers if it can be shown that the eligible surplus lines insurer will accept the entire coverage but not the rejected portion alone; and

(b) any coverage that the ~~licensee~~ broker is unable to procure after diligent search among licensed insurers.

Subd. 5. **Streamlined application for exempt commercial purchasers.** A surplus lines broker is not required to make a diligent search to determine whether the full amount or type of insurance can be obtained from licensed insurers when the broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser provided:

(1) the broker procuring or placing the nonadmitted insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from a licensed insurer that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing for the broker to procure or place the insurance from a nonadmitted insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 15. Minnesota Statutes 2010, section 60A.202, is amended to read:

60A.202 EVIDENCE OF PLACEMENT OF INSURANCE BY ~~LICENSEE~~ BROKER.

Subdivision 1. **Restriction.** Only a surplus lines ~~licensee~~ broker shall issue evidence of placement of insurance with an ~~eligible or ineligible surplus lines~~ a nonadmitted insurer.

Subd. 2. **Written communication of coverage to be delivered.** A ~~licensee~~ broker shall, within seven working days after the date on which the risk was bound or the insured or applicant was advised that coverage has been or will be obtained, deliver to the insured or the insured's representative a policy, a written binder, a certificate or other written evidence of insurance placed with an ~~eligible or ineligible surplus lines~~ a nonadmitted insurer.

Subd. 3. **Contents of written communication.** The written communication showing that insurance has been obtained shall identify all known ~~surplus lines nonadmitted~~ surplus lines nonadmitted insurers directly assuming any risk of loss. If there is more than one ~~surplus lines nonadmitted~~ surplus lines nonadmitted insurer, any document issued or certified by the ~~licensee~~ broker pursuant to subdivision 2 shall specify, to the extent known by the ~~licensee~~ broker, whether the obligation is joint or several, and if the obligation is several, the proportion of the obligation assumed by each insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 16. Minnesota Statutes 2010, section 60A.203, is amended to read:

60A.203 RETENTION OF RECORDS.

Each surplus lines ~~licensee~~ broker shall keep a separate account of each transaction entered into pursuant to sections 60A.195 to 60A.209. Evidence of these transactions shall be documented in the form and manner designated by the commissioner and retained by the ~~licensee~~ broker for a minimum of five years. The forms must be readily available for review and audit by the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 17. Minnesota Statutes 2010, section 60A.204, subdivision 2, is amended to read:

Subd. 2. **Regulation of fees and commissions.** A surplus lines ~~licensee~~ broker may charge a fee and commission, in addition to the premium, that is not excessive or discriminatory. The ~~licensee~~ broker shall maintain complete documentation of all fees and commissions charged.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 18. Minnesota Statutes 2010, section 60A.205, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** A surplus lines ~~licensee~~ broker may be compensated by an eligible surplus lines insurer and the ~~licensee~~ broker may compensate a licensed agent in this state for obtaining ~~surplus lines~~ nonadmitted insurance business. A licensed agent authorized by the ~~licensee~~ broker may collect a premium on behalf of the ~~licensee~~ broker, and as between the insured and the ~~licensee~~ broker, the ~~licensee~~ broker shall be considered to have received the premium if the premium payment has been made to the agent.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 19. Minnesota Statutes 2010, section 60A.205, subdivision 2, is amended to read:

Subd. 2. **Consequences of receipt.** If an eligible surplus lines insurer has assumed a risk, and if the premium for that risk has been received by the ~~licensee~~ broker who placed the insurance, then as between the insurer and the insured, the insurer shall be considered to have received the premium due to it for the coverage and shall be liable to the insured for any loss covered by the insurance and for the unearned premium upon cancellation of the insurance, regardless of whether the ~~licensee~~ broker is indebted to the insurer.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 20. Minnesota Statutes 2010, section 60A.206, subdivision 1, is amended to read:

Subdivision 1. **Insurers to be recognized by commissioner.** A surplus lines ~~licensee~~ broker shall place ~~surplus lines~~ nonadmitted insurance only with insurers which are in a stable and unimpaired financial condition. An insurer recognized by the commissioner as an eligible surplus lines insurer pursuant to subdivision 2 shall be considered to meet the requirements of this subdivision. Recognition as an eligible surplus lines insurer shall be conditioned upon the insurers continued compliance with sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 21. Minnesota Statutes 2010, section 60A.206, subdivision 3, is amended to read:

Subd. 3. **Standards to be met by insurers.** (a) The commissioner shall recognize the insurer as an eligible surplus lines insurer when satisfied that the insurer is in a stable, unimpaired financial condition and that the insurer is qualified to provide coverage in compliance with sections 60A.195 to 60A.209. If filed with full supporting documentation before July 1 of any year, applications submitted under subdivision 2 shall be acted upon by the commissioner before December 31 of the year of submission.

(b) ~~The commissioner shall not authorize an a foreign insurer as an eligible surplus lines insurer unless the insurer continuously maintains capital and surplus of at least \$3,000,000 and transaction of business by the insurer is not hazardous, financially or otherwise, to its policyholders, its creditors, or the public. Each alien surplus lines insurer shall have current financial data filed with the National Association of Insurance Commissioners Nonadmitted Insurers Information Office.:~~

(1) is domiciled within a United States jurisdiction and authorized to write the type of insurance in its domiciliary jurisdiction; and

(2) qualifies under one of the following items:

(i) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

(A) the minimum capital and surplus requirements under the laws of Minnesota; or

(B) \$15,000,000; or

(ii) the requirements of item (i)(A) may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon factors such as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. In no event shall the commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$4,500,000.

(c) Eligible surplus lines insurers domiciled within the United States shall file an annual statement and an annual financial audit, under the terms and conditions of section 60A.13, subdivisions 1, 3a, and 6, and are subject to the penalties of section 72A.061, and are subject to section 60A.03, subdivision 5, in regard to those requirements. The commissioner also has the powers provided in section 60A.13, subdivision 2, in regard to eligible surplus lines insurers.

(d) Eligible surplus lines insurers domiciled outside the United States shall file an annual statement on the standard nonadmitted insurers information office financial reporting format as prescribed by the National Association of Insurance Commissioners and an annual financial audit performed by an independent accounting firm. The commissioner shall not prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, an alien insurer that is included on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 22. Minnesota Statutes 2010, section 60A.207, is amended to read:

60A.207 POLICIES TO INCLUDE NOTICE.

Each policy, cover note, or instrument evidencing ~~surplus lines~~ nonadmitted insurance from an eligible surplus lines insurer which is delivered to an insured or a representative of an insured shall have printed, typed, or stamped upon its face in not less than 10 point type, the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE SURPLUS LINES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." This notice shall not be covered or concealed in any manner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 23. Minnesota Statutes 2010, section 60A.208, is amended to read:

60A.208 ~~LICENSEE~~ BROKER ASSOCIATION.

Subdivision 1. **Licensee's Broker's right to associate.** Surplus lines ~~licensees~~ brokers may associate and the commissioner may register the association for one or more of the following purposes:

(a) advising the commissioner as to the availability of ~~surplus lines~~ nonadmitted insurance coverage and market practices and standards for ~~surplus lines~~ nonadmitted insurers and ~~licensees~~ brokers;

(b) collecting and furnishing records and statistics; or

(c) submitting recommendations regarding administration of sections 60A.195 to 60A.209.

Subd. 2. **Filing requirements.** (a) Each association shall file with the commissioner for approval all of the following:

(1) a copy of the association's constitution and articles of agreement or association, or the association's certificate of incorporation and bylaws and any rules governing the association's activities; and

(2) an agreement that, as a condition of continued registration under subdivision 1, the commissioner may examine the association.

(b) Each association shall file with the commissioner and keep current all of the following:

(1) a list of members; and

(2) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued by the commissioner may be served.

Subd. 3. **Commissioner's powers; suspension of registration.** The commissioner may refuse to register, or may suspend or revoke the registration of an association for any of the following reasons:

(a) it reasonably appears that the association will not be able to carry out the purposes of sections 60A.195 to 60A.209;

(b) the association fails to maintain and enforce rules which will assure that members of the association and persons associated with those members comply with sections 60A.195 to 60A.209, other applicable chapters of the insurance laws and rules promulgated under either;

(c) the rules of the association do not assure a fair representation of its members in the selection of directors and in the administration of its affairs;

(d) the rules of the association do not provide for an equitable allocation of reasonable dues, fees, and other charges among members;

(e) the rules of the association impose a burden on competition; or

(f) the association fails to meet other applicable requirements prescribed in sections 60A.195 to 60A.209.

Subd. 4. Membership limited to licensees brokers. An association shall deny membership to any person who is not a licensee broker.

Subd. 5. Association is voluntary. No licensee broker may be compelled to join an association as a condition of receiving a license or continuing to be licensed under sections 60A.195 to 60A.209.

Subd. 6. Financial statement to be filed. Each association shall annually file a certified audited financial statement.

Subd. 7. Reports and recommendations by the association. An association may submit reports and make recommendations to the commissioner regarding the financial condition of any eligible surplus lines insurer. These reports and recommendations shall not be considered to be public information. There shall not be liability on the part of, or a cause of action of any nature shall not arise against, eligible surplus lines insurers, the association or its agents or employees, the directors, or the commissioner or authorized representatives of the commissioner, for statements made by them in any reports or recommendations made under this subdivision.

Subd. 8. Operating assessment. (a) Upon request from the association, the commissioner may approve the levy of an assessment of not more than one-half of one percent of premiums charged pursuant to sections 60A.195 to 60A.209 for operation of the association to the extent that the operation relieves the commissioner of duties otherwise required of the commissioner pursuant to sections 60A.195 to 60A.209. Any assessment so approved may be subtracted from the premium tax owed by the licensee broker under chapter 297I.

(b) The association may revoke the membership and the commissioner may revoke the license in this state, of any licensee broker who fails to pay an assessment when due, if the assessment has been approved by the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 24. Minnesota Statutes 2010, section 60A.2085, subdivision 1, is amended to read:

Subdivision 1. **Association created; duties.** There is hereby created a nonprofit association to

be known as the Surplus Lines Association of Minnesota. The association is not a state agency for purposes of chapter 16A, 16B, 16C, or 43A. All surplus lines ~~licensees~~ brokers are members of this association. Section 60A.208 does not apply to the association created pursuant to the provisions of this section. The association shall perform its functions under the plan of operation established under subdivision 3 and must exercise its powers through a board of directors established under subdivision 2 as set forth in the plan of operation. The association shall be authorized and have the duty to:

- (1) receive, record, and stamp all ~~surplus lines~~ nonadmitted insurance documents that surplus lines ~~licensees~~ brokers are required to file with the association;
- (2) prepare and deliver monthly to the commissioners of revenue and commerce a report regarding surplus lines business. The report must include a list of all the business procured during the preceding month, in the form the commissioners prescribe;
- (3) educate its members regarding the surplus lines law of this state including insurance tax responsibilities and the rules and regulations of the commissioners of revenue and commerce relative to ~~surplus lines~~ nonadmitted insurance;
- (4) communicate with organizations of agents, brokers, and admitted insurers with respect to the proper use of the surplus lines market;
- (5) employ and retain persons necessary to carry out the duties of the association;
- (6) borrow money necessary to effect the purposes of the association and grant a security interest or mortgage in its assets, including the stamping fees charged pursuant to subdivision 7 in order to secure the repayment of any such borrowed money;
- (7) enter contracts necessary to effect the purposes of the association;
- (8) provide other services to its members that are incidental or related to the purposes of the association;
- (9) form and organize itself as a nonprofit corporation under chapter 317A, with the powers set forth in section 317A.161 that are not otherwise limited by this section or in its articles, bylaws, or plan of operation;
- (10) file such applications and take such other action as necessary to establish and maintain the association as tax exempt pursuant to the federal income tax code;
- (11) recommend to the commissioner of commerce revisions to Minnesota law relating to the regulation of ~~surplus lines~~ nonadmitted insurance in order to improve the efficiency and effectiveness of that regulation; and
- (12) take other actions reasonably required to implement the provisions of this section.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 25. Minnesota Statutes 2010, section 60A.2085, subdivision 3, is amended to read:

Subd. 3. **Plan of operation.** (a) The plan of operation shall provide for the formation, operation,

and governance of the association as a nonprofit corporation under chapter 317A. The plan of operation must provide for the election of a board of directors by the members of the association. The board of directors shall elect officers as provided for in the plan of operation. The plan of operation shall establish the manner of voting and may weigh each member's vote to reflect the annual ~~surplus lines~~ nonadmitted insurance premium written by the member. Members employed by the same or affiliated employers may consolidate their premiums written and delegate an individual officer or partner to represent the member in the exercise of association affairs, including service on the board of directors.

(b) The plan of operation shall provide for an independent audit once each year of all the books and records of the association and a report of such independent audit shall be made to the board of directors, the commissioner of revenue, and the commissioner of commerce, with a copy made available to each member to review at the association office.

(c) The plan of operation and any amendments to the plan of operation shall be submitted to the commissioner and shall be effective upon approval in writing by the commissioner. The association and all members shall comply with the plan of operation or any amendments to it. Failure to comply with the plan of operation or any amendments shall constitute a violation for which the commissioner may issue an order requiring discontinuance of the violation.

(d) If the interim board of directors fails to submit a suitable plan of operation within 60 days following the creation of the interim board, or if at any time thereafter the association fails to submit required amendments to the plan, the commissioner may submit to the association a plan of operation or amendments to the plan, which the association must follow. The plan of operation or amendments submitted by the commissioner shall continue in force until amended by the commissioner or superseded by a plan of operation or amendment submitted by the association and approved by the commissioner. A plan of operation or an amendment submitted by the commissioner constitutes an order of the commissioner.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 26. Minnesota Statutes 2010, section 60A.2085, subdivision 7, is amended to read:

Subd. 7. **Stamping fee.** The services performed by the association shall be funded by a stamping fee assessed for each premium-bearing document submitted to the association. The stamping fee shall be established by the board of directors of the association from time to time. The stamping fee shall be paid by the insured to the surplus lines ~~licensee~~ broker and remitted to the association by the surplus lines ~~licensee~~ broker in the manner established by the association.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 27. Minnesota Statutes 2010, section 60A.2085, subdivision 8, is amended to read:

Subd. 8. **Data classification.** Unless otherwise classified by statute, a temporary classification under section 13.06, or federal law, information obtained by the commissioner from the association is public, except that any data identifying insureds or the Social Security number of a ~~licensee~~ broker or any information derived therefrom is private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 28. Minnesota Statutes 2010, section 60A.2086, subdivision 1, is amended to read:

Subdivision 1. **Submission of documents to Surplus Lines Association of Minnesota; certification.** (a) A surplus lines ~~licensee~~ broker shall submit every insurance policy or contract issued under the ~~licensee's~~ broker's license to the Surplus Lines Association of Minnesota for recording and stamping. The submission and stamping must be effected through electronic means. The submission must include:

- (1) the name of the insured;
- (2) a description and location of the insured property or risk;
- (3) the amount insured;
- (4) the gross premiums charged or returned;
- (5) the name of the ~~surplus lines~~ nonadmitted insurer from whom coverage has been procured;
- (6) the kind or kinds of insurance procured; and
- (7) the amount of premium subject to tax.

(b) The submission of insurance policies or contracts to the Surplus Lines Association of Minnesota constitutes a certification by the surplus lines ~~licensee~~ broker, or by the insurance producer who presented the risk to the surplus lines ~~licensee~~ broker for placement as a surplus lines risk, that the insurance policies or contracts were procured in accordance with sections 60A.195 to 60A.209.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 29. Minnesota Statutes 2010, section 60A.2086, subdivision 2, is amended to read:

Subd. 2. **Stamping requirement; penalty.** (a) It shall be unlawful for an insurance agent, broker, or surplus lines ~~licensee~~ broker to deliver in this state any ~~surplus lines~~ nonadmitted insurance policy or contract unless the insurance document is stamped by the association. A ~~licensee's~~ surplus lines broker's failure to comply with the requirements of this subdivision shall not affect the validity of the coverage.

(b) Any insurance agent, ~~broker~~, or surplus lines ~~licensee~~ broker who delivers in this state any insurance policy or contract that has not been stamped by the association shall be subject to a penalty payable to the commissioner as follows:

- (1) \$50 for delivery of the first unstamped policy;
- (2) \$250 for delivery of a second unstamped policy; and
- (3) \$1,000 per policy for delivery of any additional unstamped policies.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 30. Minnesota Statutes 2010, section 60A.209, subdivision 1, is amended to read:

Subdivision 1. **Authorization; regulation.** A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines ~~licensee~~ broker. The ~~licensee~~ broker shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not obtainable from a licensed insurer or an eligible surplus lines insurer, the ~~licensee~~ broker shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the ~~licensee~~ broker shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10-point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes, as provided under chapter 297I, and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

EFFECTIVE DATE. This section is effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Sec. 31. Minnesota Statutes 2010, section 60K.56, subdivision 6, is amended to read:

Subd. 6. **Minimum education requirement.** Each person subject to this section shall complete a minimum of 24 credit hours of courses accredited by the commissioner during each licensing period. No more than one-half of the credit hours per licensing period required under this section may be credited to a person for attending courses either sponsored by, offered by, or affiliated with an insurance company or its agents. For the purposes of this subdivision, a course provided by a bona fide insurance trade association is not considered to be sponsored by, offered by, or affiliated with an insurance company or its agents regardless of the location of the course offering. A licensee must obtain three hours of the credit hours per licensing period from a class or classes in the area of ethics. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency. Courses not sponsored by an insurance company must be open to all unless an exception listed in section 45.30 applies.

Sec. 32. Minnesota Statutes 2010, section 62A.095, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) ~~No~~ A health plan ~~shall~~ may not be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

(b) Health plans providing benefits under health care programs administered by the commissioner of human services are not subject to the limits described in subdivision 2 but are

subject to the right of subrogation provisions under section 256B.37 and the lien provisions under section 256.015; 256B.042; 256D.03, subdivision 8; or 256L.03, subdivision 6.

For purposes of this section, "health plan" includes coverage that is excluded under section 62A.011, subdivision 3, clauses (4), (6), (7), (8), (9), and (10).

Sec. 33. Minnesota Statutes 2010, section 62A.318, subdivision 17, is amended to read:

Subd. 17. **Types of plans.** Medicare select policies and certificates offered by the issuer must be either a basic plan or an extended basic plan provide the coverages specified in sections 62A.315 to 62A.3165. Before a Medicare select policy or certificate is sold or issued in this state, the applicant must be provided with an explanation of coverage for ~~both a Medicare select basic and a Medicare select extended basic policy or certificate~~ each of the coverages specified in sections 62A.315 to 62A.3165 and must be provided with the opportunity of purchasing either a Medicare select basic or a Medicare select extended basic policy such coverage if offered by the issuer. The basic plan may also include any of the optional benefit riders authorized by section 62A.316. Preventive care provided by Medicare select policies or certificates must be provided as set forth in section 62A.315 or 62A.316, except that the benefits are as defined in chapter 62D.

Sec. 34. Minnesota Statutes 2010, section 62E.14, subdivision 3, is amended to read:

Subd. 3. **Preexisting conditions.** ~~No~~ A person who obtains coverage pursuant to this section ~~shall be~~ is not covered for any preexisting condition during the first six months of coverage under the state plan if the person was diagnosed or treated for that condition during the 90 days immediately preceding the date the application was received by the writing carrier, except as provided under subdivisions 3a, 4, 4a, 4b, 4c, 4d, 4e, 5, 6, and 7 and section 62E.18.

Sec. 35. Minnesota Statutes 2010, section 62E.14, is amended by adding a subdivision to read:

Subd. 4f. **Waiver of preexisting conditions; persons covered by a community-based health care coverage program.** A person may enroll in the comprehensive plan, with a waiver of preexisting condition limitation in subdivision 3, if the following requirements are met:

(1) the person was formerly enrolled in a community-based health care coverage program under section 62Q.80;

(2) the person is a Minnesota resident; and

(3) the person submits an application for coverage that is received by the writing carrier no later than 90 days after coverage under the community-based health care program is terminated. For purposes of this clause, termination of coverage includes exceeding the maximum lifetime or annual benefit on existing coverage, or moving out of an area served by the program.

Sec. 36. Minnesota Statutes 2010, section 62J.81, subdivision 1, is amended to read:

Subdivision 1. **Required disclosure of estimated payment.** (a) A health care provider, as defined in section 62J.03, subdivision 8, or the provider's designee as agreed to by that designee, shall, at the request of a consumer, and at no cost to the consumer or the consumer's employer, provide that consumer with a good faith estimate of the allowable payment the provider has agreed to accept from the consumer's health plan company for the services specified by the consumer, specifying the amount of the allowable payment due from the health plan company. Health

plan companies must allow contracted providers, or their designee, to release this information. If a consumer has no applicable public or private coverage, the health care provider must give the consumer, and at no cost to the consumer, a good faith estimate of the average allowable reimbursement the provider accepts as payment from private third-party payers for the services specified by the consumer and the estimated amount the noncovered consumer will be required to pay. Payment information provided by a provider, or by the provider's designee as agreed to by that designee, to a patient pursuant to this subdivision does not constitute a legally binding estimate of the allowable charge for or cost to the consumer of services.

(b) A health plan company, as defined in section 62J.03, subdivision 10, shall, at the request of an enrollee intending to receive specific health care services or the enrollee's designee, provide that enrollee with a good faith estimate of the allowable amount the health plan company has contracted for with a specified provider within the network as total payment for a health care service specified by the enrollee and the portion of the allowable amount due from the enrollee and the enrollee's out-of-pocket costs. An estimate provided to an enrollee under this paragraph is not a legally binding estimate of the allowable amount or enrollee's out-of-pocket cost.

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

Sec. 37. Minnesota Statutes 2010, section 62L.03, subdivision 3, is amended to read:

Subd. 3. Minimum participation and contribution. (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of each eligible employee must be guaranteed coverage on a guaranteed issue basis from any health carrier participating in the small employer market. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier must not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: (1) coverage under another group health plan; (2) coverage under Medicare Parts A and B; ~~or (3) coverage under MCHA permitted under section 62E.141; or (4) coverage under medical assistance under chapter 256B or general assistance medical care under chapter 256D.~~

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual health plans, or a health benefit plan which must fully comply with this chapter. A health carrier that provides a health benefit plan to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer an individual health plan, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers the individual health plan, on a guaranteed issue basis, to all other employees of the same employer. An arrangement permitted under section 62L.12, subdivision 2, paragraph (k), is not an arrangement between the employer and the health carrier for purposes of this paragraph.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer. This paragraph does not apply if the small employer will meet the required participation level with respect to the new coverage.

Sec. 38. Minnesota Statutes 2010, section 72A.20, subdivision 24, is amended to read:

Subd. 24. **Cancellations and nonrenewals.** (a) No insurer shall cancel or fail to renew an individual life or individual health policy or an individual nonprofit health service plan subscriber contract, within one year after default in the payment of any premium on an individual life insurance policy, declare the individual life insurance policy to be canceled or nonrenewed for nonpayment of premium unless it mails or delivers to the named insured policy owner, at the address shown on the policy or subscriber contract policy owner's last known address, at least 30 days before lapse, final notice of the cancellation or nonrenewal and the effective date of the cancellation or nonrenewal. For purposes of this subdivision, "individual life insurance policy" includes policies in default on or after the effective date of this section.

(b) No insurer on an individual health policy or on an individual nonprofit health service plan corporation subscriber contract shall cancel or fail to renew the policy or contract for nonpayment of premium unless it mails or delivers to the named policy owner or named contract owner, at the policy or subscriber contract owner's last known address, at least 30 days before lapse, final notice of the cancellation or nonrenewal. If the named insured is not the policy or subscriber contract owner of the individual health policy or the individual nonprofit health service plan subscriber contract, the notice required by this subdivision must also be sent to the named insured at the named insured's last known address, if any, and to the owner's last known address.

(c) Proof of mailing of the notice of lapse under paragraph (a) or (b) for failure to pay the premium before the expiration of the grace period is sufficient proof that notice required in this subdivision has been given.

(d) This subdivision does not apply to a life or health insurance policy or contract upon which premiums are paid at a monthly interval or less and that contains any grace period required by statute for the payment of premiums during which time the insurance continues in force.

Sec. 39. Minnesota Statutes 2010, section 72B.041, subdivision 5, is amended to read:

Subd. 5. **Exceptions.** (a) An individual who applies for an adjuster license in this state who is or was licensed in another state for the same lines of authority based on an adjuster examination is not required to complete a prelicensing examination. This exemption is only available if the person is currently licensed in another state or if that state license has expired and the application is received by this state within 90 days of expiration. The applicant must provide certification from the other state that the applicant's license is currently in good standing or was in good standing at the time of expiration or certification from the other state that its producer database records, maintained by the NAIC, its affiliates, or its subsidiaries, indicate that the applicant or the applicant's company is or was licensed in good standing. The certification must be of a license with the same line of authority for which the individual has applied.

(b) A person licensed as an adjuster in another state based on an adjuster examination who establishes legal residency in this state must make application within 90 days to become a resident adjuster licensee pursuant to this section, with the exception that no prelicensing examination is required of this person.

~~(c) A person who has held a license of any given class or in any field or fields within three years prior to the application shall be entitled to a renewal of the license in the same class or in the same fields without taking an examination.~~

~~(d)~~ A person applying for a license as a crop hail adjuster shall not be required to comply with the requirements of subdivision 4.

(d) A person applying for the crop line of authority who has satisfactorily completed the National Crop Insurance Services Crop Adjuster Proficiency Program or the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement is exempt from the requirements of subdivision 4.

Sec. 40. [72B.055] MULTIPLE PERIL CROP INSURANCE ADJUSTMENTS.

A licensed crop hail adjuster who has satisfactorily completed the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation (FCIC) Standard Reinsurance Agreement may act as an adjuster in this state in regard to Multiple Peril Crop Insurance policies regulated by the FCIC.

Sec. 41. Minnesota Statutes 2010, section 79A.06, subdivision 5, is amended to read:

Subd. 5. Private employers who have ceased to be self-insured. (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period the employer was self-insured, whether or not reported during that period, the policy will:

(i) discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy;

(ii) discharge any obligation which the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period; and

(iii) discharge the obligations of the employer to pay any future assessments to the self-insurers' security fund; provided, however, that a member that terminates its self-insurance authority on or after August 1, 2010, shall be liable for an assessment under paragraph (b). The actuarial opinion shall not take into consideration any transfer of the member's liabilities to an insurance policy if the member obtains a replacement policy as described in this subdivision within one year of the date of terminating its self-insurance.

A private employer who has ceased to be a private self-insurer may instead buy an insurance policy described above, except that it covers only a portion of the period of time during which the private employer was self-insured; purchase of such a policy discharges any obligation that the self-insurers' security fund has or may have for payment of all claims for compensation arising out of injuries occurring during the period for which the policy provides coverage, whether or not reported

during that period.

A policy described in this clause may not be issued by an insurer unless it has previously been approved as to the insurer, form, and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after April 1, 1998, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society within 120 days of the date of its termination. If the actuarial opinion is not timely filed, the self-insurers' security fund may, at its discretion, engage the services of an actuary for this purpose. The expense of this actuarial opinion must be assessed against and be the obligation of the self-insurer. The commissioner may issue a certificate of default against the self-insurer for failure to pay this assessment to the self-insurers' security fund as provided by section 79A.04, subdivision 9. The opinion may discount liabilities up to four percent per annum to net present value. Within 60 days after notification of approval of the actuarial opinion by the commissioner, the exiting member shall pay to the security fund an amount determined as follows: a percentage will be determined by dividing the security fund's members' deficit as determined by the most recent audited financial statement of the security fund by the total actuarial liability of all members of the security fund as calculated by the commissioner within 30 days of the exit date of the member. This quotient will then be multiplied by that exiting member's total future liability as contained in the exiting member's actuarial opinion. If the payment is not made within 30 days of the notification, interest on it at the rate prescribed by section 549.09 must be paid by the former member to the security fund until the principal amount is paid in full.

(c) A former member who terminated its self-insurance authority before April 1, 1998, who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is \$15,000 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before April 1, 1998, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability for medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial

opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

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

Sec. 42. Minnesota Statutes 2010, section 79A.24, is amended by adding a subdivision to read:

Subd. 5. **Purchase of insurance policy from an authorized insurer.** A commercial self-insurance group may purchase an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the entire period or during a portion of the period of time in which the commercial self-insurance group has been in existence. While the insurance policy remains in effect, it discharges the obligation of the commercial self-insurance group to maintain a security deposit for the claims covered under the policy. A policy described in this subdivision may not be issued by an insurer unless it has previously been approved as to the insurer, form, and substance by the commissioner.

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

Sec. 43. Minnesota Statutes 2010, section 79A.24, is amended by adding a subdivision to read:

Subd. 6. **Insolvency of a commercial self-insurance group insurer.** In the event of the insolvency of the insurer that issued a policy under subdivision 5 to a commercial self-insurance group, eligibility for chapter 60C coverage under the policy is determined by applying the requirements of section 60C.09, subdivision 2, clause (3), to each commercial self-insurance group member separately, rather than to the net worth of the commercial self-insurance group entity or aggregate net worth of all members of the commercial self-insurance group.

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

Sec. 44. Minnesota Statutes 2010, section 82.641, subdivision 1, is amended to read:

Subdivision 1. **Generally License required.** A person shall not act as a real estate closing agent unless licensed as provided in this section. The commissioner shall issue a license as a closing agent to a person who qualifies for the license under the terms of this chapter.

Sec. 45. Minnesota Statutes 2010, section 82B.11, subdivision 6, is amended to read:

Subd. 6. **Temporary practice.** (a) The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:

(1) the property to be appraised is part of a federally related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license before conducting appraisals within the state.

(b) The term of a temporary practice license is the lesser of:

(1) the time required to complete the assignment; or

(2) ~~six~~ 12 months, ~~with one extension allowed.~~

~~The appraiser may request one extension of no more than six months on a form provided by the commissioner.~~ If more than 12 months are necessary to complete the assignment, a new temporary application and fee is required.

Sec. 46. Minnesota Statutes 2010, section 82B.13, is amended by adding a subdivision to read:

Subd. 8. **Appraiser prelicense education.** Notwithstanding section 45.22, a college or university real estate course may be approved retroactively by the commissioner for appraiser prelicense education credit if:

(1) the course was offered by a college or university physically located in Minnesota;

(2) the college or university was an approved education provider at the time the course was offered; and

(3) the commissioner's approval is made to the same extent in terms of courses and hours and with the same time limits as those specified by the Appraiser Qualifications Board.

Sec. 47. Minnesota Statutes 2010, section 82B.14, is amended to read:

82B.14 EXPERIENCE REQUIREMENT.

(a) As a prerequisite for licensing as a licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,000 hours of experience in real property appraisal obtained in no fewer than 12 months.

As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,500 hours of experience in real property appraisal obtained in no fewer than 24 months.

As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

~~(c) Notwithstanding section 45.22, a college or university real estate course may be approved retroactively by the commissioner for appraiser prelicense education credit if:~~

~~(1) the course was offered by a college or university physically located in Minnesota;~~

~~(2) the college or university was an approved education provider at the time the course was offered;~~

~~(3) the commissioner's approval is made to the same extent in terms of courses and hours and with the same time limits as those specified by the Appraiser Qualifications Board.~~

~~(d)~~ (c) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

~~(e)~~ (d) Experience for all classifications must be obtained after January 30, 1989, and must be USPAP compliant.

Sec. 48. Minnesota Statutes 2010, section 82C.08, subdivision 2, is amended to read:

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~~ its expiration period with the renewal fee of \$2,500.

Sec. 49. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall recode Minnesota Statutes, section 60A.19, subdivision 8, as section 60A.198, subdivision 7."

Delete the title and insert:

"A bill for an act relating to commerce; regulating continuing education and prelicensing requirements, insurance coverages, certain disclosures, nonadmitted insurers, insolvencies, real estate closing agents, adjusters, and appraisers; amending Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding subdivisions; 45.30, subdivision 7, by adding a subdivision; 45.35; 60A.06, subdivision 3; 60A.19, subdivision 8; 60A.196; 60A.198; 60A.199, subdivision 1; 60A.201; 60A.202; 60A.203; 60A.204, subdivision 2; 60A.205, subdivisions 1, 2; 60A.206, subdivisions 1, 3; 60A.207; 60A.208; 60A.2085, subdivisions 1, 3, 7, 8; 60A.2086, subdivisions 1, 2; 60A.209, subdivision 1; 60K.56, subdivision 6; 62A.095, subdivision 1; 62A.318, subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62J.81, subdivision 1; 62L.03, subdivision

3; 72A.20, subdivision 24; 72B.041, subdivision 5; 79A.06, subdivision 5; 79A.24, by adding subdivisions; 82.641, subdivision 1; 82B.11, subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 45; 72B."

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

Senate Conferees: Roger C. Chamberlain, Chris Gerlach, David M. Brown

House Conferees: Joe Hoppe, Tim Sanders, Leon Lillie

Senator Chamberlain moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1045 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. 1045 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 65 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Koch	Miller	Saxhaug
Benson	Gerlach	Kruse	Nelson	Senjem
Berglin	Gimse	Kubly	Newman	Sheran
Bonoff	Goodwin	Langseth	Nienow	Sieben
Brown	Hall	Latz	Olson	Skoe
Carlson	Hann	Lillie	Pappas	Sparks
Chamberlain	Harrington	Limmer	Parry	Stumpf
Cohen	Higgins	Lourey	Pederson	Thompson
Dahms	Hoffman	Magnus	Pogemiller	Tomassoni
Daley	Howe	Marty	Reinert	Torres Ray
DeKruif	Ingebrigtsen	McGuire	Rest	Vanderveer
Dibble	Jungbauer	Metzen	Robling	Wiger
Fischbach	Kelash	Michel	Rosen	Wolf

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1363 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1363

A bill for an act relating to state government; appropriating money from the outdoor heritage fund; appropriating money from the clean water fund; appropriating money from the parks and trails fund; appropriating money from the arts and cultural heritage fund; modifying certain outdoor heritage provisions; modifying the Clean Water Legacy Act; revising the Clean Water Council; providing appointments; amending Minnesota Statutes 2010, sections 10A.01, subdivision 35; 85.013, by adding a subdivision; 85.53, subdivisions 1, 5; 85.535, subdivision 1; 97A.056, subdivisions 2, 3, 5, 6, 9, 10, by adding a subdivision; 114D.10; 114D.20, subdivisions 1, 2, 3, 6, 7;

114D.35; 114D.50, subdivision 6; 116.195; 129D.18, subdivision 4; 129D.19, subdivision 5; Laws 2009, chapter 172, article 1, section 2, subdivisions 3, 15; Laws 2010, chapter 361, article 1, section 2, subdivision 14; proposing coding for new law in Minnesota Statutes, chapter 114D; repealing Minnesota Statutes 2010, sections 84.02, subdivisions 1, 2, 3, 4, 5, 6, 7, 8; 114D.30; 114D.45.

May 22, 2011

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt Zellers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1363 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. 1363 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

OUTDOOR HERITAGE FUND

Section 1. **OUTDOOR HERITAGE APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the outdoor heritage fund and are available for the fiscal years indicated for each purpose. The figures "2012" and "2013" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. The appropriations in this article are onetime.

APPROPRIATIONS

Available for the Year

Ending June 30

2012

2013

Sec. 2. **OUTDOOR HERITAGE**

Subdivision 1. **Total Appropriation**

\$

86,484,000

\$

471,000

This appropriation is from the outdoor heritage fund. The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Prairies32,671,000-0-**(a) Wildlife Management Area, Scientific and Natural Areas, and Prairie Bank Easement Acquisition - Phase III**

\$3,931,000 the first year is to the commissioner of natural resources to:

(1) acquire land in fee for wildlife management area purposes under Minnesota Statutes, sections 86A.05, subdivision 8, and 97A.145;

(2) acquire land in fee for scientific and natural area purposes under Minnesota Statutes, sections 84.033 and 86A.05, subdivision 5; and

(3) acquire native prairie bank easements under Minnesota Statutes, section 84.96.

A list of proposed land or permanent conservation easement acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$14,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan, and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

(b) Accelerated Prairie Restoration and Enhancement on DNR Lands - Phase III

\$1,652,000 the first year is to the commissioner of natural resources to accelerate the restoration and enhancement on wildlife management areas, scientific and natural areas, and land under native prairie bank easements.

(c) Minnesota Buffers for Wildlife and Water

\$2,249,000 the first year is to the Board of Water and Soil Resources in cooperation

with Pheasants Forever to acquire permanent conservation easements to enhance habitat by expanding riparian wildlife buffers on private land. A list of proposed easement acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$200,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

(d) Northern Tallgrass Prairie National Wildlife Refuge Land Acquisition - Phase III

\$1,720,000 the first year is to the commissioner of natural resources for an agreement with The Nature Conservancy to acquire land or permanent easements within the Northern Tallgrass Prairie Habitat Preservation Area in western Minnesota for addition to the Northern Tallgrass Prairie National Wildlife Refuge. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan.

(e) Minnesota Prairie Recovery Project - Phase II

\$4,500,000 the first year is to the commissioner of natural resources for an agreement with The Nature Conservancy to acquire native prairie and savanna and restore and enhance grasslands and savanna. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. Acquisitions, restorations, and enhancements must be within the two existing and two additional pilot focus areas contained in the accomplishment plan. Annual income statements and balance sheets for income and expenses from land acquired with

appropriations from the outdoor heritage fund must be submitted to the Lessard-Sams Outdoor Heritage Council.

(f) Cannon River Headwaters Habitat Complex - Phase I

\$1,533,000 the first year is to the commissioner of natural resources for an agreement with The Trust for Public Land to acquire and restore lands in the Cannon River watershed for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, or aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(g) Accelerating the Wildlife Management Area Program - Phase III

\$5,500,000 the first year is to the commissioner of natural resources for an agreement with Pheasants Forever to acquire prairie and other habitat areas for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(h) Accelerating the Waterfowl Production Area Program - Phase III

\$9,815,000 the first year is to the commissioner of natural resources for an agreement with Pheasants Forever to accelerate the acquisition of wetlands and grasslands to be added to the waterfowl production area system in Minnesota in cooperation with the United States Fish and Wildlife Service. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(i) The Green Corridor Legacy Program - Phase III

\$1,771,000 the first year is to the commissioner of natural resources for an agreement with the Redwood Area Development Corporation to acquire land for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8, or aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

Subd. 3. **Forests**

14,371,000

-0-

(a) Minnesota Forests for the Future - Phase III

\$5,409,000 the first year is to the commissioner of natural resources to acquire forest and wetland habitat through working forest easements and fee acquisition under the Minnesota forests for the future program pursuant to Minnesota Statutes, section 84.66. A conservation easement acquired with money appropriated under this paragraph must comply with subdivision 13. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$150,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

(b) LaSalle Lake: Protecting Critical Mississippi Headwaters Habitat

\$4,632,000 the first year is to the commissioner of natural resources for an agreement with The Trust for Public Land to acquire land adjacent to LaSalle Lake in Hubbard County. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. If the

acquisition is not completed by July 15, 2012, or if a balance remains after acquisition of land, the money under this paragraph is available for acquisition under subdivision 2, paragraph (a).

(c) Accelerated Forest Habitat Enhancement - Phase II

\$826,000 the first year is to the commissioner of natural resources to restore and enhance lands in state forests, pursuant to Minnesota Statutes, section 89.021.

(d) Northeastern Minnesota Sharp-Tailed Grouse Habitat Partnership - Phase II

\$988,000 the first year is to the commissioner of natural resources for an agreement with Pheasants Forever in cooperation with the Minnesota Sharp-Tailed Grouse Society to acquire and enhance lands for wildlife management area purposes under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(e) Lower Mississippi River Habitat Partnership - Phase II

\$707,000 the first year is to the commissioner of natural resources to acquire and enhance habitat in the lower Root River and lower Zumbro River watersheds, pursuant to Minnesota Statutes, section 86A.05, subdivisions 7 and 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(f) Protect Key Forest Habitat Lands in Cass County - Phase II

\$604,000 the first year is to the commissioner of natural resources for an agreement with Cass County to acquire land in fee for forest wildlife habitat. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(g) State Forest Acquisition

\$1,205,000 the first year is to the commissioner of natural resources to acquire land in fee and permanent management access easements for state forests under Minnesota Statutes, section 86A.05, subdivision 7. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

Subd. 4. Wetlands15,827,000-0-**(a) Reinvest in Minnesota Wetlands Reserve Acquisition and Restoration Program Partnership - Phase III**

\$13,000,000 the first year is to the Board of Water and Soil Resources to acquire permanent conservation easements and restore wetlands and associated upland habitat in cooperation with the United States Department of Agriculture Wetlands Reserve Program. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$112,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund and a description of monitoring and enforcement activities.

(b) Accelerated Shallow Lakes and Wetlands Restoration and Enhancement - Phase III

\$936,000 the first year is to the commissioner of natural resources to develop engineering designs for shallow lakes and wetlands and restore and enhance shallow lakes.

(c) Shallow Lake Shoreland Protection: Wild Rice Lakes

\$1,891,000 the first year is to the Board of Water and Soil Resources for an agreement

with Ducks Unlimited to acquire wild rice lake shoreland habitat in fee and as permanent conservation easements as follows: \$500,000 to the Department of Natural Resources; \$1,100,000 to the Board of Water and Soil Resources; and \$291,000 to Ducks Unlimited. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$18,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

Subd. 5. **Habitat**

22,914,000

-0-

(a) Accelerated Aquatic Management Area Habitat Program - Phase III

\$6,500,000 the first year is to the commissioner of natural resources to acquire interests in land in fee or permanent conservation easements for aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02, and to restore and enhance aquatic habitat. A list of proposed acquisitions and stream and lake habitat restorations and enhancements must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan.

(b) Coldwater Fish Habitat Enhancement Program - Phase III

\$1,533,000 the first year is to the commissioner of natural resources for an agreement with Minnesota Trout Unlimited to restore, enhance, and protect coldwater river and stream habitats in Minnesota. A list of proposed projects, describing types and locations of restorations and enhancements, must be provided as part of the required

accomplishment plan.

(c) Land Addition to the Janet Johnson Memorial Wildlife Management Area

\$577,000 the first year is to the commissioner of natural resources for an agreement with Chisago County to acquire land in fee to be added to the Janet Johnson Memorial Wildlife Management Area under Minnesota Statutes, section 86A.05, subdivision 8. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(d) Metro Big Rivers Habitat - Phase II

\$5,000,000 the first year is to the commissioner of natural resources for agreements to acquire interests in land in fee or permanent conservation easements and to restore and enhance natural systems associated with the Mississippi, Minnesota, and St. Croix Rivers as follows: \$960,000 to the Minnesota Valley National Wildlife Refuge Trust, Inc.; \$150,000 to Great River Greening; \$840,000 to Minnesota Land Trust; \$150,000 to Friends of the Mississippi River; and \$2,900,000 to The Trust for Public Land. A list of proposed projects, describing types and locations of acquisitions, restorations, and enhancements, must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Money appropriated from the outdoor heritage fund for easement acquisition may be used to establish a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

(e) Protecting Sensitive Shorelands in North Central Minnesota

\$1,098,000 the first year is to the commissioner of natural resources for

agreements with the Leech Lake Watershed Foundation and the Minnesota Land Trust as follows: \$339,000 to the Leech Lake Watershed Foundation; \$741,000 to the Minnesota Land Trust; and \$18,000 to the Department of Natural Resources to pay for acquisition-related expenses and monitoring costs of donated permanent conservation easements on sensitive shorelands in north central Minnesota. A list of proposed land acquisitions must be provided as part of the required accomplishment plan. The accomplishment plan must include an easement monitoring and enforcement plan. Up to \$342,000 is for establishing a monitoring and enforcement fund as approved in the accomplishment plan and subject to subdivision 15. An annual financial report is required for any monitoring and enforcement fund established, including expenditures from the fund.

(f) Restoring Native Habitat and Water Quality to Shell Rock River - Phase II

\$2,577,000 the first year is to the commissioner of natural resources for an agreement with the Shell Rock River Watershed District to acquire land in fee at the headwaters of the Shell Rock River for aquatic management area purposes under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02, to restore and enhance aquatic habitat. The leases for gravel mining existing at the time of acquisition may not be extended and all gross income generated from mining operations must be transferred to the commissioner of management and budget and credited to the outdoor heritage fund. A list of proposed land acquisitions must be provided as part of the required accomplishment plan.

(g) Outdoor Heritage Conservation Partners Grant Program - Phase III

\$5,629,000 the first year is to the commissioner of natural resources for a

program to provide competitive, matching grants of up to \$400,000 to local, regional, state, and national organizations for enhancement, restoration, or protection of forests, wetlands, prairies, and habitat for fish, game, or wildlife in Minnesota. Grants shall not be made for activities required to fulfill the duties of owners of lands subject to conservation easements. Grants shall not be made from appropriations in this paragraph for projects that have a total project cost exceeding \$475,000. \$319,000 of this appropriation may be spent for personnel costs and other administrative costs. Grantees may acquire land or interests in land. Easements must be permanent. Land acquired in fee must be open to hunting and fishing during the open season unless otherwise provided by state law. The program shall require a match of at least ten percent from nonstate sources for grants of \$100,000 or less and a match of at least 15 percent from nonstate sources for grants over \$100,000. Up to one-third of the match may be in-kind resources. For grant applications of \$25,000 or less, the commissioner shall provide a separate, simplified application process. The criteria for evaluating grant applications over \$25,000 must include the amount of habitat restored, enhanced, or protected; local support; encouragement of a local conservation culture; urgency; capacity to achieve multiple benefits; habitat benefits provided; consistency with current conservation science; adjacency to protected lands; full funding of the project; supplementing existing funding; public access for hunting and fishing during the open season; sustainability; degree of collaboration; and use of native plant materials. All projects must conform to the Minnesota statewide conservation and preservation plan. Wildlife habitat projects must also conform to the Minnesota wildlife action plan. Subject to the evaluation criteria and requirements of this paragraph and Minnesota Statutes, the commissioner of

natural resources shall give priority to organizations that have a history of receiving or charter to receive private contributions for local conservation or habitat projects when evaluating projects of equal value. If acquiring land or a conservation easement, priority shall be given to projects associated with existing wildlife management areas under Minnesota Statutes, section 86A.05, subdivision 8; scientific and natural areas under Minnesota Statutes, sections 84.033 and 86A.05, subdivision 5; and aquatic management areas under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02. All restoration or enhancement projects must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15. Priority shall be given to restoration and enhancement projects on public lands. Subdivision 9 applies to grants awarded under this paragraph. This appropriation is available until June 30, 2015. No less than five percent of the amount of each grant must be held back from reimbursement until the grant recipient has completed a grant accomplishment report by the deadline and in the form prescribed by and satisfactory to the Lessard-Sams Outdoor Heritage Council. The commissioner shall provide notice of the grant program in the 2011 game and fish law summaries that are prepared under Minnesota Statutes, section 97A.051, subdivision 2.

Subd. 6. **Administration**

701,000

471,000

(a) **Contract Management**

\$175,000 the first year is to the Legislative Coordinating Commission to contract with the commissioner of natural resources for expenses incurred for contract fiscal services for the agreements specified in this section. The contract management services must be done on a reimbursement basis.

(b) **Legislative Coordinating Commission**

(1) \$471,000 the first year and \$471,000 the second year are to the Legislative Coordinating Commission for two years of administrative expenses of the Lessard-Sams Outdoor Heritage Council and for two years of compensation and expense reimbursement of council members.

(2) \$13,000 the first year is to the Legislative Coordinating Commission for the Web site required under Minnesota Statutes, section 3.303, subdivision 10.

(c) Technical Evaluation Panel

\$42,000 the first year is to the commissioner of natural resources for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 97A.056, subdivision 10.

Subd. 7. Availability of Appropriation

Money appropriated in this section may not be spent on activities unless they are directly related to and necessary for a specific appropriation and are specified in the accomplishment plan. Money appropriated in this section must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Unless otherwise provided, the amounts in this section are available until June 30, 2014, when projects must be completed and final accomplishments reported. Funds for restoration or enhancement are available until June 30, 2016, or four years after acquisition, whichever is later, in order to complete restoration or enhancement work. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding. Funds appropriated for fee title acquisition of land may be used to restore, enhance, and provide for the public use of land acquired with the appropriation. Public use facilities must have a minimal impact on habitat on

acquired lands.

Subd. 8. Accomplishment Plans

It is a condition of acceptance of the appropriations made under this section that the agency or entity using the appropriation submit to the Lessard-Sams Outdoor Heritage Council an accomplishment plan and periodic accomplishment reports in the form determined by the council. The accomplishment plan must identify the project manager responsible for expending the appropriation and the final product. The accomplishment plan must account for the use of the appropriation and outcomes of the expenditure in measures of wetlands, prairies, forests, and fish, game, and wildlife habitat restored, protected, and enhanced. The plan must include an evaluation of results. None of the money provided in this section may be expended unless the council has approved the pertinent accomplishment plan.

Subd. 9. Project Requirements

(a) As a condition of accepting an appropriation made under this section, an agency or entity receiving an appropriation must comply with this subdivision for any project funded in whole or in part with funds from the appropriation.

(b) All conservation easements acquired with money appropriated under this section must: (1) be permanent; (2) specify the parties to the easement; (3) specify all of the provisions of an agreement that are permanent; (4) specify the habitat types and location being protected; (5) where appropriate for conservation or water protection outcomes, require the grantor to employ practices retaining water on the eased land as long as practicable; (6) specify the responsibilities of the parties for habitat enhancement and restoration and the associated costs of these activities; (7) be sent to the office of the Lessard-Sams Outdoor Heritage Council; (8) include a long-term

stewardship plan and identify the sources and amount of funding for monitoring and enforcing the easement agreement; and (9) identify the parties responsible for monitoring and enforcing the easement agreement.

(c) For all restorations, a recipient must prepare and retain an ecological restoration and management plan that, to the degree practicable, is consistent with current conservation science and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration projects. The plan must include the proposed timetable for implementing the restoration, including, but not limited to, site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and use current conservation science to achieve the best restoration.

(d) For new lands acquired, a recipient must prepare a restoration and management plan in compliance with paragraph (c), including identification of sufficient funding for implementation.

(e) To ensure public accountability for the use of public funds, a recipient must provide to the Lessard-Sams Outdoor Heritage Council documentation of the process used to select parcels acquired in fee or as permanent conservation easements and must provide the council with documentation of all related transaction costs, including, but not limited to, appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Lessard-Sams Outdoor Heritage Council any difference

between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted. Acquisition data such as appraisals may remain private during negotiations but must ultimately be made public according to Minnesota Statutes, chapter 13.

(f) Except as otherwise provided in this section, all restoration and enhancement projects funded with money appropriated under this section must be on land permanently protected by a conservation easement or public ownership or in public waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.

(g) To the extent an appropriation is used to acquire an interest in real property, a recipient of an appropriation under this section must provide to the Lessard-Sams Outdoor Heritage Council and the commissioner of management and budget an analysis of increased operations and maintenance costs likely to be incurred by public entities as a result of the acquisition and of how these costs are to be paid.

(h) A recipient of money from an appropriation under this section must give consideration to and make timely written contact with Conservation Corps Minnesota for possible use of the corps' services to contract for restoration and enhancement services. A copy of the written contact must be filed with the Lessard-Sams Outdoor Heritage Council within 15 days of execution.

(i) A recipient of money under this section must erect signage according to Laws 2009, chapter 172, article 5, section 10.

Subd. 10. Payment Conditions and Capital Equipment Expenditures

All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise

provided in this section. Notwithstanding Minnesota Statutes, section 16A.41, expenditures directly related to each appropriation's purpose made on or after July 1, 2011, are eligible for reimbursement unless otherwise provided in this section. Periodic reimbursement must be made upon receiving documentation that the deliverable items articulated in the approved accomplishment plan have been achieved, including partial achievements as evidenced by approved progress reports. Reasonable amounts may be advanced to projects to accommodate cash flow needs, support future management of acquired lands, or match a federal share. The advances must be approved as part of the accomplishment plan. Capital equipment expenditures for specific items in excess of \$10,000 must be itemized in and approved as part of the accomplishment plan.

Subd. 11. Purchase of Recycled and Recyclable Materials

A political subdivision, public or private corporation, or other entity that receives an appropriation under this section must use the appropriation in compliance with Minnesota Statutes, sections 16B.121, regarding purchase of recycled, repairable, and durable materials, and 16B.122, regarding purchase and use of paper stock and printing.

Subd. 12. Accessibility

Structural and nonstructural facilities must meet the design standards in the Americans with Disabilities Act (ADA) accessibility guidelines.

Subd. 13. Land Acquisition Restrictions

(a) An interest in real property, including, but not limited to, an easement or fee title that is acquired with money appropriated under this section must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was

made.

(b) A recipient of funding who acquires an interest in real property subject to this subdivision may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the Lessard-Sams Outdoor Heritage Council or its successor. The council shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the outdoor heritage fund at least 15 business days before approval under this paragraph. The council shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria: (1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and (2) the interest must be in a reasonably equivalent location and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain: (1) a legal description of the interest in real property covered by the funding agreement; (2) a reference to the underlying funding agreement; (3) a reference to this section; and (4) the following statement: "This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest

in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property shall transfer to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

Subd. 14. Real Property Interest Report

By December 1 each year, a recipient of money appropriated under this section that is used for the acquisition of an interest in real property, including, but not limited to, an easement or fee title, must submit annual reports on the status of the real property to the Lessard-Sams Outdoor Heritage Council or its successor in a form determined by the council. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must: (1) inform the person to whom the responsibility is transferred of that person's reporting responsibility; (2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 13; and (3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred. After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.

Subd. 15. Easement Monitoring and Enforcement Requirements

Money appropriated under this section for easement monitoring and enforcement may be spent only on activities included in an easement monitoring and enforcement plan contained within the accomplishment plan. Money received for monitoring and enforcement, including earnings on the money received, shall be kept in a monitoring and enforcement fund held by the organization and is appropriated for monitoring and enforcing conservation easements within Minnesota. Within 120 days after the close of the entity's fiscal year, an entity receiving appropriations for easement monitoring and enforcement must provide an annual financial report to the Lessard-Sams Outdoor Heritage Council on the easement monitoring and enforcement fund as specified in the accomplishment plan. Money appropriated under this section for monitoring and enforcement of easements and earnings on the money appropriated shall revert to the state if: (1) the easement transfers to the state under subdivision 13; (2) the holder of the easement fails to file an annual report and then fails to cure that default within 30 days of notification of the default by the state; or (3) the holder of the easement fails to comply with the terms of the monitoring and enforcement plan contained within the accomplishment plan and fails to cure that default within 90 days of notification of the default by the state.

Subd. 16. Successor Organizations

The Lessard-Sams Outdoor Heritage Council may approve the continuation of a project with an organization that has adopted a new name. Continuation of a project with an organization that has undergone a significant change in mission, structure, or purpose requires: (1) notice to the chairs of the legislative committees with relevant jurisdiction; and (2) presentation by the council of proposed legislation either ratifying or rejecting continued involvement

with the new organization.

Subd. 17. Appropriations Adjustment

(a) Mississippi River Bluffland Prairie Protection Initiative.

Of the amount appropriated in Laws 2009, chapter 172, article 1, section 2, subdivision 2, paragraph (f), up to \$65,000 is for deposit in a monitoring and enforcement account as authorized in subdivision 15.

(b) Critical Shoreline Habitat Protection Program

Of the amount appropriated in Laws 2010, chapter 361, article 1, section 2, subdivision 3, paragraph (a), up to \$187,000 is for deposit in a monitoring and enforcement account as authorized in subdivision 15.

(c) Riparian and Lakeshore Protection in Dakota County

Of the amount appropriated in Laws 2010, chapter 361, article 1, section 2, subdivision 5, paragraph (d), up to \$80,000 is for deposit in a monitoring and enforcement account as authorized in subdivision 15.

(d) Valley Creek Protection Partnership

Of the amount appropriated in Laws 2010, chapter 361, article 1, section 2, subdivision 5, paragraph (e), up to \$12,000 is for deposit in a monitoring and enforcement account as authorized in subdivision 15.

Sec. 3. [84.68] FORESTS FOR THE FUTURE CONSERVATION EASEMENT ACCOUNT.

Subdivision 1. **Account established; sources.** The forests for the future conservation easement account is created in the natural resources fund in the state treasury. The following revenue shall be deposited in the account:

(1) contributions to the account or specified for any purposes of the account;

(2) financial contributions required under section 84.66, subdivision 11, or other applicable law;
and

(3) money appropriated or transferred for the purposes described in subdivision 2.

Interest earned on money in the account accrues to the account.

Subd. 2. **Appropriation; purposes of account.** Four percent of the balance on July 1 in the forests for the future conservation easement account is annually appropriated to the commissioner of natural resources and may be spent only to cover the costs of managing forests for the future conservation easements held by the Department of Natural Resources, including costs incurred from monitoring, landowner contracts, record keeping, processing landowner notices, requests for approval or amendments, and enforcement.

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

Sec. 4. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 1a. **Definitions.** For the purpose of appropriations from the outdoor heritage fund, "recipient" means the entity responsible for deliverables financed by the outdoor heritage fund.

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

Sec. 5. Minnesota Statutes 2010, section 97A.056, subdivision 2, is amended to read:

Subd. 2. Lessard-Sams Outdoor Heritage Council. (a) The Lessard-Sams Outdoor Heritage Council of 12 members is created in the legislative branch, consisting of:

(1) two public members appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration;

(2) two public members appointed by the speaker of the house;

(3) four public members appointed by the governor;

(4) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration; and

(5) two members of the house of representatives appointed by the speaker of the house.

(b) Members appointed under paragraph (a) must not be registered lobbyists. In making appointments, the governor, senate Subcommittee on Committees of the Committee on Rules and Administration, and the speaker of the house shall consider geographic balance, gender, age, ethnicity, and varying interests including hunting and fishing. The governor's appointments to the council are subject to the advice and consent of the senate.

(c) Public members appointed under paragraph (a) shall have practical experience or expertise or demonstrated knowledge in the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife.

(d) Legislative members appointed under paragraph (a) shall include the chairs of the legislative committees with jurisdiction over environment and natural resources finance or their designee, one member from the minority party of the senate, and one member from the minority party of the house of representatives.

(e) Public members serve four-year terms and. Appointed legislative members serve at the

pleasure of the appointing authority. Public and legislative members continue to serve until their successors are appointed. Public members shall be initially appointed according to the following schedule of terms:

(1) two public members appointed by the governor for a term ending the first Monday in January 2011;

(2) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2011;

(3) one public member appointed by the speaker of the house for a term ending the first Monday in January 2011;

(4) two public members appointed by the governor for a term ending the first Monday in January 2013;

(5) one public member appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013; and

(6) one public member appointed by the speaker of the house for a term ending the first Monday in January 2013; and.

~~(7) two members of the senate appointed by the senate Subcommittee on Committees of the Committee on Rules and Administration for a term ending the first Monday in January 2013, and two members of the house of representatives appointed by the speaker of the house for a term ending the first Monday in January 2013.~~

(f) ~~Compensation~~ Terms, compensation, and removal of public members are as provided in section 15.0575. A vacancy on the council may be filled by the appointing authority for the remainder of the unexpired term.

(g) The first meeting of the council shall be convened by the chair of the Legislative Coordinating Commission no later than December 1, 2008. Members shall elect a chair, vice-chair, secretary, and other officers as determined by the council. The chair may convene meetings as necessary to conduct the duties prescribed by this section.

(h) Upon coordination with ~~and approval by~~ the Legislative Coordinating Commission, the council may appoint nonpartisan staff and contract with consultants as necessary to carry out the functions of the council. Up to one percent of the money appropriated from the fund may be used to pay for administrative expenses of the council and for compensation and expense reimbursement of council members.

Sec. 6. Minnesota Statutes 2010, section 97A.056, subdivision 3, is amended to read:

Subd. 3. **Council recommendations.** (a) The council shall make recommendations to the legislature on appropriations of money from the outdoor heritage fund that are consistent with the Constitution and state law and that will achieve the outcomes of existing natural resource plans, including, but not limited to, the Minnesota Statewide Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. In making recommendations, the council shall

consider a range of options that would best restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife, ~~and shall not adopt definitions of "restore", "protect", or "enhance" that would limit the council from considering options that are consistent with the Constitution. The council shall submit its initial recommendations to the legislature no later than April 1, 2009. Subsequent.~~ The council's recommendations shall be submitted no later than January 15 each year. The council shall present its recommendations to the senate and house of representatives committees with jurisdiction over the environment and natural resources budget by February 15 in odd-numbered years, and within the first four weeks of the legislative session in even-numbered years. The council's budget recommendations to the legislature shall be separate from the Department of Natural Resource's budget recommendations.

(b) To encourage and support local conservation efforts, the council shall establish a conservation partners program. Local, regional, state, or national organizations may apply for matching grants for restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, prevention of forest fragmentation, encouragement of forest consolidation, and expansion of restored native prairie.

(c) The council may work with the Clean Water Council to identify projects that are consistent with both the purpose of the outdoor heritage fund and the purpose of the clean water fund.

(d) The council may make recommendations to the Legislative-Citizen Commission on Minnesota Resources on scientific research that will assist in restoring, protecting, and enhancing wetlands, prairies, forests, and habitat for fish, game, and wildlife, preventing forest fragmentation, encouraging forest consolidation, and expanding restored native prairie.

(e) Recommendations of the council, including approval of recommendations for the outdoor heritage fund, require an affirmative vote of at least nine members of the council.

(f) The council may work with the Clean Water Council, the Legislative-Citizen Commission on Minnesota Resources, the Board of Water and Soil Resources, soil and water conservation districts, and experts from Minnesota State Colleges and Universities and the University of Minnesota in developing the council's recommendations.

(g) The council shall develop and implement a process that ensures that citizens and potential recipients of funds are included throughout the process, including the development and finalization of the council's recommendations. The process must include a fair, equitable, and thorough process for reviewing requests for funding and a clear and easily understood process for ranking projects.

(h) The council shall use the regions of the state based upon the ecological ~~regions~~ sections and ~~subregions~~ subsections developed by the Department of Natural Resources and establish objectives for each region and subregion to achieve the purposes of the fund outlined in the state constitution.

(i) The council shall develop and submit to the Legislative Coordinating Commission plans for the first ten years of funding, and a framework for 25 years of funding, consistent with statutory and constitutional requirements. The council may use existing plans from other legislative, state, and federal sources, as applicable.

Sec. 7. Minnesota Statutes 2010, section 97A.056, subdivision 5, is amended to read:

Subd. 5. **Open meetings.** (a) Meetings of the council and other groups the council may establish ~~are subject to chapter 13D~~ are open to the public. Except where prohibited by law, the council

shall establish additional processes to broaden public involvement in all aspects of its deliberations, including recording meetings, video conferencing, and publishing minutes. For the purposes of this subdivision, a meeting occurs when a quorum is present and the members receive information or take action on any matter relating to the duties of the council. The quorum requirement for the council shall be seven members.

~~(b) Travel to and from scheduled and publicly noticed site visits by council members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a).~~

~~(e)~~ For legislative members of the council, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the council, enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.

Sec. 8. Minnesota Statutes 2010, section 97A.056, subdivision 6, is amended to read:

Subd. 6. **Audit.** The legislative auditor shall audit the outdoor heritage fund expenditures, including administrative and staffing expenditures, ~~every two years~~ to ensure that the money is spent ~~to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife~~ in compliance with all applicable law and the Constitution.

Sec. 9. Minnesota Statutes 2010, section 97A.056, subdivision 9, is amended to read:

Subd. 9. **Lands in public domain.** Money appropriated from the outdoor heritage fund shall not be used to purchase any land in fee title or a permanent conservation easement if the land in question is fully or partially owned by the state of Minnesota or a political subdivision of the state, unless: (1) the purchase creates additional direct benefit to protect, restore, or enhance the state's wetlands, prairies, forests, or habitat for fish, game, and wildlife; and (2) the purchase is approved by an affirmative vote of at least nine members of the council. ~~At least 15 business days prior to a decision under this subdivision, the council shall submit the planned decision item to the Legislative Coordinating Commission. The planned decision item takes effect 15 business days after it is submitted by the council.~~

Sec. 10. Minnesota Statutes 2010, section 97A.056, subdivision 10, is amended to read:

Subd. 10. **Restoration evaluations.** ~~Beginning July 1, 2011,~~ The commissioner of natural resources and the Board of Water and Soil Resources ~~shall~~ may convene a technical evaluation panel comprised of five members, including one technical representative from the Board of Water and Soil Resources, one technical representative from the Department of Natural Resources, one technical expert from the University of Minnesota or the Minnesota State Colleges and Universities, and two representatives with expertise in the project being evaluated. The board and the commissioner may add a technical representative from a unit of federal or local government. The members of the technical evaluation panel may not be associated with the restoration, may vary depending upon the projects being reviewed, and shall avoid any potential conflicts of interest. Each year, the board and the commissioner ~~shall~~ may assign a coordinator to identify a sample of up to ten habitat restoration projects completed with outdoor heritage funding. The coordinator shall secure the restoration plans for the projects specified and direct the technical evaluation panel to evaluate the restorations relative to the law, current science, and the stated goals and standards in the restoration plan and, when applicable, to the Board of Water and Soil Resources' native vegetation establishment and enhancement guidelines. The coordinator shall summarize

the findings of the panel and provide a report to the chair of the Lessard-Sams Outdoor Heritage Council and the chairs of the respective house of representatives and senate policy and finance committees with jurisdiction over natural resources and spending from the outdoor heritage fund. The report shall determine if the restorations are meeting planned goals, any problems with the implementation of restorations, and, if necessary, recommendations on improving restorations. The report shall be focused on improving future restorations. Up to one-tenth of one percent of forecasted receipts from the outdoor heritage fund may be used for restoration evaluations under this section.

Sec. 11. Laws 2009, chapter 172, article 1, section 2, subdivision 3, is amended to read:

Subd. 3. Forests	18,000,000	18,000,000
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\$18,000,000 in fiscal year 2010 and \$18,000,000 in fiscal year 2011 are to the commissioner of natural resources to acquire land or permanent working forest easements on private forests in areas identified through the Minnesota forests for the future program under Minnesota Statutes, section 84.66. Up to \$750,000 in fiscal year 2011 may be transferred to the forests for the future conservation easement account and used for the purposes specified under Minnesota Statutes, section 84.68, subdivision 2. Priority must be given to acquiring land or interests in private lands within existing Minnesota state forest boundaries. Any easements acquired must have a forest management plan as defined in Minnesota Statutes, section 290C.02, subdivision 7. A list of proposed fee title and easement acquisitions must be provided as part of the required accomplishment plan. ~~The fiscal year 2011 appropriation is available only for acquisitions that, by August 15, 2009, are:~~

~~(1) subject to a binding agreement with the commissioner; and~~

~~(2) matched by at least \$9,000,000 in private donations.~~

Sec. 12. Laws 2009, chapter 172, article 1, section 2, subdivision 15, is amended to read:

Subd. 15. **Real Property Interest Report**

By December 1 each year, a recipient of money appropriated under this section that

is used for the acquisition of an interest in real property, including but not limited to an easement or fee title, must submit annual reports on the status of the real property to the Lessard Outdoor Heritage Council or its successor in a form determined by the council. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must:

(1) inform the person to whom the responsibility is transferred of that person's reporting responsibility;

(2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 14; and

(3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred. ~~Before the transfer, the entity receiving the transfer of property must certify to the Lessard Outdoor Heritage Council, or its successor, acceptance of all obligations and responsibilities held by the prior owner.~~

After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.

Sec. 13. Laws 2010, chapter 361, article 1, section 2, subdivision 14, is amended to read:

Subd. 14. Real Property Interest Report

By December 1 each year, a recipient of money appropriated under this section that is used for the acquisition of an interest in real property, including, but not limited to, an easement or fee title, must submit annual reports on the status of the real property to the Lessard-Sams Outdoor Heritage Council or its successor in a form determined by

the council. The responsibility for reporting under this section may be transferred by the recipient of the appropriation to another person or entity that holds the interest in the real property. To complete the transfer of reporting responsibility, the recipient of the appropriation must: (1) inform the person to whom the responsibility is transferred of that person's reporting responsibility; (2) inform the person to whom the responsibility is transferred of the property restrictions under subdivision 13; and (3) provide written notice to the council of the transfer of reporting responsibility, including contact information for the person to whom the responsibility is transferred; and (4) provide the Lessard-Sams Outdoor Heritage Council or its successor written documentation from the person or entity holding the interest in real property certifying its acceptance of all reporting obligations and responsibilities previously held by the recipient of the appropriation. After the transfer, the person or entity that holds the interest in the real property is responsible for reporting requirements under this section.

Sec. 14. REPORT ON PAYMENT IN LIEU OF TAXES FOR STATE NATURAL RESOURCE LANDS.

By December 1, 2012, the commissioner of natural resources, in cooperation with the commissioners of revenue and management and budget, and stakeholders, including representatives from affected local units of government and other interested parties, shall report to the chairs and ranking minority caucus members of the senate and house of representatives natural resources and tax policy and finance committees with recommended changes to payment in lieu of taxes for natural resource lands under Minnesota Statutes, sections 97A.061 and 477A.11 to 477A.145. The report shall include an analysis of the current payment and distribution system and any recommended changes to:

- (1) the purpose of the payment system and the criteria for payments;
- (2) the rate of payments for specific classes of natural resource lands;
- (3) the adequacy of current funding for payments and the impact of additional land acquisition on the funding;
- (4) alternative methods of reimbursing local units of governments for state natural resource lands; and
- (5) the formula for distribution of the payments to local units of government.

Sec. 15. **REPEALER.**

Minnesota Statutes 2010, section 84.02, subdivisions 1, 2, 3, 4, 6, 7, and 8, are repealed.

ARTICLE 2**CLEAN WATER FUND**Section 1. **CLEAN WATER FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the clean water fund and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. The figures "2012" and "2013" used in this article mean that the appropriation listed under them are available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. The appropriations in this article are onetime.

APPROPRIATIONS**Available for the Year****Ending June 30****2012****2013**Sec. 2. **CLEAN WATER**Subdivision 1. **Total Appropriation**

\$	<u>90,517,000</u>	\$	<u>88,912,000</u>
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The amounts that may be spent for each purpose are specified in the following sections.

Subd. 2. **Availability of Appropriation**

Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Notwithstanding Minnesota Statutes, section 16A.28, and unless otherwise specified in this article, fiscal year 2012 appropriations are available until June 30, 2013, and fiscal year 2013 appropriations are available until June 30, 2014. If a project receives federal funds, the time period of the appropriation is extended

to equal the availability of federal funding.

Sec. 3. **DEPARTMENT OF AGRICULTURE** \$ 8,200,000 \$ 8,200,000

(a) \$350,000 the first year and \$350,000 the second year are to increase monitoring for pesticides and pesticide degradates in surface water and groundwater and to use data collected to assess pesticide use practices.

(b) \$850,000 the first year and \$850,000 the second year are to increase monitoring and evaluate trends in the concentration of nitrates in groundwater in high-risk areas and regionally and to promote and evaluate regional and crop-specific nutrient best management practices. This appropriation is available until June 30, 2016.

(c) \$5,000,000 the first year and \$5,000,000 the second year are for the agriculture best management practices loan program. At least \$4,000,000 the first year and at least \$4,400,000 the second year are for transfer to the clean water agricultural best management practices loan account and are available for pass-through to local governments and lenders for low-interest loans under Minnesota Statutes, section 17.117. Any unencumbered balance that is not used for pass-through to local governments does not cancel at the end of the first year and is available for the second year.

(d) \$775,000 the first year and \$775,000 the second year are for research, pilot projects, and technical assistance on proper implementation of best management practices and more precise information on nonpoint contributions to impaired waters. This appropriation is available until June 30, 2016.

(e) \$1,050,000 the first year and \$1,050,000 the second year are for research to quantify agricultural contributions to impaired waters and for development and evaluation of best management practices to protect and restore water resources while maintaining productivity. This appropriation is available

until June 30, 2016.

(f) \$175,000 the first year and \$175,000 the second year are for a research inventory database containing water-related research activities. This appropriation is available until June 30, 2016.

Sec. 4. <u>PUBLIC FACILITIES AUTHORITY</u>	<u>\$</u>	<u>16,710,000</u>	<u>\$</u>	<u>16,710,000</u>
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(a) \$11,185,000 the first year and \$11,185,000 the second year are for the total maximum daily load grant program under Minnesota Statutes, section 446A.073. This appropriation is available until June 30, 2016.

(b) \$4,275,000 the first year and \$4,275,000 the second year are for the clean water legacy phosphorus reduction grant program under Minnesota Statutes, section 446A.074. This appropriation is available until June 30, 2016.

(c) \$1,250,000 the first year and \$1,250,000 the second year are for small community wastewater treatment grants and loans under Minnesota Statutes, section 446A.075. This appropriation is available until June 30, 2016.

(d) If there are any uncommitted funds at the end of each fiscal year under paragraph (a), (b), or (c), the Public Facilities Authority may transfer the remaining funds to eligible projects under any of the programs listed in this section based on their priority rank on the Pollution Control Agency's project priority list.

Sec. 5. <u>POLLUTION CONTROL AGENCY</u>	<u>\$</u>	<u>23,712,000</u>	<u>\$</u>	<u>23,058,000</u>
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(a) \$7,500,000 the first year and \$7,500,000 the second year are for completion of 20 percent of the needed statewide assessments of surface water quality and trends. Of this amount, \$100,000 the first year and \$100,000 the second year are for grants to the Red River Watershed Management Board to enhance and expand the existing water quality and watershed monitoring river watch activities in the schools in the Red River of the North. The

Red River Watershed Management Board shall provide a report to the commissioner of the Pollution Control Agency and the legislative committees and divisions with jurisdiction over environment and natural resources finance and policy and the clean water fund by February 15, 2013, on the expenditure of these funds.

(b) \$9,400,000 the first year and \$9,400,000 the second year are to develop total maximum daily load (TMDL) studies and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved impaired waters list in accordance with Minnesota Statutes, chapter 114D. The agency shall complete an average of ten percent of the TMDL's each year over the biennium.

(c) \$1,125,000 the first year and \$1,125,000 the second year are for groundwater assessment, including enhancing the ambient monitoring network, modeling, and continuing to monitor for and assess contaminants of emerging concern.

(d) \$750,000 the first year and \$750,000 the second year are for water quality improvements in the lower St. Louis River and Duluth harbor. This appropriation must be matched at a rate of 65 percent nonstate money to 35 percent state money.

(e) \$1,000,000 the first year and \$1,000,000 the second year are for the clean water partnership program to provide grants to protect and improve the basins and watersheds of the state and provide financial and technical assistance to study waters with nonpoint source pollution problems. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater in accordance with Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Any balance remaining in the first year does not cancel and is available for the second year.

(f) \$400,000 the first year and \$400,000 the second year are for storm water research and guidance.

(g) \$1,150,000 the first year and \$1,150,000 the second year are for TMDL research and database development.

(h) \$800,000 the first year and \$800,000 the second year are for national pollutant discharge elimination system wastewater and storm water TMDL implementation efforts.

(i) \$225,000 the first year and \$225,000 the second year are transferred to the commissioner of administration for the Environmental Quality Board in cooperation with the United States Geological Survey to characterize groundwater flow and aquifer properties in the I-94 corridor in cooperation with local units of government. This appropriation is available until June 30, 2016.

(j) \$500,000 the first year is for a wild rice standards study.

(k) \$862,000 the first year and \$708,000 the second year are for groundwater protection or prevention of groundwater degradation activities through enhancing the county-level delivery system for subsurface sewage treatment systems (SSTS). The commissioner shall consult with the SSTS Compliance Task Force in developing a distribution allocation for the county base grants.

(l) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2013, as grants or contracts in this section are available until June 30, 2016.

Sec. 6. DEPARTMENT OF NATURAL RESOURCES

\$ 10,860,000 \$ 9,860,000

(a) \$1,825,000 the first year and \$1,825,000 the second year are for the continuation and expansion of stream flow monitoring.

(b) \$1,150,000 the first year and \$1,150,000 the second year are for lake Index of Biological Integrity (IBI) assessments, including assessment of 400 additional lakes and technical analysis to develop an aquatic plant IBI analysis. The commissioner shall work with the commissioner of the Pollution Control Agency on the development of an assessment tool.

(c) \$130,000 the first year and \$130,000 the second year are for assessing mercury contamination of fish, including monitoring to track the status of waters impaired by mercury and mercury reduction efforts over time.

(d) \$1,730,000 the first year and \$1,730,000 the second year are for TMDL development and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved impaired waters list in accordance with Minnesota Statutes, chapter 114D, and for development of a watershed assessment tool.

(e) \$1,500,000 the first year and \$1,500,000 the second year are for water supply planning, aquifer protection, and monitoring activities.

(f) \$450,000 the first year and \$450,000 the second year are for establishing a Web-based electronic permitting system to capture water appropriation use information.

(g) \$1,725,000 the first year and \$1,725,000 the second year are for shoreland stewardship, TMDL implementation coordination, providing technical assistance to the Drainage Work Group and Drainage Management Team, and maintaining and updating data. Of this amount, \$235,000 each year is for maintaining and updating watershed boundaries and integrating high-resolution digital elevation data with watershed modeling and \$40,000 each year is for a biomonitoring database. TMDL implementation coordination efforts shall be focused on major watersheds with TMDL

implementation plans, including forested watersheds.

(h) \$1,350,000 the first year and \$1,350,000 the second year are to acquire and distribute high-resolution digital elevation data using light detection and ranging to aid with impaired waters modeling and TMDL implementation under Minnesota Statutes, chapter 114D. The money shall be used to collect data for areas of the state that have not acquired the data prior to January 1, 2007, or to complete acquisition and distribution of the data for those areas of the state that have not previously received state funds for acquiring and distributing the data. The distribution of data acquired under this paragraph must be conducted under the auspices of the Minnesota Geospatial Information Office, which shall receive up to 2.5 percent of the appropriation in this paragraph to support coordination of data acquisition and distribution. Mapping and data set distribution under this paragraph must be completed within three years of funds availability. The commissioner shall utilize department staff whenever possible. The commissioner may contract for services only if the services cannot otherwise be provided by the department.

(i) \$1,000,000 the first year is for implementation of the metropolitan groundwater monitoring and protection activities under Minnesota Laws 2010, chapter 361, article 2, section 4, subdivision 2.

Sec. 7. BOARD OF WATER AND SOIL RESOURCES

\$ 27,534,000 \$ 27,534,000

(a) \$13,750,000 the first year and \$13,750,000 the second year are for pollution reduction and restoration grants to local government units and joint powers organizations of local government units to protect surface water and drinking water; to keep water on the land; to protect, enhance, and restore

water quality in lakes, rivers, and streams; and to protect groundwater and drinking water, including feedlot water quality and subsurface sewage treatment system (SSTS) projects and stream bank, stream channel, and shoreline restoration projects. The projects must be of long-lasting public benefit, include a match, and be consistent with TMDL implementation plans or local water management plans.

(b) \$3,000,000 the first year and \$3,000,000 the second year are for targeted local resource protection and enhancement grants. The board shall give priority consideration to projects and practices that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation. Of this amount, at least \$1,500,000 each year is for county SSTS implementation.

(c) \$900,000 the first year and \$900,000 the second year are to provide state oversight and accountability, evaluate results, and measure the value of conservation program implementation by local governments, including submission to the legislature by March 1 each year an annual report prepared by the board, in consultation with the commissioners of natural resources, health, agriculture, and the Pollution Control Agency, detailing the recipients and projects funded under this section. The board shall require grantees to specify the outcomes that will be achieved by the grants prior to any grant awards.

(d) \$1,000,000 the first year and \$1,000,000 the second year are for technical assistance and grants for the conservation drainage program in consultation with the Drainage Work Group, created under Minnesota Statutes, section 103B.101, subdivision 13, that consists of projects to retrofit existing drainage systems with water quality improvement practices, evaluate outcomes,

and provide outreach to landowners, public drainage authorities, drainage engineers and contractors, and others.

(e) \$6,000,000 the first year and \$6,000,000 the second year are to purchase and restore permanent conservation easements on riparian buffers adjacent to public waters, excluding wetlands, to keep water on the land in order to decrease sediment, pollutant, and nutrient transport; reduce hydrologic impacts to surface waters; and increase infiltration for groundwater recharge. The riparian buffers must be at least 50 feet unless there is a natural impediment, a road, or other impediment beyond the control of the landowner. This appropriation may be used for restoration of riparian buffers protected by easements purchased with this appropriation and for stream bank restorations when the riparian buffers have been restored.

(f) \$1,300,000 the first year and \$1,300,000 the second year are for permanent conservation easements on wellhead protection areas under Minnesota Statutes, section 103F.515, subdivision 2, paragraph (d). Priority must be placed on land that is located where the vulnerability of the drinking water supply is designated as high or very high by the commissioner of health.

(g) \$1,500,000 the first year and \$1,500,000 the second year are for community partners grants to local units of government for: (1) structural or vegetative management practices that reduce storm water runoff from developed or disturbed lands to reduce the movement of sediment, nutrients, and pollutants for restoration, protection, or enhancement of water quality in lakes, rivers, and streams and to protect groundwater and drinking water; and (2) installation of proven and effective water retention practices including, but not limited to, rain gardens and other vegetated infiltration basins and sediment control basins in order to keep water on the land. The projects

must be of long-lasting public benefit, include a local match, and be consistent with TMDL implementation plans or local water management plans. Local government unit staff and administration costs may be used as a match.

(h) \$84,000 the first year and \$84,000 the second year are for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 114D.50, subdivision 6.

(i) The board shall contract for services with Conservation Corps Minnesota for restoration, maintenance, and other activities under this section for \$500,000 the first year and \$500,000 the second year.

(j) The board may shift grant or cost-share funds in this section and may adjust the technical and administrative assistance portion of the funds to leverage federal or other nonstate funds or to address oversight responsibilities or high-priority needs identified in local water management plans.

(k) The appropriations in this section are available until June 30, 2016.

Sec. 8. DEPARTMENT OF HEALTH

\$ 2,988,000 \$ 3,050,000

(a) \$1,020,000 the first year and \$1,020,000 the second year are for addressing public health concerns related to contaminants found in Minnesota drinking water for which no health-based drinking water standard exists.

(b) \$1,415,000 the first year and \$1,415,000 the second year are for protection of drinking water sources.

(c) \$250,000 the first year and \$250,000 the second year are for cost-share assistance to public and private well owners for up to 50 percent of the cost of sealing unused wells.

(d) \$303,000 the first year and \$365,000 the second year are to expand the county well index.

Sec. 9. <u>METROPOLITAN COUNCIL</u>	\$	<u>500,000</u>	\$	<u>500,000</u>
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\$500,000 the first year and \$500,000 the second year are for implementation of the master water supply plan developed under Minnesota Statutes, section 473.1565.

Sec. 10. <u>LEGISLATURE</u>	\$	<u>13,000</u>	\$	<u>-0-</u>
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\$13,000 the first year is for the Legislative Coordinating Commission for the costs of developing and implementing a Web site to contain information on projects receiving appropriations from the clean water fund and other constitutionally dedicated funds.

Sec. 11. CARRYFORWARD

(a) The appropriations in Laws 2009, chapter 172, article 2, section 4, paragraph (g), as amended by Laws 2010, chapter 361, article 2, section 2, are available until June 30, 2013, and may be spent to continue research and testing on the potential for coal tar contamination of waters, on the study of treatment and disposal options, and for grants to local units of government.

(b) The appropriation in Laws 2010, chapter 361, article 2, section 4, subdivision 1, for nitrogen and nitrate water quality standards rulemaking is available until June 30, 2012.

(c) The appropriations in Laws 2009, chapter 172, article 2, section 4, paragraph (a), as amended by Laws 2010, chapter 361, article 2, section 2, for total maximum daily load (TDML) study development and implementation are available until June 30, 2014.

(d) The appropriations in Laws 2009, chapter 172, article 2, section 2, paragraph (d), for research and pilot projects related to ways agricultural practices contribute to restoring impaired waters and assist with the development of TMDL plans, are available until June 30, 2016.

Sec. 12. Minnesota Statutes 2010, section 10A.01, subdivision 35, is amended to read:

Subd. 35. **Public official.** "Public official" means any:

- (1) member of the legislature;
- (2) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house of representatives, revisor of statutes, or researcher, legislative analyst, or attorney in the Office of Senate Counsel and Research or House Research;
- (3) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (4) solicitor general or deputy, assistant, or special assistant attorney general;
- (5) commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06, or the state chief information officer;
- (6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;
- (7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;
- (8) executive director of the State Board of Investment;
- (9) deputy of any official listed in clauses (7) and (8);
- (10) judge of the Workers' Compensation Court of Appeals;
- (11) administrative law judge or compensation judge in the State Office of Administrative Hearings or unemployment law judge in the Department of Employment and Economic Development;
- (12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;
- (13) member or chief administrator of a metropolitan agency;
- (14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;
- (15) member or executive director of the Higher Education Facilities Authority;
- (16) member of the board of directors or president of Enterprise Minnesota, Inc.;
- (17) member of the board of directors or executive director of the Minnesota State High School League;
- (18) member of the Minnesota Ballpark Authority established in section 473.755;
- (19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;
- (20) manager of a watershed district, or member of a watershed management organization as defined under section 103B.205, subdivision 13;

- (21) supervisor of a soil and water conservation district;
- (22) director of Explore Minnesota Tourism; ~~or~~
- (23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section 97A.056; or
- (24) a citizen member of the Clean Water Council established in section 114D.30.

Sec. 13. Minnesota Statutes 2010, section 114D.10, is amended to read:

114D.10 LEGISLATIVE PURPOSE AND FINDINGS.

Subdivision 1. **Purpose.** The purpose of the Clean Water Legacy Act is to protect, enhance, and restore, ~~and preserve the water quality of Minnesota's surface waters in lakes, rivers, and streams~~ and to protect groundwater from degradation, by providing authority, direction, and resources to achieve and maintain water quality standards for groundwater and surface waters as, including the standards required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d), and other applicable state and federal regulations.

Subd. 2. **Findings.** The legislature finds that:

- (1) there is a close link between protecting, enhancing, and restoring, ~~and preserving~~ the quality of Minnesota's groundwater and surface waters and the ability to develop the state's economy, enhance its quality of life, and protect its human and natural resources;
- (2) achieving the state's water quality goals will require long-term commitment and cooperation by all state and local agencies, and other public and private organizations and individuals, with responsibility and authority for water management, planning, and protection; and
- (3) all persons and organizations whose activities affect the quality of waters, including point and nonpoint sources of pollution, have a responsibility to participate in and support efforts to achieve the state's water quality goals.

Sec. 14. Minnesota Statutes 2010, section 114D.20, subdivision 1, is amended to read:

Subdivision 1. **Coordination and cooperation.** In implementing this chapter, public agencies and private entities shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of this chapter. Public agencies shall identify opportunities to participate and assist in the successful implementation of this chapter, including the funding or technical assistance needs, if any, that may be necessary. In implementing this chapter, public agencies shall endeavor to engage the cooperation of organizations and individuals whose activities affect the quality of groundwater or surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection. To the extent practicable, public agencies shall endeavor to enter into formal and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and educational, technical, and financial resources to deliver programs or conduct activities to achieve the intent of this chapter, including efforts under the federal Clean Water Act and other federal farm and soil

and water conservation programs. Nothing in this chapter affects the application of silvicultural exemptions under any federal, state, or local law or requires silvicultural practices more stringent than those recommended in the timber harvesting and forest management guidelines adopted by the Minnesota Forest Resources Council under section 89A.05.

Sec. 15. Minnesota Statutes 2010, section 114D.20, subdivision 2, is amended to read:

Subd. 2. **Goals for implementation.** The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL addressing the impairment;

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters; ~~and~~

(6) to achieve compliance with federal Clean Water Act requirements in Minnesota;

(7) to support effective measures to prevent the degradation of groundwater according to the groundwater degradation prevention goal under section 103H.001; and

(8) to support effective measures to restore degraded groundwater.

Sec. 16. Minnesota Statutes 2010, section 114D.20, subdivision 3, is amended to read:

Subd. 3. **Implementation policies.** The following policies must guide the implementation of this chapter:

(1) develop regional and watershed TMDL's and TMDL implementation plans, and TMDL's and TMDL implementation plans for multiple pollutants, where reasonable and feasible;

(2) maximize use of available organizational, technical, and financial resources to perform sampling, monitoring, and other activities to identify degraded groundwater and impaired waters, including use of citizen monitoring and citizen monitoring data used by the Pollution Control Agency in assessing water quality ~~must meet~~ that meets the requirements in Appendix D of the Volunteer Surface Water Monitoring Guide, Minnesota Pollution Control Agency (2003);

(3) maximize opportunities for restoration of degraded groundwater and impaired waters, by prioritizing and targeting of available programmatic, financial, and technical resources and by providing additional state resources to complement and leverage available resources;

(4) use existing regulatory authorities to achieve restoration for point and nonpoint sources of pollution where applicable, and promote the development and use of effective nonregulatory

measures to address pollution sources for which regulations are not applicable;

(5) use restoration methods that have a demonstrated effectiveness in reducing impairments and provide the greatest long-term positive impact on water quality protection and improvement and related conservation benefits while incorporating innovative approaches on a case-by-case basis;

(6) identify for the legislature any innovative approaches that may strengthen or complement existing programs;

(7) identify and encourage implementation of measures to prevent surface waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment using the best available data and technology, and establish and report outcome-based performance measures that monitor the progress and effectiveness of protection and restoration measures; ~~and~~

(8) monitor and enforce cost-sharing contracts and impose monetary damages in an amount up to 150 percent of the financial assistance received for failure to comply; and

(9) identify and encourage implementation of measures to prevent groundwater from becoming degraded and measures that restore groundwater resources.

Sec. 17. Minnesota Statutes 2010, section 114D.20, subdivision 6, is amended to read:

Subd. 6. **Priorities for restoration of impaired waters.** In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5, the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water ~~legacy account~~ fund to restoration projects that:

(1) coordinate with and utilize existing local authorities and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts;

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds;

(4) show a high potential for early restoration and delisting based upon scientific data developed through public agency or citizen monitoring or other means; and

(5) show a high potential for long-term water quality and related conservation benefits.

Sec. 18. Minnesota Statutes 2010, section 114D.20, subdivision 7, is amended to read:

Subd. 7. **Priorities for funding prevention actions.** The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent groundwater and surface waters from becoming degraded or impaired and to improve the quality of surface waters that are listed as impaired but do not have an approved TMDL.

Sec. 19. Minnesota Statutes 2010, section 114D.30, is amended to read:

114D.30 CLEAN WATER COUNCIL.

Subdivision 1. **Creation; duties.** A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the ~~nonagency~~ voting members of the council.

Subd. 2. **Membership; appointment.** (a) The commissioners of natural resources, agriculture, health, and the Pollution Control Agency, and the executive director of the Board of Water and Soil Resources shall each appoint one person from their respective agency to serve as a nonvoting member of the council. Agency members serve as nonvoting members of the council. Two members of the house of representatives, including one member from the majority party and one member from the minority party, appointed by the speaker and two senators, including one member from the majority party and one member from the minority party, appointed according to the rules of the senate shall serve at the pleasure of the appointing authority as nonvoting members of the council. Agency and legislative members appointed under this paragraph serve as nonvoting members of the council.

(b) Nineteen additional nonagency voting members of the council shall be appointed by the governor as follows:

- (1) two members representing statewide farm organizations;
- (2) two members representing business organizations;
- (3) two members representing environmental organizations;
- (4) one member representing soil and water conservation districts;
- (5) one member representing watershed districts;
- (6) one member representing nonprofit organizations focused on improvement of Minnesota lakes or streams;
- (7) two members representing organizations of county governments, one member representing the interests of rural counties and one member representing the interests of counties in the seven-county metropolitan area;
- (8) two members representing organizations of city governments;
- (9) one member representing the Metropolitan Council established under section 473.123;
- (10) one member representing township officer officers;
- (11) one member representing the interests of tribal governments;
- (12) one member representing statewide hunting organizations;
- (13) one member representing the University of Minnesota or a Minnesota state university; and
- (14) one member representing statewide fishing organizations.

Members appointed under ~~clauses (1) to (14)~~ this paragraph must not be registered lobbyists or legislators. In making appointments, the governor must attempt to provide for geographic balance. The members of the council appointed by the governor are subject to the advice and consent of the senate.

Subd. 3. **Conflict of interest.** A Clean Water Council member may not participate in or vote on a decision of the council relating to an organization in which the member has either a direct or indirect personal financial interest. While serving on the Clean Water Council, a member shall avoid any potential conflict of interest.

Subd. 4. **Terms; compensation; removal.** ~~The initial terms of members representing state agencies and the Metropolitan Council expire on the first Monday in January 2007. Thereafter,~~ The terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other nonlegislative members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of nonlegislative council members is as provided in section 15.059, subdivisions 3 and 4. Compensation of legislative members is as determined by the appointing authority. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Subd. 5. **Implementation plan.** The Clean Water Council shall recommend a plan for implementation of this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water. The recommended plan shall address general procedures and time frames for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.20, subdivisions 2 to 7. The council shall issue ~~the first recommended plan under this subdivision by December 1, 2005, and shall issue~~ a revised plan by December 1 of each even-numbered year ~~thereafter~~.

Subd. 6. **Recommendations on appropriation of funds.** (a) The Clean Water Council shall recommend to the governor and the legislature the manner in which money from the clean water ~~legacy account~~ fund should be appropriated for the purposes ~~identified in section 114D.45, subdivision 3~~ stated in article XI, section 15, of the Minnesota Constitution and section 114D.50.

(b) The council's recommendations must:

(1) be to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation and ensure that at least five percent of the clean water fund is spent only to protect drinking water sources;

(2) be consistent with the purposes, policies, goals, and priorities in sections 114D.05 to 114D.35, this chapter; and shall

(3) allocate adequate support and resources to identify degraded groundwater and impaired waters, develop TMDL's, implement restoration of groundwater and impaired waters, and provide assistance and incentives to prevent groundwater and surface waters from becoming degraded or impaired and improve the quality of surface waters which are listed as impaired but have no approved TMDL.

(c) The council must recommend methods of ensuring that awards of grants, loans, or other

funds from the clean water ~~legacy account fund~~ specify the outcomes to be achieved as a result of the funding and specify standards to hold the recipient accountable for achieving the desired outcomes. Expenditures from the ~~account fund~~ must be appropriated by law.

Subd. 7. **Biennial report to legislature.** By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money has been or will be spent for the current biennium, the activities for which money is recommended to be spent in the next biennium, and the impact on economic development of the implementation of efforts to protect and restore groundwater and the impaired waters program. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter and the provisions of article XI, section 15, of the Minnesota Constitution relating to clean water, the need for funding of future implementation of those sections, and recommendations for the sources of funding.

Sec. 20. Minnesota Statutes 2010, section 114D.35, is amended to read:

114D.35 PUBLIC AND STAKEHOLDER PARTICIPATION; SCIENTIFIC REVIEW; EDUCATION.

Subdivision 1. **Public and stakeholder participation.** Public agencies and private entities involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, landowners and managers, and public and private organizations, ~~in the identification of~~ identifying impaired waters, in developing TMDL's, ~~and in~~ in planning, priority setting, and implementing restoration of impaired waters, in identifying degraded groundwater, and in protecting and restoring groundwater resources. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Subd. 2. **Expert scientific advice.** The Clean Water Council and public agencies and private entities shall make use of available public and private expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on models, methods, and approaches used in identifying degraded ground water and impaired waters, developing TMDL's, and implementing prevention and restoration.

Subd. 3. **Education.** The Clean Water Council shall develop strategies for informing, educating, and encouraging the participation of citizens, stakeholders, and others regarding the identification of impaired waters, development of TMDL's, development of TMDL implementation plans, ~~and~~ implementation of restoration for impaired waters, identification of degraded groundwater, and protection and restoration of groundwater resources. Public agencies shall be responsible for implementing the strategies.

Sec. 21. Minnesota Statutes 2010, section 114D.50, subdivision 6, is amended to read:

Subd. 6. **Restoration evaluations.** ~~Beginning July 1, 2011,~~ The Board of Water and Soil Resources ~~shall~~ may convene a technical evaluation panel comprised of five members, including one technical representative from the Board of Water and Soil Resources, one technical representative

from the Department of Natural Resources, one technical expert from the University of Minnesota or the Minnesota State Colleges and Universities, and two representatives with expertise related to the project being evaluated. The board may add a technical representative from a unit of federal or local government. The members of the technical evaluation panel may not be associated with the restoration, may vary depending upon the projects being reviewed, and shall avoid any potential conflicts of interest. Each year, the board ~~shall~~ may assign a coordinator to identify a sample of up to ten habitat restoration projects completed with clean water funding. The coordinator shall secure the restoration plans for the projects specified and direct the technical evaluation panel to evaluate the restorations relative to the law, current science, and the stated goals and standards in the restoration plan and, when applicable, to the Board of Water and Soil Resources' native vegetation establishment and enhancement guidelines. The coordinator shall summarize the findings of the panel and provide a report to the chairs of the respective house of representatives and senate policy and finance committees with jurisdiction over natural resources and spending from the clean water fund. The report shall determine if the restorations are meeting planned goals, any problems with the implementation of restorations, and, if necessary, recommendations on improving restorations. The report shall be focused on improving future restorations. Up to one-tenth of one percent of forecasted receipts from the clean water fund may be used for restoration evaluations under this section.

Sec. 22. Minnesota Statutes 2010, section 116.195, is amended to read:

116.195 BENEFICIAL USE OF WASTEWATER AND STORM WATER; CAPITAL GRANTS FOR DEMONSTRATION PROJECTS.

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

(b) "Agency" means the Pollution Control Agency.

(c) "Beneficial use of wastewater or storm water" means:

(1) use of the effluent from a wastewater treatment plant that replaces use of groundwater; or

(2) use of storm water that replaces the use of groundwater.

(d) "Capital project" means the acquisition or betterment of public land, buildings, and other public improvements of a capital nature for the treatment of wastewater intended for beneficial use or for the use of storm water to replace groundwater use. Capital project includes projects to retrofit, expand, or construct new treatment facilities.

Subd. 2. **Grants for capital project design.** The agency shall make grant awards to political subdivisions for up to 50 percent of the costs to predesign and design capital projects that demonstrate the beneficial use of wastewater or storm water. ~~The maximum amount for a grant under this subdivision is \$500,000.~~ The grant agreement must provide that the predesign and design work being funded is public information and available to anyone without charge. The agency must make the predesign and design work available on its Web site.

Subd. 3. **Grants for capital project implementation.** The agency shall make grant awards to political subdivisions for up to 50 percent of the costs to acquire, construct, install, furnish, and equip capital projects that demonstrate the beneficial use of wastewater or storm water. The political subdivision must submit design plans and specifications to the agency as part of the application.

The agency must consult with the Public Facilities Authority and the commissioner of natural resources in reviewing and ranking applications for grants under this section.

The application must identify the uses of the treated wastewater or storm water and greater weight will be given to applications that include a binding commitment to participate by the user or users.

The agency must give preference to projects that will reduce use of the greatest volume of groundwater from aquifers with the slowest rate of recharge.

Subd. 4. **Application form; procedures.** The agency shall develop an application form and procedures.

Subd. 5. **Reports.** The agency shall report by February 1 of each year to the chairs of the house of representatives and senate committees with jurisdiction over environment policy and finance and capital investment on the grants made and projects funded under this section. For each demonstration project funded, the report must include information on the scale of water constraints for the area, the volume of treated wastewater ~~supply~~ supplied or storm water available, the quality of the storm water or treated wastewater supplied and treatment implications for the industrial user, impacts to stream flow and downstream users, and any considerations related to water appropriation and discharge permits.

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

Sec. 23. Laws 2009, chapter 172, article 2, section 4, as amended by Laws 2010, chapter 361, article 2, section 2, is amended to read:

Sec. 4. **POLLUTION CONTROL AGENCY** \$ 24,076,000 \$ 27,630,000

(a) \$9,000,000 the first year and \$9,000,000 the second year are to develop total maximum daily load (TMDL) studies and TMDL implementation plans for waters listed on the United States Environmental Protection Agency approved impaired waters list in accordance with Minnesota Statutes, chapter 114D. The agency shall complete an average of ten percent of the TMDLs each year over the biennium. Of this amount, \$348,000 the first year is to retest the comprehensive assessment of the biological conditions of the lower Minnesota River and its tributaries within the Lower Minnesota River Major Watershed, as previously assessed from 1976 to 1992 under the Minnesota River Assessment Project (MRAP). The assessment must include the same fish species sampling at the same 116 locations and the same macroinvertebrate sampling at the same 41 locations as the MRAP assessment. The

assessment must:

- (1) include an analysis of the findings; and
- (2) identify factors that limit aquatic life in the Minnesota River.

Of this amount, \$250,000 the first year is for a pilot project for the development of total maximum daily load (TMDL) studies conducted on a watershed basis within the Buffalo River watershed in order to protect, enhance, and restore water quality in lakes, rivers, and streams. The pilot project shall include all necessary field work to develop TMDL studies for all impaired subwatersheds within the Buffalo River watershed and provide information necessary to complete reports for most of the remaining watersheds, including analysis of water quality data, identification of sources of water quality degradation and stressors, load allocation development, development of reports that provide protection plans for subwatersheds that meet water quality standards, and development of reports that provide information necessary to complete TMDL studies for subwatersheds that do not meet water quality standards, but are not listed as impaired.

(b) \$500,000 the first year is for development of an enhanced TMDL database to manage and track progress. Of this amount, \$63,000 the first year is to promulgate rules. By November 1, 2010, the commissioner shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over environment and natural resources finance on the outcomes achieved with this appropriation.

(c) \$1,500,000 the first year and \$3,169,000 the second year are for grants under Minnesota Statutes, section 116.195, to political subdivisions for up to 50 percent of the costs to predesign, design, and implement capital projects that use storm water or treated municipal wastewater instead of groundwater

from drinking water aquifers, in order to demonstrate the beneficial use of wastewater or storm water, including the conservation and protection of water resources. Of this amount, \$1,000,000 the first year is for grants to ethanol plants that are within one and one-half miles of a city for improvements that use storm water or reuse greater than 300,000 gallons of wastewater per day. This appropriation is available until June 30, 2016.

(d) \$1,125,000 the first year and \$1,125,000 the second year are for groundwater assessment and drinking water protection to include:

(1) the installation and sampling of at least 30 new monitoring wells;

(2) the analysis of samples from at least 40 shallow monitoring wells each year for the presence of endocrine disrupting compounds; and

(3) the completion of at least four to five groundwater models for TMDL and watershed plans.

(e) \$2,500,000 the first year is for the clean water partnership program. Priority shall be given to projects preventing impairments and degradation of lakes, rivers, streams, and groundwater in accordance with Minnesota Statutes, section 114D.20, subdivision 2, clause (4). Any balance remaining in the first year does not cancel and is available for the second year.

(f) \$896,000 the first year is to establish a network of water monitoring sites, to include at least 20 additional sites, in public waters adjacent to wastewater treatment facilities across the state to assess levels of endocrine-disrupting compounds, antibiotic compounds, and pharmaceuticals as required in this article. The data must be placed on the agency's Web site.

(g) \$155,000 the first year is to provide notification of the potential for coal tar

contamination, establish a storm water pond inventory schedule, and develop best management practices for treating and cleaning up contaminated sediments as required in this article. \$490,000 the second year is to provide grants to local units of government for up to 50 percent of the costs to implement best management practices to treat or clean up contaminated sediments in storm water ponds and other waters as defined under this article. Local governments must have adopted an ordinance for the restricted use of undiluted coal tar sealants in order to be eligible for a grant, unless a statewide restriction has been implemented. A grant awarded under this paragraph must not exceed \$100,000. Up to \$145,000 of the appropriation in the second year may be used to complete work required under section 28, paragraph (c).

(h) \$350,000 the first year and \$600,000 the second year are for a restoration project in the lower St. Louis River and Duluth harbor in order to improve water quality. This appropriation must be matched by nonstate money at a rate of at least \$2 for every \$1 of state money.

(i) \$150,000 the first year and \$196,000 the second year are for grants to the Red River Watershed Management Board to enhance and expand existing river watch activities in the Red River of the North. The Red River Watershed Management Board shall provide a report that includes formal evaluation results from the river watch program to the commissioners of education and the Pollution Control Agency and to the legislative natural resources finance and policy committees and K-12 finance and policy committees by February 15, 2011.

(j) \$200,000 the first year and \$300,000 the second year are for coordination with the state of Wisconsin and the National Park Service on comprehensive water monitoring and phosphorus reduction activities in the Lake

St. Croix portion of the St. Croix River. The Pollution Control Agency shall work with the St. Croix Basin Water Resources Planning Team and the St. Croix River Association in implementing the water monitoring and phosphorus reduction activities. This appropriation is available to the extent matched by nonstate sources. Money not matched by November 15, 2010, cancels for this purpose and is available for the purposes of paragraph (a).

(k) \$7,500,000 the first year and \$7,500,000 the second year are for completion of 20 percent of the needed statewide assessments of surface water quality and trends. Of this amount, \$175,000 the first year and \$200,000 the second year are for monitoring and analyzing endocrine disruptors in surface waters.

(l) \$100,000 the first year and \$150,000 the second year are for civic engagement in TMDL development. The agency shall develop a plan for expenditures under this paragraph. The agency shall give consideration to civic engagement proposals from basin or sub-basin organizations, including the Mississippi Headwaters Board, the Minnesota River Joint Powers Board, Area II Minnesota River Basin Projects, and the Red River Basin Commission. By November 15, 2009, the plan shall be submitted to the house and senate chairs and ranking minority members of the environmental finance divisions.

(m) \$5,000,000 the second year is for groundwater protection or prevention of groundwater degradation activities. By January 15, 2010, the commissioner, in consultation with the commissioner of natural resources, the Board of Water and Soil Resources, and other agencies, shall submit a report to the chairs of the house of representatives and senate committees with jurisdiction over the clean water fund on the intended use of these funds. The legislature

must approve expenditure of these funds by law.

Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2011, as grants or contracts in this section are available until June 30, 2013.

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

Sec. 24. Laws 2010, chapter 361, article 2, section 3, is amended to read:

Sec. 3. CLEAN WATER FUND; 2009 APPROPRIATION ADJUSTMENTS.

The appropriations in fiscal years ~~2011~~ 2010 and ~~2012~~ 2011 to the Department of Natural Resources for high-resolution digital elevation data in Laws 2009, chapter 172, article 2, section 5, paragraph (d), are available until June 30, 2012.

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

Sec. 25. CIVIC ENGAGEMENT AND PUBLIC EDUCATION.

A recipient of funds appropriated in this article shall incorporate civic engagement and public education when implementing projects and programs funded under this article.

Sec. 26. REPEALER.

Minnesota Statutes 2010, section 114D.45, is repealed.

ARTICLE 3

PARKS AND TRAILS FUND

Section 1. **PARKS AND TRAILS FUND APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the parks and trails fund, or another named fund, and are available for the fiscal years indicated for each purpose. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. Appropriations for the fiscal year ending June 30, 2012, are effective the day following final enactment. All appropriations in this article are onetime.

<u>APPROPRIATIONS</u>	
<u>Available for the Year</u>	
<u>Ending June 30</u>	
<u>2012</u>	<u>2013</u>

Sec. 2. **PARKS AND TRAILS**

Subdivision 1. <u>Total Appropriation</u>	<u>\$</u>	<u>39,676,000</u>	<u>\$</u>	<u>38,468,000</u>
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The amounts that may be spent for each purpose are specified in the following sections.

Subd. 2. Availability of Appropriation

Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Notwithstanding Minnesota Statutes, section 16A.28, and unless otherwise specified in this article, fiscal year 2012 appropriations are available until June 30, 2014, and fiscal year 2013 appropriations are available until June 30, 2015. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

Sec. 3. DEPARTMENT OF NATURAL RESOURCES

\$ 23,906,000 \$ 22,327,000

(a) \$14,262,000 the first year and \$14,603,000 the second year are for state parks, recreation areas, and trails to:

- (1) connect people to the outdoors;
- (2) acquire land and create opportunities;
- (3) maintain existing holdings; and
- (4) improve cooperation by coordinating with partners to implement the 25-year long-range parks and trails legacy plan.

(b) \$2,100,000 the first year is for acquisition of land adjacent to LaSalle Lake in Hubbard County for a state recreation area. If the acquisition is not completed by July 15, 2012, or if a balance remains after the acquisition of the land, the money under this paragraph is available for acquisitions under paragraph (a), clause (2).

(c) \$7,506,000 the first year and \$7,686,000

the second year are for parks and trails of regional or statewide significance as follows:

(1) \$7,331,000 the first year and \$7,686,000 the second year are for grants under Minnesota Statutes, section 85.535, to acquire, develop, improve, and restore parks and trails of regional or statewide significance; and

(2) \$175,000 the first year is for a grant to the Greater Minnesota Regional Park and Trail Coalition to: (1) establish protocols to determine the origin of visitors, and projection of potential use of greater Minnesota regional parks and trails; (2) collect and compile details on the facilities within the greater Minnesota regional park system; and (3) develop evaluation protocol and criteria to determine priorities for park and trail acquisition and development. No local match is required for this grant.

Notwithstanding Minnesota Statutes, section 85.535, subdivision 3, the local match requirement is ten percent for money appropriated in fiscal year 2012 for grants under this section. The commissioner of natural resources may reduce the nonstate cash match requirement for grants awarded to groups of three or more entities if the commissioner determines that the nonstate cash match requirement is a financial burden to one or more of the entities. The overall reduction in the nonstate cash match requirement may not exceed 25 percent of the original nonstate cash match requirement.

Up to 2.5 percent of the total appropriation may be used for administering the grants. Any unencumbered balance at the end of a fiscal year is available for the purposes in paragraph (a).

(d) \$38,000 the first year and \$38,000 the second year are for a technical evaluation panel to conduct up to ten restoration evaluations under Minnesota Statutes, section 85.53, subdivision 5.

(e) The commissioner shall contract for services with Conservation Corps Minnesota for restoration, maintenance, and other activities under this section for at least \$500,000 the first year and \$500,000 the second year.

(f) The commissioner of natural resources shall convene and facilitate a working group of nine members to develop consensus recommendations for the allocation of the parks and trails fund. The working group shall have representatives from metropolitan parks and trails, greater Minnesota parks and trails, and the Department of Natural Resources Parks and Trails Division. The consensus recommendations shall be submitted no later than November 15, 2012, and presented to the governor for consideration in the budget for fiscal years 2014 and 2015.

Sec. 4. <u>METROPOLITAN COUNCIL</u>	<u>\$</u>	<u>15,763,000</u>	<u>\$</u>	<u>16,141,000</u>
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(a) \$15,763,000 the first year and \$16,141,000 the second year are to be distributed under Minnesota Statutes, section 85.53, subdivision 3. The Metropolitan Council may use a portion of this appropriation to provide grants for metropolitan parks and trails of regional or statewide significance within the metropolitan area that are not eligible under Minnesota Statutes, section 85.53, subdivision 3.

(b) The Metropolitan Council shall submit a report on the expenditure and use of money appropriated under this section to the legislature as provided in Minnesota Statutes, section 3.195, by March 1 of each year. The report must detail the outcomes in terms of additional use of parks and trails resources, user satisfaction surveys, and other appropriate outcomes.

Sec. 5. <u>LEGISLATURE</u>	<u>\$</u>	<u>7,000</u>	<u>\$</u>	<u>-0-</u>
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\$7,000 the first year is for the Legislative Coordinating Commission for the costs of

developing and implementing a Web site to contain information on projects receiving appropriations from the parks and trails fund and other constitutionally dedicated funds.

Sec. 6. Minnesota Statutes 2010, section 85.013, is amended by adding a subdivision to read:

Subd. 15a. LaSalle Lake State Recreation Area, Hubbard County.

Sec. 7. Minnesota Statutes 2010, section 85.53, subdivision 5, is amended to read:

Subd. 5. **Restoration evaluations.** ~~Beginning July 1, 2011,~~ The commissioner of natural resources ~~shall~~ may convene a technical evaluation panel comprised of five members, including one technical representative from the Board of Water and Soil Resources, one technical representative from the Department of Natural Resources, one technical expert from the University of Minnesota or the Minnesota State Colleges and Universities, and two other representatives with expertise related to the project being evaluated. The commissioner may add a technical representative from a unit of federal or local government. The members of the technical evaluation panel may not be associated with the restoration, may vary depending upon the projects being reviewed, and shall avoid any potential conflicts of interest. Each year, the commissioner ~~shall~~ may assign a coordinator to identify a sample of up to ten habitat restoration projects completed with parks and trails funding. The coordinator shall secure the restoration plans for the projects specified and direct the technical evaluation panel to evaluate the restorations relative to the law, current science, and the stated goals and standards in the restoration plan and, when applicable, to the Board of Water and Soil Resources' native vegetation establishment and enhancement guidelines. The coordinator shall summarize the findings of the panel and provide a report to the chairs of the respective house of representatives and senate policy and finance committees with jurisdiction over natural resources and spending from the parks and trails fund. The report shall determine if the restorations are meeting planned goals, any problems with the implementation of restorations, and, if necessary, recommendations on improving restorations. The report shall be focused on improving future restorations. Up to one-tenth of one percent of forecasted receipts from the parks and trails fund may be used for restoration evaluations under this section.

Sec. 8. Minnesota Statutes 2010, section 85.535, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner of natural resources shall administer a program to provide grants from the parks and trails fund to support parks and trails of regional or statewide significance. Grants shall not be made under this section for:

- (1) state parks, state recreational areas, or state trails; or
- (2) parks and trails within the metropolitan area, as defined in section 473.121, subdivision 2.

Sec. 9. **LASALLE LAKE STATE RECREATION AREA.**

Subdivision 1. LaSalle Lake State Recreation Area, Hubbard County. The LaSalle Lake State Recreation Area is established in Hubbard County.

Subd. 2. Boundaries. The following described lands are located within the boundaries of the LaSalle Lake State Recreation Area, all in Hubbard County:

(1) the Southwest Quarter of the Southwest Quarter and the Northwest Quarter of the Southwest Quarter, except the East 10 acres thereof, of Section 29; the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter, the Northeast Quarter of the Southwest Quarter, the Southeast Quarter of the Northwest Quarter, the Southeast Quarter of the Northeast Quarter, and Government Lots 2, 3, 4, 5, 6, 7, 8, and 9, of Section 30; Government Lots 1, 2, 5, 6, 7, 8, 9, and 10, of Section 31; and Government Lots 1 and 4 of Section 32; all in Township 145 North, Range 35 West; and

(2) Government Lot 12, Section 19, Township 145 North, Range 35.

Subd. 3. **Administration.** The commissioner of natural resources shall administer the area according to Minnesota Statutes, section 86A.05, subdivision 3, subject to existing rules and regulations for state recreation areas. LaSalle Lake State Recreation Area shall be administered as a satellite unit of Itasca State Park.

Sec. 10. LASALLE LAKE STATE RECREATION AREA MANAGEMENT OPTIONS.

By March 1, 2012, the commissioner of natural resources shall submit a report to the senate and house of representatives committees and divisions with jurisdiction over natural resources policy and finance evaluating options for the management of the resort within the LaSalle Lake State Recreation Area, including an evaluation of the option to lease the resort to a nonstate entity. The evaluation shall include potential financial arrangements or mechanisms that would make the equivalent of local taxes or payments in lieu of taxes the responsibility of the nonstate entity.

ARTICLE 4

ARTS AND CULTURAL HERITAGE FUND

Section 1. ARTS AND CULTURAL HERITAGE FUND APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are appropriated to the entities and for the purposes specified in this article. The appropriations are from the arts and cultural heritage fund, and are available for the fiscal years indicated for allowable activities under the Minnesota Constitution, article XI, section 15. "The first year" is fiscal year 2012. "The second year" is fiscal year 2013. "The biennium" is fiscal years 2012 and 2013. All appropriations in this article are onetime.

<u>APPROPRIATIONS</u>	
<u>Available for the Year</u>	
<u>Ending June 30</u>	
<u>2012</u>	<u>2013</u>

Sec. 2. ARTS AND CULTURAL HERITAGE

Subdivision 1. <u>Total Appropriation</u>	\$	<u>52,600,000</u>	\$	<u>52,714,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Availability of Appropriation

Money appropriated in this article may not be spent on activities unless they are directly related to and necessary for a specific appropriation. Money appropriated in this article must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Notwithstanding Minnesota Statutes, section 16A.28, and unless otherwise specified in this article, fiscal year 2012 appropriations are available until June 30, 2013, and fiscal year 2013 appropriations are available until June 30, 2014. If a project receives federal funds, the time period of the appropriation is extended to equal the availability of federal funding.

Subd. 3. Minnesota State Arts Board22,167,00023,314,000

These amounts are appropriated to the Minnesota State Arts Board for arts, arts education, and arts access. Grant agreements entered into by the Minnesota State Arts Board and other recipients of appropriations in this subdivision shall ensure that these funds are used to supplement and not substitute for traditional sources of funding. Appropriations made directly to the Minnesota State Arts Board shall supplement, and shall not substitute for, traditional sources of funding. Each grant program established within this appropriation shall be separately administered from other state appropriations for program planning and outcome measurements, but may take into consideration other state resources awarded in the selection of applicants and grant award size.

Arts and Arts Access Initiatives.
\$17,003,000 the first year and \$18,150,000 the second year are to support Minnesota artists and arts organizations in creating, producing, and presenting high-quality arts activities; to overcome barriers to accessing

high-quality arts activities; and to instill the arts into the community and public life in this state.

A portion of these funds may be used to:

(1) pay attendance fees and travel costs for youth to visit art museums, arts performances, or other arts activities; or

(2) bring artists to schools, libraries, or other community centers or organizations for teaching, training, or performance purposes.

Arts Education. \$3,276,000 the first year and \$3,276,000 the second year are for high-quality, age-appropriate arts education for Minnesotans of all ages to develop knowledge, skills, and understanding of the arts.

In collaboration with the Perpich Center for Arts Education, a portion of this appropriation may be used for grants to school districts to provide materials or resources to teachers, students, and parents to promote achievement of K-12 academic standards in the arts.

Arts and Cultural Heritage. \$1,073,000 the first year and \$1,073,000 the second year are for events and activities that represent the diverse cultural arts traditions, including folk and traditional artists and art organizations, represented in this state.

Administration, Fiscal Oversight, and Accountability. \$815,000 the first year and \$815,000 the second year are for administration of grant programs, delivering technical services, providing fiscal oversight for the statewide system, and ensuring accountability for these state resources.

Census. The Minnesota State Arts Board, in partnership with regional arts councils, shall maintain a census of Minnesota artists and artistic organizations.

Thirty percent of the total appropriated to each of the categories established in this

subdivision is for grants to the regional arts councils. This percentage does not apply to administrative costs.

Subd. 4. Department of Education

3,000,000

3,000,000

These amounts are appropriated to the commissioner of education for grants allocated using existing formulas under Minnesota Statutes, section 134.355, to the 12 Minnesota regional library systems, to provide educational opportunities in the arts, history, literary arts, and cultural heritage of Minnesota. These funds may be used to sponsor programs provided by regional libraries or to provide grants to local arts and cultural heritage programs for programs in partnership with regional libraries. This appropriation is available until June 30, 2015.

Subd. 5. Minnesota Historical Society

12,050,000

12,050,000

These amounts are appropriated to the governing board of the Minnesota Historical Society to preserve and enhance access to Minnesota's history and its cultural and historical resources. Grant agreements entered into by the Minnesota Historical Society and other recipients of appropriations in this subdivision shall ensure that these funds are used to supplement and not substitute for traditional sources of funding. Funds directly appropriated to the Minnesota Historical Society shall be used to supplement, and not substitute for, traditional sources of funding. Notwithstanding Minnesota Statutes, section 16A.28, for historic preservation projects that improve historic structures, the amounts are available until June 30, 2015.

Statewide Historic and Cultural Grants.

\$5,250,000 the first year and \$5,250,000 the second year are for history programs and projects operated or conducted by or through local, county, regional, or other historical or cultural organizations; or for activities to preserve significant historic and cultural

resources. Funds are to be distributed through a competitive grants process. The Minnesota Historical Society shall administer these funds using established grants mechanisms, with assistance from the advisory committee created under Laws 2009, chapter 172, article 4, section 2, subdivision 4, paragraph (b), item (ii).

Programs. \$4,800,000 the first year and \$4,800,000 the second year are for programs and purposes related to the historical and cultural heritage of the state of Minnesota, conducted by the Minnesota Historical Society.

History Partnerships. \$1,500,000 the first year and \$1,500,000 the second year are for partnerships involving multiple organizations, which may include the Minnesota Historical Society, to preserve and enhance access to Minnesota's history and cultural heritage in all regions of the state.

Statewide Survey of Historical and Archaeological Sites. \$250,000 the first year and \$250,000 the second year are for a contract or contracts to be let on a competitive basis to conduct statewide surveys of Minnesota's sites of historical, archaeological, and cultural significance. Results of this survey must be published in a searchable form, available to the public on a cost-free basis. The Minnesota Historical Society, the Office of the State Archaeologist, and the Indian Affairs Council shall each appoint a representative to an oversight board to select contractors and direct the conduct of these surveys. The oversight board shall consult with the Departments of Transportation and Natural Resources.

Digital Library. \$250,000 the first year and \$250,000 the second year are for a digital library project to preserve, digitize, and share Minnesota images, documents, and historical materials. The Minnesota Historical Society shall cooperate with the Minitex interlibrary

loan system and shall jointly share this appropriation for these purposes.

Subd. 6. Department of Administration

9,175,000

8,150,000

These amounts are appropriated to the commissioner of administration for grants to the named organizations for the purposes specified in this subdivision. Up to one percent of funds may be used by the commissioner for grants administration.

Grant agreements entered into by the commissioner and recipients of appropriations in this subdivision must ensure that money appropriated in this subdivision is used to supplement and not substitute for traditional sources of funding.

Public Radio Grants. \$2,650,000 the first year and \$2,650,000 the second year are for a competitive Arts and Cultural Heritage Grants Program-Public Radio.

The commissioner shall solicit proposals and award grants to public radio stations that satisfy the eligibility requirements under Minnesota Statutes, section 129D.14, subdivision 3, and create, produce, acquire, or distribute radio programs that educate, enhance, or promote local, regional, or statewide items of artistic, cultural, or historic significance. The commissioner shall give preference to projects that expand Minnesotans' access to knowledge, information, arts, state history, or cultural heritage. This appropriation is available until June 30, 2015.

Public Television. \$3,700,000 the first year and \$3,700,000 the second year are for grants to the Minnesota Public Television Association for production and acquisition grants according to Minnesota Statutes, section 129D.18. In recognition of the sesquicentennial of the American Civil War, the Minnesota Public Television Association shall produce new programming on Minnesota history during that period. This

appropriation is available until June 30, 2015.

Veterans Camps. \$475,000 the first year is for grants of \$400,000 to the Disabled Veterans Rest Camp located on Big Marine Lake in Washington County and \$75,000 to the Veterans on the Lake Resort located on Fall Lake in St. Louis County.

Zoos. \$300,000 the first year and \$300,000 the second year are for grants of \$200,000 each year to the Como Park Zoo and \$100,000 each year to the Lake Superior Zoo for programmatic development.

Minnesota Children's Museum. \$500,000 the first year and \$500,000 the second year are for grants to the Minnesota Children's Museum. These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

Science Museum of Minnesota. \$500,000 the first year and \$500,000 the second year are for grants to the Science Museum of Minnesota. These amounts are for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage.

Minnesota Film and TV Board. \$500,000 the first year and \$500,000 the second year are for grants to the Minnesota Film and TV Board for grants to Minnesota residents to create film or television productions that promote Minnesota's cultural heritage and for the film production jobs program under Minnesota Statutes, section 116U.26. This appropriation is available until June 30, 2015.

State Capitol Preservation Commission. \$550,000 the first year is for the purposes of Minnesota Statutes, section 16B.2405. This appropriation is available until spent.

Subd. 7. **Minnesota Zoological Garden**

1,500,000

1,500,000

These amounts are appropriated to the Minnesota Zoological Board for programmatic development of the Minnesota Zoo.

Subd. 8. **Minnesota Humanities Center**1,575,0001,575,000

These amounts are appropriated to the board of directors of the Minnesota Humanities Center for the purposes specified in this subdivision.

Programs and Purposes. \$325,000 the first year and \$325,000 the second year are for programs and purposes of the Minnesota Humanities Center.

The Minnesota Humanities Center may consider museums and organizations celebrating the ethnic identities of Minnesotans for grants from these funds.

Councils of Color. \$500,000 the first year and \$500,000 the second year are for competitive grants to the Council on Asian Pacific Minnesotans, the Council on Black Minnesotans, the Indian Affairs Council, and the Chicano Latino Affairs Council. Grants are for programs and cooperation between the Minnesota Humanities Center and the grant recipients for community events and programs that celebrate and preserve artistic, historical, and cultural heritage.

Civics Education. \$250,000 the first year and \$250,000 the second year are for a competitive Arts and Cultural Heritage Grants Program-Civics Education. The commissioner shall award grants to entities that conduct civics education programs for the civic and cultural development of Minnesota youth.

Children's Museums Grants. \$500,000 the first year and \$500,000 the second year are for a competitive Arts and Cultural Heritage Grants Program-Children's Museums.

The board of directors shall solicit proposals and award grants to children's museums for projects and programs that maintain or promote our cultural heritage.

Subd. 9. **Perpich Center For Arts Education**850,000850,000

These amounts are appropriated to the board of directors of the Perpich Center for Arts Education for arts, arts education, and arts access and to preserve Minnesota's history and cultural heritage. This appropriation is available until June 30, 2015.

Subd. 10. Department of Agriculture

1,400,000

1,400,000

These amounts are appropriated to the commissioner of agriculture for grants to county agricultural societies to enhance arts access and education and to preserve and promote Minnesota's history and cultural heritage as embodied in its county fairs. The grants shall be in addition to the aid distributed to county agricultural societies under Minnesota Statutes, section 38.02. The commissioner shall award grants as follows:

(1) \$700,000 each year distributed in equal amounts to each of the state's county fairs to enhance arts access and education and to preserve and promote Minnesota's history and cultural heritage; and

(2) \$700,000 each year for a competitive Arts and Cultural Heritage Grants Program-County Fairs. The commissioner shall award grants for the development or enhancement of county fair facilities or other projects or programs that provide access to the arts, arts education, or agricultural, historical, and cultural heritage programs, including but not limited to agricultural education centers, arts buildings, and performance stages.

Subd. 11. Indian Affairs Council

875,000

875,000

These amounts are appropriated to the Indian Affairs Council for the purposes identified in this subdivision.

Language Working Group. \$75,000 the first year and \$75,000 the second year are for continuation of the Working Group on Dakota and Ojibwe Language Revitalization and Preservation established under Laws

2009, chapter 172, article 4, section 9.

Language Preservation and Education.

\$550,000 the first year and \$550,000 the second year are for grants for programs that preserve Dakota and Ojibwe Indian languages and to foster educational programs in Dakota and Ojibwe languages.

Language Immersion. \$250,000 the first year and \$250,000 the second year are for grants of \$125,000 each year to the Niigaane Ojibwe Immersion School and the Wicoie Nandagikendan Urban Immersion Project to:

- (1) develop and expand K-12 curriculum;
- (2) provide fluent speakers in the classroom;
- (3) develop appropriate testing and evaluation procedures; and
- (4) develop community-based training and engagement.

Subd. 12. Legislature

8,000

-0-

This amount is appropriated to the Legislative Coordinating Commission to operate the Web site for dedicated funds required under Minnesota Statutes, section 3.303, subdivision 10.

Sec. 3. [15B.32] STATE CAPITOL PRESERVATION COMMISSION.

Subdivision 1. **Definitions.** (a) As used in this section, the terms defined in this subdivision have the following meanings.

- (b) "Commission" means the State Capitol Preservation Commission created under this section.
- (c) "Capitol Area" means the geographic area defined in section 15B.02.
- (d) "Board" means the Capitol Area Architectural and Planning Board created under section 15B.03.
- (e) "Predesign" has the meaning given in section 16B.335, subdivision 3, paragraph (a).

Subd. 2. **Membership.** The State Capitol Preservation Commission consists of 22 members, appointed as follows:

- (1) the governor;
- (2) the lieutenant governor;

(3) the attorney general;

(4) the chief justice of the Supreme Court, or the chief justice's designee, who shall be a member of the Supreme Court;

(5) the majority leader of the senate or the majority leader's designee, who shall be a member of the senate;

(6) the speaker of the house or the speaker's designee, who shall be a member of the house of representatives;

(7) two members of the senate, including one member from the majority party appointed by the majority leader and one member from the minority party appointed by the minority leader;

(8) two members of the house of representatives, including one member appointed by the speaker of the house and one member from the minority party appointed by the minority leader;

(9) the chair and ranking minority member of the house of representatives committee with jurisdiction over capital investment and the chair and ranking minority member of the senate committee with jurisdiction over capital investment;

(10) the commissioner of administration or the commissioner's designee;

(11) the commissioner of public safety or the commissioner's designee;

(12) the executive director of the Minnesota Historical Society or the executive director's designee;

(13) the executive secretary of the Capitol Area Architectural and Planning Board; and

(14) four public members appointed by the governor.

Subd. 3. **Terms and compensation.** (a) A member serving on the commission because the member or the appointing authority for the member holds an elected or appointed office shall serve on the commission as long as the member or the appointing authority holds the office.

(b) Public members of the commission shall serve two-year terms. The public members may not serve for more than three consecutive terms.

(c) The removal of members and filling of vacancies on the commission are as provided in section 15.059. Public members may receive compensation and expenses as provided under section 15.059, subdivision 3.

Subd. 4. **Officers and meetings.** (a) The governor is the chair of the commission. The lieutenant governor is the vice-chair of the commission and may act as the chair of the commission in the absence of the governor. The governor may designate a staff member to attend commission meetings and vote on the governor's behalf in the absence of the governor.

(b) The commission shall meet at least quarterly and at other times at the call of the chair. Meetings of the commission are subject to chapter 13D.

Subd. 5. **Administrative support.** The commission may designate an executive secretary and obtain administrative support through a contract with a state agency or other means.

Subd. 6. **Duties.** (a) The commission:

(1) shall exercise ongoing coordination of the restoration, protection, risk management, and preservation of the Capitol building;

(2) shall consult with and advise the commissioner of administration, the board, and the Minnesota Historical Society regarding their applicable statutory responsibilities for and in the Capitol building;

(3) may assist in the selection of an architectural firm to assist in the preparation of the predesign plan for the restoration of the Capitol building;

(4) shall develop a comprehensive, multiyear, predesign plan for the restoration of the Capitol building, review the plan periodically, and, as appropriate, amend and modify the plan. The predesign plan shall identify appropriate and required functions of the Capitol building; identify and address space requirements for legislative, executive, and judicial branch functions; and identify and address the long-term maintenance and preservation requirements of the Capitol building. In developing the predesign plan, the commission shall take into account the comprehensive plan for the Minnesota State Capitol Area, as amended in 2010, the rules governing zoning and design for the Capitol Area, citizen access, information technology needs, energy efficiency, security, educational programs including public and school tours, and any additional space needs for the efficient operation of state government;

(5) shall develop and implement a comprehensive financial plan to fund the preservation and restoration of the Capitol building;

(6) shall provide annual reports about the condition of the Capitol building and its needs, as well as all activities related to the restoration of the Capitol building; and

(7) may solicit gifts, grants, or donations of any kind from any private or public source to carry out the purposes of this section. All gifts, grants, or donations received by the commission shall be deposited in a State Capitol preservation account established in the special revenue fund. Money in the account is appropriated to the commissioner of administration for the activities of the commission and implementation of the predesign plan under this section.

(b) By January 15 of each year, the commission shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over the commission regarding the activities and efforts of the commission in the preceding calendar year, including recommendations adopted by the commission, the comprehensive financial plan required under paragraph (a), clause (5), and any proposed draft legislation necessary to implement the recommendations of the commission.

Subd. 7. **Expiration.** Notwithstanding section 15.059, subdivision 5, the State Capitol Preservation Commission does not expire.

Sec. 4. **[15B.34] CAPITOL BUILDING POWERS AND DUTIES.**

The board shall:

(1) jointly, with the commissioner of administration and the Minnesota Historical Society, establish standards and policies for the repair, furnishing, appearance, and cleanliness of and change to the public and ceremonial areas of the Capitol building;

(2) review and approve plans and specifications and any changes to approved plans and specifications involving the alteration of the public and ceremonial areas and the exterior of the Capitol building;

(3) jointly, with the Minnesota Historical Society, review and approve the design, structural composition, and location of all monuments, memorials, or works of art presently located in the public and ceremonial areas of the State Capitol, or that will be placed in the public or ceremonial areas, according to section 138.68; and

(4) assist the State Capitol Preservation Commission with performance of its duties as needed.

Sec. 5. [16B.2405] CAPITOL BUILDING POWERS AND DUTIES.

The commissioner, upon receipt of funding for these purposes, shall:

(1) maintain and operate the Capitol building and grounds according to section 16B.24 and other applicable law;

(2) designate a project manager to oversee and manage predesign, design, and construction contracts and funding for all modifications to the Capitol building;

(3) manage design and construction projects and funding for the Capitol building according to section 16B.31 and other applicable law;

(4) lease space in the Capitol building, as provided in section 16B.24, to state agencies, constitutional officers, and the court administrator on behalf of the judicial branch and allocate space in the Capitol building to the legislative branch as determined by the commission;

(5) provide information about the Capitol building to the commission, legislative bodies, and others as needed regarding maintenance, operation, leasing, condition assessments, design, and construction projects; and

(6) assist the State Capitol Preservation Commission with performance of its duties as needed.

Sec. 6. Minnesota Statutes 2010, section 129D.18, subdivision 3, is amended to read:

Subd. 3. **Conditions.** (a) A public station receiving funds appropriated under this section must:

(1) make programs produced with these funds available for broadcast to all other public stations eligible to receive grants under this section;

(2) offer free ~~public performance rights for~~ classroom use of programs produced with these funds to public educational institutions, excluding those materials for which public television stations do not have rights to distribute;

(3) archive programs produced with these funds and make the programs available for future use through encore broadcast or other distribution, including online; and

(4) ensure that underwriting credit is given to the Minnesota arts and cultural heritage fund.

(b) Programs produced in partnership with other mission-centered nonprofit organizations may be used by the partnering organization for their own educational or promotional purposes.

Sec. 7. Minnesota Statutes 2010, section 129D.18, subdivision 4, is amended to read:

Subd. 4. **Reporting.** A public station receiving funds appropriated under this section must report annually by January 15 to the commissioner, the Legislative Coordinating Commission, and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and finance regarding how the previous year's grant funds were expended. This In addition to all information required of each recipient of money from the arts and cultural heritage fund under section 3.303, subdivision 10, the report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated viewership, the number of hours of legacy program content available for streaming on Web site ~~downloads sites~~, and other related measures. If the programs produced include educational material, the public station must report on these efforts.

Sec. 8. Minnesota Statutes 2010, section 129D.19, subdivision 5, is amended to read:

Subd. 5. **Reporting.** A noncommercial radio station receiving funds appropriated under this section must report annually by January 15 to the commissioner, the Legislative Coordinating Commission, and the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over arts and cultural heritage policy and finance regarding how the previous year's grant funds were expended. This In addition to all information required of each recipient of money from the arts and cultural heritage fund under section 3.303, subdivision 10, the report must contain specific information for each program produced and broadcast, including the cost of production, the number of stations broadcasting the program, estimated number of listeners, and other related measures. If the programs produced include educational material, the noncommercial radio station must report on these efforts.

Sec. 9. [138.70] CAPITOL BUILDING POWERS AND DUTIES.

The Minnesota Historical Society shall:

(1) assist and advise in research and preservation of historical features of the Capitol building, appropriate custodial policies, and maintaining and repairing works of art according to section 138.69;

(2) jointly, with the Capitol Area Architectural and Planning Board, review and approve the design, structural composition, and location of all monuments, memorials, or works of art presently located in the public and ceremonial areas of the Capitol building, or proposed for placement in the public or ceremonial areas, according to section 138.68;

(3) assist with planning and design of restoration and renovations of the Capitol building in order to provide public access and education through public interpretive programs according to the society's statutory responsibilities under section 138.69; and

(4) assist the State Capitol Preservation Commission with performance of its duties as needed.

Sec. 10. Laws 2009, chapter 172, article 4, section 9, subdivision 5, is amended to read:

Subd. 5. **Report.** The working group must report its findings and recommendations, including draft legislation, if necessary, to the Indian Affairs Council and the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over early childhood through grade 12 education ~~and~~, higher education, and arts and cultural heritage policy or finance by February 15, 2011, and again by February 15, 2012. ~~The committee working group expires on~~

February 16, ~~2011~~ 2013.

Sec. 11. STATE CAPITOL PRESERVATION COMMISSION APPOINTMENTS AND FIRST MEETING.

The appointing authorities designated in Minnesota Statutes, section 15B.32, subdivision 2, must complete their initial appointments to the commission no later than August 1, 2011. The governor, or the governor's designee, shall convene the first meeting of the commission within 30 days after the appointments required under this section have been completed.

ARTICLE 5

GENERAL PROVISIONS; ALL LEGACY FUNDS

Section 1. Minnesota Statutes 2010, section 3.303, subdivision 10, is amended to read:

Subd. 10. **Constitutionally dedicated funding accountability.** (a) The Legislative Coordinating Commission shall develop and maintain a user-friendly, public-oriented Web site that informs, educates, and demonstrates to the public how the constitutionally dedicated funds in the arts and cultural heritage fund, outdoor heritage fund, clean water fund, parks and trails fund, and environment and natural resources trust fund are being expended to meet the requirements established for each fund in the state constitution. Information provided on the Web site must include, but is not limited to:

(1) information on all project proposals received by the Outdoor Heritage Council and the Legislative-Citizen Commission on Minnesota Resources;

(2) information on all projects receiving funding, including:

(i) the name of the project and a project description;

(ii) the name, telephone number, members of the board or equivalent governing body, and e-mail address of the funding recipient and, when applicable, the Web site address where the public can directly access detailed information on the recipient's receipt and use of money for the project;

(iii) the amount and source of funding, including the fiscal year of the appropriation;

(iv) the amount and source of any additional funding or leverage;

(v) the duration of the project;

(vi) the number of full-time equivalents funded under the project. For the purposes of this item, "full-time equivalent" means a position directly attributed to the receipt of money from one or more of the funds covered under this section, calculated as the total number of hours planned for the position divided by 2,088;

(vii) the direct expenses and administration costs of the project;

(viii) proposed measurable outcomes and the plan for measuring and evaluating the results;

(ix) for pass-through, noncompetitive grants, the entity acting as the fiscal agent or administering agency and a point of contact for additional information; and

(x) for competitive grants, the name and a brief description of the qualifications of all board

members or members of an equivalent governing body ultimately responsible for awarding the grants, as well as any grantmaking advisory group. In addition, an entity that awards competitive grants, including but not limited to a state agency or any statewide, regional, or local organization, must report whether an employee, decision maker, advisory group member, or other person involved in the grant process disclosed a conflict of interest or potential conflict of interest. If the entity reports that a conflict of interest or potential conflict of interest was disclosed, the entity must provide the Legislative Coordinating Commission with a contact person for additional information and the Legislative Coordinating Commission must post this information on the Web site. An entity that awards competitive grants must obtain and apply the conflict of interest policies developed by the commissioner of administration under section 16B.98, subdivision 3, unless the entity maintains and applies its own documented conflict of interest policies which are substantially similar to the commissioner of administration's policies;

(3) actual measured outcomes and evaluation of projects as required under sections 85.53, subdivision 2; 114D.50, subdivision 2 4; and 129D.17, subdivision 2;

(4) education about the areas and issues the projects address, including, when feasible, maps of where projects have been undertaken;

(5) all frameworks developed for future uses of each fund; and

(6) methods by which members of the public may apply for project funds under any of the constitutionally dedicated funds.

(b) As soon as practicable or by January 15 of the applicable fiscal year, whichever comes first, a state agency or other recipient of a direct appropriation from a fund covered under this section shall submit the information required under paragraph (a) and, when applicable, compile and submit the same information for any grant recipient or other subrecipient of funding. All information for proposed and funded projects, including the proposed measurable outcomes, must be made available on the Web site as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available. The costs of these activities shall be paid out of the arts and cultural heritage fund, outdoor heritage fund, clean water fund, parks and trails fund, and the environment and natural resources trust fund proportionately. For purposes of this section, "measurable outcomes" means outcomes, indicators, or other performance measures that may be quantified or otherwise measured in order to measure the effectiveness of a project or program in meeting its intended goal or purpose.

(c) The Legislative Coordinating Commission shall be responsible for receiving all ten-year plans and 25-year frameworks for each of the constitutionally dedicated funds. To the extent practicable, staff for the commission shall provide assistance and oversight to these planning efforts and shall coordinate public access to hearings and public meetings for all planning efforts.

Sec. 2. Minnesota Statutes 2010, section 85.53, subdivision 2, is amended to read:

Subd. 2. **Expenditures; accountability.** (a) A project or program receiving funding from the parks and trails fund must meet or exceed the constitutional requirement to support parks and trails of regional or statewide significance. A project or program receiving funding from the parks and trails fund must include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A project or program must be consistent with current science and incorporate state-of-the-art technology, except when the project or program is a portrayal

or restoration of historical significance.

(b) Money from the parks and trails fund shall be expended to balance the benefits across all regions and residents of the state.

~~(c) All~~ A state agency or other recipient of a direct appropriation from the parks and trails fund must compile and submit all information for funded projects or programs, including the proposed measurable outcomes and all other items required under section 3.303, subdivision 10, must be made available on to the Legislative Coordinating Commission as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first. The Legislative Coordinating Commission must post submitted information on the Web site required under section 3.303, subdivision 10, as soon as practicable. Information on the measured outcomes and evaluation must be posted as soon as it becomes available.

(d) Grants funded by the parks and trails fund must be implemented according to section 16B.98 and must account for all expenditures. Proposals must specify a process for any regranteeing envisioned. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(e) Money from the parks and trails fund may only be spent on projects located in Minnesota.

(f) When practicable, a direct recipient of an appropriation from the parks and trails fund shall prominently display on the recipient's Web site home page the legacy logo required under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter 361, article 3, section 5, accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Legislative Coordinating Commission Web site required under section 3.303, subdivision 10.

(g) Future eligibility for money from the parks and trails fund is contingent upon a state agency or other recipient satisfying all applicable requirements in this section, as well as any additional requirements contained in applicable session law.

Sec. 3. Minnesota Statutes 2010, section 97A.056, is amended by adding a subdivision to read:

Subd. 12. **Recipient requirements.** (a) A state agency or other recipient of a direct appropriation from the outdoor heritage fund must compile and submit all information for funded projects or programs, including the proposed measurable outcomes and all other items required under section 3.303, subdivision 10, to the Legislative Coordinating Commission as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first. The Legislative Coordinating Commission must post submitted information on the Web site required under section 3.303, subdivision 10, as soon as it becomes available.

(b) When practicable, a direct recipient of an appropriation from the outdoor heritage fund shall prominently display on the recipient's Web site home page the legacy logo required under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter 361, article 3, section 5, accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Legislative Coordinating Commission Web site required under section 3.303, subdivision 10.

(c) Future eligibility for money from the outdoor heritage fund is contingent upon a state agency or other recipient satisfying all applicable requirements in this section, as well as any additional requirements contained in applicable session law.

Sec. 4. Minnesota Statutes 2010, section 114D.50, subdivision 4, is amended to read:

Subd. 4. **Expenditures; accountability.** (a) A project receiving funding from the clean water fund must meet or exceed the constitutional requirements to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater and drinking water from degradation. Priority may be given to projects that meet more than one of these requirements. A project receiving funding from the clean water fund shall include measurable outcomes, as defined in section 3.303, subdivision 10, and a plan for measuring and evaluating the results. A project must be consistent with current science and incorporate state-of-the-art technology.

(b) Money from the clean water fund shall be expended to balance the benefits across all regions and residents of the state.

~~(c) A~~ A state agency or other recipient of a direct appropriation from the clean water fund must compile and submit all information for proposed and funded projects or programs, including the proposed measurable outcomes, ~~must be made available on the Web site and all other items required under section 3.303, subdivision 10, to the Legislative Coordinating Commission as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first. Information on the measured outcomes and evaluation must be posted~~ The Legislative Coordinating Commission must post submitted information on the Web site required under section 3.303, subdivision 10, as soon as it becomes available. Information classified as not public under section 13D.05, subdivision 3, paragraph (d), is not required to be placed on the Web site.

(d) Grants funded by the clean water fund must be implemented according to section 16B.98 and must account for all expenditures. Proposals must specify a process for any regranteeing envisioned. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(e) Money from the clean water fund may only be spent on projects that benefit Minnesota waters.

(f) When practicable, a direct recipient of an appropriation from the clean water fund shall prominently display on the recipient's Web site home page the legacy logo required under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter 361, article 3, section 5, accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Legislative Coordinating Commission Web site required under section 3.303, subdivision 10.

(g) Future eligibility for money from the clean water fund is contingent upon a state agency or other recipient satisfying all applicable requirements in this section, as well as any additional requirements contained in applicable session law.

Sec. 5. Minnesota Statutes 2010, section 129D.17, subdivision 2, is amended to read:

Subd. 2. **Expenditures; accountability.** (a) Funding from the arts and cultural heritage fund may be spent only for arts, arts education, and arts access, and to preserve Minnesota's history and

cultural heritage. A project or program receiving funding from the arts and cultural heritage fund must include measurable outcomes, and a plan for measuring and evaluating the results. A project or program must be consistent with current scholarship, or best practices, when appropriate and must incorporate state-of-the-art technology when appropriate.

(b) Funding from the arts and cultural heritage fund may be granted for an entire project or for part of a project so long as the recipient provides a description and cost for the entire project and can demonstrate that it has adequate resources to ensure that the entire project will be completed.

(c) Money from the arts and cultural heritage fund shall be expended for benefits across all regions and residents of the state.

(d) ~~All~~ A state agency or other recipient of a direct appropriation from the arts and cultural heritage fund must compile and submit all information for funded projects or programs, including the proposed measurable outcomes and all other items required under section 3.303, subdivision 10, must be made available on to the Legislative Coordinating Commission Web site, as soon as practicable or by January 15 of the applicable fiscal year, whichever comes first. Information on the measured outcomes and evaluation must be posted. The Legislative Coordinating Commission must post submitted information on the Web site required under section 3.303, subdivision 10, as soon as it becomes available.

(e) Grants funded by the arts and cultural heritage fund must be implemented according to section 16B.98 and must account for all expenditures of funds. Priority for grant proposals must be given to proposals involving grants that will be competitively awarded.

(f) All money from the arts and cultural heritage fund must be for projects located in Minnesota.

(g) When practicable, a direct recipient of an appropriation from the arts and cultural heritage fund shall prominently display on the recipient's Web site home page the legacy logo required under Laws 2009, chapter 172, article 5, section 10, as amended by Laws 2010, chapter 361, article 3, section 5, accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Legislative Coordinating Commission Web site required under section 3.303, subdivision 10.

(h) Future eligibility for money from the arts and cultural heritage fund is contingent upon a state agency or other recipient satisfying all applicable requirements in this section, as well as any additional requirements contained in applicable session law.

Sec. 6. APPLICABILITY.

Sections 7 to 10 apply to any appropriation for fiscal year 2012 or 2013 from a legacy fund. For the purposes of sections 7 to 10, "legacy fund" means the outdoor heritage fund, the clean water fund, the parks and trails fund, or the arts and cultural heritage fund.

Sec. 7. GENERAL PROVISIONS.

Subdivision. 1. **Grants.** Grants funded by a legacy fund must be implemented according to Minnesota Statutes, section 16B.98, and the responsible entity must account for all expenditures of funds.

Subd. 2. **Constitution.** A recipient of money from a legacy fund must comply with the Minnesota Constitution, article XI, section 15, and may not substitute money received from a legacy fund for a traditional source of funding.

Subd. 3. **Trusts and similar instruments.** A recipient of money from a legacy fund must not use the money to fund a trust, endowment, or similar instrument unless:

(1) the entity reports no later than February 1 each year to the commissioner of management and budget and the legislative committees with jurisdiction over legacy funds regarding the recipient's use and fiduciary stewardship of legacy funds during the period; and

(2) the entity submits to regular audits of the trust, endowment, or similar instrument by the Office of the Legislative Auditor.

Sec. 8. IN THE EVENT OF A LAWSUIT.

(a) An appropriation or portion of an appropriation from a legacy fund is canceled to the extent that a court determines that the appropriation unconstitutionally substitutes for a traditional source of funding.

(b) Any grant contract or similar agreement that awards money from a legacy fund must contain the information in paragraph (a).

Sec. 9. LEGACY ACCOUNTING; TECHNICAL ASSISTANCE.

No later than January 1, 2012, the commissioner of management and budget shall finalize guidance and best practices to assist state agencies in uniformly accounting for their expenditure of legacy funds. The commissioner shall make this information available to all state agencies identified in this act.

Sec. 10. AVAILABILITY.

None of the money appropriated in this act is available until the biennial budget for the appropriate agencies is finally enacted for fiscal years 2012 and 2013."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money from the outdoor heritage fund, clean water fund, parks and trails fund, and arts and cultural heritage fund; modifying certain outdoor heritage provisions; establishing accounts; creating state recreation area; modifying restoration evaluations; modifying grant programs; modifying accountability requirements; modifying definitions; modifying the Clean Water Legacy Act; modifying Clean Water Council; establishing State Capitol Preservation Commission; providing for Capitol building powers and duties; providing appointments; modifying reporting and other requirements for legacy fund recipients; modifying previous appropriations; requiring reports; amending Minnesota Statutes 2010, sections 3.303, subdivision 10; 10A.01, subdivision 35; 85.013, by adding a subdivision; 85.53, subdivisions 2, 5; 85.535, subdivision 1; 97A.056, subdivisions 2, 3, 5, 6, 9, 10, by adding subdivisions; 114D.10; 114D.20, subdivisions 1, 2, 3, 6, 7; 114D.30; 114D.35; 114D.50, subdivisions 4, 6; 116.195; 129D.17, subdivision 2; 129D.18, subdivisions 3, 4; 129D.19, subdivision 5; Laws 2009, chapter 172, article 1, section 2, subdivisions 3, 15; article 2, section 4, as amended; article 4, section 9, subdivision 5; Laws 2010, chapter 361, article 1, section 2,

subdivision 14; article 2, section 3; proposing coding for new law in Minnesota Statutes, chapters 15B; 16B; 84; 138; repealing Minnesota Statutes 2010, sections 84.02, subdivisions 1, 2, 3, 4, 6, 7, 8; 114D.45."

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

Senate Conferees: Bill G. Ingebrigtsen, John C. Pederson, Carla J. Nelson, Richard J. Cohen, Dan D. Hall

House Conferees: Carol McFarlane, Denny McNamara, Paul Torkelson, Mary Murphy

Senator Ingebrigtsen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1363 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. 1363 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 11, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Koch	Newman	Saxhaug
Berglin	Gerlach	Kruse	Nienow	Senjem
Bonoff	Gimse	Kubly	Olson	Sieben
Brown	Goodwin	Latz	Ortman	Skoe
Carlson	Hall	Lillie	Pappas	Sparks
Chamberlain	Hann	Limmer	Parry	Thompson
Cohen	Hoffman	Magnus	Pederson	Tomassoni
Dahms	Howe	Metzen	Reinert	Vanderveer
Daley	Ingebrigtsen	Michel	Rest	Wiger
DeKruif	Jungbauer	Miller	Robling	Wolf
Fischbach	Kelash	Nelson	Rosen	

Those who voted in the negative were:

Bakk	Higgins	Marty	Stumpf
Dibble	Langseth	Pogemiller	Torres Ray
Harrington	Lourey	Sheran	

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce the passage by the House of the following Senate Files, herewith

returned: S.F. Nos. 1287 and 361.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

Madam 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. 1234: A bill for an act relating to the secretary of state; simplifying certain certificates issued to business entities; modifying provisions governing certain contracts entered into by nonprofit corporations; modifying effective date of resignations of agents; revising notice provided to organizations; allowing use of an alternate name; redefining business entities; eliminating issuance of certificates to business trusts and municipal power agencies; amending Minnesota Statutes 2010, sections 5.001, subdivision 2; 302A.711, subdivision 4; 302A.734, subdivision 2; 302A.751, subdivision 1; 303.08, subdivision 2; 303.17, subdivisions 2, 3, 4; 317A.255, subdivision 1; 317A.711, subdivision 4; 317A.733, subdivision 4; 317A.751, subdivision 3; 318.02, subdivisions 1, 2; 321.0809; 321.0906; 322B.826, subdivision 2; 322B.935, subdivisions 2, 3; 323A.1102; 453.53, subdivision 2; 453A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 323A; repealing Minnesota Statutes 2010, sections 302A.801; 302A.805; 308A.151; 317A.022, subdivision 1; 317A.801; 317A.805; 318.02, subdivision 5.

Senate File No. 1234 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

CONCURRENCE AND REPASSAGE

Senator Kruse moved that the Senate concur in the amendments by the House to S.F. No. 1234 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1234 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Daley	Hann	Kruse	McGuire
Benson	DeKruif	Harrington	Kubly	Metzen
Berglin	Dibble	Higgins	Langseth	Michel
Bonoff	Fischbach	Hoffman	Latz	Miller
Brown	Gazelka	Howe	Lillie	Nelson
Carlson	Gerlach	Ingebrigtsen	Limmer	Newman
Chamberlain	Gimse	Jungbauer	Lourey	Nienow
Cohen	Goodwin	Kelash	Magnus	Olson
Dahms	Hall	Koch	Marty	Ortman

Pappas	Rest	Sheran	Thompson	Wolf
Parry	Robling	Sieben	Tomassoni	
Pederson	Rosen	Skoe	Torres Ray	
Pogemiller	Saxhaug	Sparks	Vandever	
Reinert	Senjem	Stumpf	Wiger	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 943 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 943

A bill for an act relating to game and fish; modifying aquaculture provisions; modifying compensation and assistance provisions for crop damage by elk; modifying requirements for fish and wildlife management plans; modifying provisions for taking, possessing, and transporting wild animals; modifying penalty and license provisions; modifying duties of the Board of Water and Soil Resources; limiting landowner liability for state walk-in access program; requiring rulemaking; providing criminal penalties; amending Minnesota Statutes 2010, sections 3.7371; 16C.055, subdivision 2; 17.4982, subdivisions 8, 12, 13, by adding a subdivision; 17.4991, subdivision 3; 17.4992, subdivision 4; 17.4994; 84.942, subdivision 1; 84.95, subdivision 2; 84D.11, subdivision 2a; 97A.015, subdivisions 24, 45, 49, 52, 55; 97A.028, subdivision 3; 97A.075, subdivision 6; 97A.101, subdivision 3; 97A.311, subdivision 5; 97A.321, subdivision 1; 97A.331, by adding a subdivision; 97A.405, subdivision 2; 97A.415, subdivision 2; 97A.425, subdivision 3; 97A.433, by adding a subdivision; 97A.435, subdivision 1; 97A.445, subdivision 1a; 97A.465, subdivision 5; 97A.475, subdivision 7; 97A.505, subdivision 2; 97A.545, subdivision 5; 97B.022, subdivision 2; 97B.041; 97B.055, subdivision 3; 97B.075; 97B.106, subdivision 1; 97B.211, subdivision 1; 97B.425; 97B.515, by adding a subdivision; 97B.645, subdivision 9; 97B.711, by adding a subdivision; 97B.803; 97C.005, subdivision 3; 97C.081, subdivisions 3, 4, by adding a subdivision; 97C.087, subdivision 2; 97C.205; 97C.211, subdivision 5; 97C.341; 103B.101, subdivision 9; 604A.24; proposing coding for new law in Minnesota Statutes, chapters 17; 97B; 348; repealing Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, 4; 97A.015, subdivisions 26b, 27b, 27c; 97A.435, subdivision 5; 97C.081, subdivision 2.

May 23, 2011

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt Zellers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 943 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. 943 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 3.7371, is amended to read:

3.7371 COMPENSATION FOR CROP OR FENCE DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop or pasture shall be compensated by the commissioner of agriculture for an agricultural crop, or fence surrounding the crop or pasture, that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** The crop or pasture owner must prepare a claim on forms provided by the commissioner and available at the county extension agent's office. The claim form must be filed with the commissioner. ~~A claim form may not be filed for crop damage or destruction that occurs before June 3, 1987.~~

Subd. 3. **Compensation.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county. Verification of fence damage or destruction by elk may be provided by submitting photographs or other evidence and documentation together with a statement from an independent witness using forms prescribed by the commissioner. The commissioner, upon recommendation of the agent, shall determine whether the crop damage or destruction or damage to or destruction of a fence surrounding a crop or pasture is caused by elk and, if so, the amount of the crop or fence that is damaged or destroyed. In any fiscal year, ~~a crop~~ an owner may not be compensated for a damaged or destroyed crop or fence surrounding a crop or pasture that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed. In any fiscal year, the commissioner may provide compensation for claims filed under this section up to the amount expressly appropriated for this purpose.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses or damage to or destruction of a fence surrounding a crop or pasture, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the crop or pasture owner has shown that the damage or destruction of the owner's crop or damage to or destruction of a fence surrounding a crop or pasture was caused more probably than not by elk, the commissioner shall pay compensation as provided in this section and the rules of the commissioner. ~~Total compensation to all claimants shall not exceed the amount of funds appropriated for Laws 1987, chapter 373.~~ A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a crop or pasture owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the crop or pasture owner.

(b) A decision denying compensation claimed under this section is not subject to the contested

case review procedures of chapter 14, but a crop or pasture owner may have the claim reviewed in a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days after the filing.

Subd. 7. **Rules.** The commissioner shall adopt rules and may ~~adopt emergency rules and~~ amend rules to carry out this section. The commissioner may use the expedited rulemaking process in section 14.389 to adopt and amend rules authorized in this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop; ~~and~~
- (4) compensation rates for fence damage or destruction that shall include a minimum claim of \$75.00 per incident and a maximum of \$1,800 per claimant per fiscal year; and
- (5) any other matters determined necessary by the commissioner to carry out this section.

Sec. 2. Minnesota Statutes 2010, section 16C.055, subdivision 2, is amended to read:

Subd. 2. **Restriction.** After July 1, 2002, an agency may not enter into a contract or otherwise agree with a nongovernmental entity to receive total nonmonetary consideration valued at more than \$100,000 annually in exchange for the agency providing nonmonetary consideration, unless such an agreement is specifically authorized by law. This subdivision does not apply to the State Lottery or private aquaculture businesses involved in state stocking contracts.

Sec. 3. Minnesota Statutes 2010, section 17.4982, subdivision 8, is amended to read:

Subd. 8. **Containment facility.** "Containment facility" means a licensed facility for salmonids ~~or~~, catfish, or species on the viral hemorrhagic septicemia (VHS) susceptible list published by the United States Department of Agriculture, Animal and Plant Health Inspection Services, that complies with clauses (1), (3), and (4), or clauses (2), (3), and (4):

- (1) disinfects its effluent to the standards in section 17.4991 before the effluent is discharged to public waters;
- (2) does not discharge to public waters or to waters of the state directly connected to public waters;
- (3) raises aquatic life that is prohibited from being released into the wild and must be kept in a facility approved by the commissioner unless processed for food consumption;
- (4) contains aquatic life requiring a fish health inspection prior to transportation.

Sec. 4. Minnesota Statutes 2010, section 17.4982, is amended by adding a subdivision to read:

Subd. 10a. **Fish collector.** "Fish collector" means an individual who has been certified under section 17.4989 to oversee the collection of fish samples from a facility or a water body for disease testing by a certified laboratory.

Sec. 5. Minnesota Statutes 2010, section 17.4982, subdivision 12, is amended to read:

Subd. 12. **Fish health inspection.** (a) "Fish health inspection" means an on-site, statistically based sampling, collection, and testing of fish in accordance with processes in the Fish Health Blue Book for all lots of fish in a facility or the Diagnostic Manual for Aquatic Animal Diseases, published by the International Office of Epizootics (OIE) to test for causative pathogens. The samples for inspection must be collected by a fish health inspector or a fish collector in cooperation with the producer. Testing of samples must be done by an approved laboratory.

(b) The inspection for viral hemorrhagic septicemia (VHS), infectious pancreatic necrosis (IPN), and infectious hematopoietic necrosis (IHN) in salmonids and for VHS in nonsalmonids must include at least a minimum viral testing of ovarian fluids at the 95 percent confidence level of detecting two percent incidence of disease (~~ovarian fluids must be sampled for certification of viral hemorrhagic septicemia and infectious hematopoietic necrosis~~). Bacterial diseases must be sampled at the 95 percent confidence level with a five percent incidence of disease. The inspection must be performed by a fish health inspector in cooperation with the producer with subsequent examination of the collected tissues and fluids for the detection of certifiable diseases.

(c) The inspection for certifiable diseases for wild fish must follow the guidelines of the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases.

Sec. 6. Minnesota Statutes 2010, section 17.4982, subdivision 13, is amended to read:

Subd. 13. **Fish health inspector.** "Fish health inspector" means an individual certified as a fish health inspector or an aquatic animal health inspector by the American Fisheries Society or state, federal, or provincial resource management agency, except that a certification may not be made by an inspector who has a conflict of interest in connection with the outcome of the certification.

Sec. 7. **[17.4989] FISH SAMPLE COLLECTING.**

Subdivision 1. **Training.** Fish collector training may be offered by any organization or agency that has had its class and practicum syllabus approved by the commissioner. The class and practicum must include the following components:

(1) accurate identification of licensed water bodies listed according to section 17.4984 and ensuring that collection is taking place at the correct site;

(2) identification of fish internal organs;

(3) fish dissection and sample preparation as identified by the Department of Natural Resources based on specific testing requirements or as outlined in the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases, published by the International Office of Epizootics (OIE);

(4) recording and reporting data;

(5) sample preparation and shipping;

(6) a field collection site test to demonstrate mastery of the necessary skills, overseen by a certified fish health inspector; and

(7) a certificate of successful completion signed by a certified fish health inspector on a form provided by the commissioner.

Subd. 2. **Certification time period.** Fish collector certification is valid for five years and is not transferable. A person may renew certification only by successfully completing certification training. Certification shall be revoked if the certified person is convicted of violating any of the statutes or rules governing testing for aquatic species diseases. Certification may be suspended during an investigation associated with misconduct or violations of fish health testing and collection. The commissioner shall notify the person that certification is being revoked or suspended.

Subd. 3. **Conflict of interest.** A fish collector may not oversee the collection of fish from a facility or a water body when the collector has a conflict of interest in connection with the outcome of the testing.

Sec. 8. Minnesota Statutes 2010, section 17.4991, subdivision 3, is amended to read:

Subd. 3. **Fish health inspection.** (a) An aquatic farm propagating ~~trout, salmon, or~~ salmonids, catfish, or species on the viral hemorrhagic septicemia (VHS) susceptible list published by the United States Department of Agriculture, Animal and Plant Health Inspection Services, and having an effluent discharge from the aquatic farm into public waters must have a fish health inspection conducted at least once every 12 months by a certified fish health inspector. Testing must be conducted according to ~~approved~~ laboratory methods of the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases, published by the International Office of Epizootics (OIE).

(b) An aquatic farm propagating any species on the VHS susceptible list and having an effluent discharge from the aquatic farm into public waters must test for VHS virus using the guidelines of the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases. The commissioner may, by written order published in the State Register, prescribe alternative testing time periods and methods from those prescribed in the Fish Health Blue Book or the OIE Diagnostic Manual if the commissioner determines that biosecurity measures will not be compromised. These alternatives are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner must provide reasonable notice to affected parties of any changes in testing requirements.

(c) Results of fish health inspections must be provided to the commissioner for all fish that remain in the state. All data used to prepare and issue a fish health certificate must be maintained for three years by the issuing fish health inspector, approved laboratory, or accredited veterinarian.

(d) A health inspection fee must be charged based on each lot of fish sampled. The fee by check or money order payable to the Department of Natural Resources must be prepaid or paid at the time a bill or notice is received from the commissioner that the inspection and processing of samples is completed.

~~(e)~~ (e) Upon receipt of payment and completion of inspection, the commissioner shall notify the operator and issue a fish health certificate. The certification must be made according to the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases by a person certified as a fish health inspector.

~~(d)~~ (f) All aquatic life in transit or held at transfer stations within the state may be inspected by the commissioner. This inspection may include the collection of stock for purposes of pathological analysis. Sample size necessary for analysis will follow guidelines listed in the Fish Health Blue Book or the Diagnostic Manual for Aquatic Animal Diseases.

~~(e)~~ (g) Salmonids and, catfish, or species on the VHS susceptible list must have a fish health inspection before being transported from a containment facility, unless the fish are being transported directly to an outlet for processing or other food purposes or unless the commissioner determines that an inspection is not needed. A fish health inspection conducted for this purpose need only be done on the lot or lots of fish that will be transported. The commissioner must conduct a fish health inspection requested for this purpose within five working days of receiving written notice. Salmonids and catfish may be immediately transported from a containment facility to another containment facility once a sample has been obtained for a health inspection or once the five-day notice period has expired.

Sec. 9. Minnesota Statutes 2010, section 17.4992, subdivision 4, is amended to read:

Subd. 4. **Sale of eggs by the state.** The commissioner may offer for sale or barter as eggs or fry ~~up to two percent of~~ from the department's annual game fish egg harvest. Additional eggs or fry may be sold if they are surplus to this state's program needs.

Sec. 10. Minnesota Statutes 2010, section 17.4994, is amended to read:

17.4994 SUCKER EGGS.

Sucker eggs may be taken from public waters with a sucker egg license endorsement, which authorizes sucker eggs to be taken at a rate of one quart of eggs for each 1-1/2 acres of licensed surface waters except that for intensive culture systems, sucker eggs may be taken at a rate of two quarts per 1,000 muskellunge fry being reared for the fee prescribed in section 97A.475, subdivision 29. The Taking of sucker eggs from public waters is subject to chapter 97C and may be supervised by the commissioner. The commissioner may limit the amount of sucker eggs that a person with a sucker egg license endorsement may take based on the number of sucker eggs taken historically by the licensee, new requests for eggs, and the condition of the spawning runs at those historical streams and rivers that have produced previous annual quotas.

Sec. 11. Minnesota Statutes 2010, section 84.92, subdivision 8, is amended to read:

Subd. 8. **All-terrain vehicle or vehicle.** "All-terrain vehicle" or "vehicle" means a motorized ~~flotation-tired vehicle of not less than three low-pressure tires, but not more than~~ equipped with three to six nonhighway tires, that is limited in engine displacement of less than 960 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart; a mini-truck; a dune buggy; a go cart; or vehicles designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.

EFFECTIVE DATE. This section is effective the day following final enactment and if 2011 S.F. No. 1115 is enacted and includes a provision that amends this section in a manner that is different from the amendment in this section, the amendment in this section supersedes the amendment in 2011 S.F. No. 1115, notwithstanding Minnesota Statutes, section 645.26.

Sec. 12. Minnesota Statutes 2010, section 84.92, subdivision 9, is amended to read:

Subd. 9. **Class 1 all-terrain vehicle.** "Class 1 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of less than 1,000 pounds and has a straddled seat.

Sec. 13. Minnesota Statutes 2010, section 84.92, subdivision 10, is amended to read:

Subd. 10. **Class 2 all-terrain vehicle.** "Class 2 all-terrain vehicle" means an all-terrain vehicle that is not a class 1 all-terrain vehicle, has a total dry weight of ~~1,000 to~~ 1,800 pounds or less, and has a manufacturer's published width of 68 inches or less.

Sec. 14. Minnesota Statutes 2010, section 84.942, subdivision 1, is amended to read:

Subdivision 1. **Preparation.** The commissioner of natural resources shall prepare a ~~comprehensive fish and wildlife management plan~~ plans designed to accomplish the policy of section 84.941. ~~The comprehensive fish and wildlife management plan shall include a strategic plan as outlined in subdivision 2. The strategic plan must be completed by July 1, 1986. The management plan must also include the long range and operational plans as described in subdivisions 3 and 4. The management plan must be completed by July 1, 1988.~~

Sec. 15. Minnesota Statutes 2010, section 84.95, subdivision 2, is amended to read:

Subd. 2. **Purposes and expenditures.** Money from the reinvest in Minnesota resources fund may only be spent for the following fish and wildlife conservation enhancement purposes:

(1) development and implementation of the ~~comprehensive fish and wildlife management plan~~ plans under section 84.942;

(2) implementation of the reinvest in Minnesota reserve program established by section 103F.515;

(3) soil and water conservation practices to improve water quality, reduce soil erosion and crop surpluses;

(4) enhancement or restoration of fish and wildlife habitat on lakes, streams, wetlands, and public and private forest lands;

(5) acquisition and development of public access sites and recreation easements to lakes, streams, and rivers for fish and wildlife oriented recreation;

(6) matching funds with government agencies, federally recognized Indian tribes and bands, and the private sector for acquisition and improvement of fish and wildlife habitat;

(7) research and surveys of fish and wildlife species and habitat;

(8) enforcement of natural resource laws and rules;

(9) information and education;

(10) implementing the aspen recycling program under section 88.80 and for other forest wildlife management projects; and

(11) necessary support services to carry out these purposes.

Sec. 16. Minnesota Statutes 2010, section 84D.11, subdivision 2a, is amended to read:

Subd. 2a. **Harvest of bait from infested waters.** The commissioner may issue a permit to allow the harvest of bait:

(1) from waters that are designated as infested waters, except those designated because they contain prohibited invasive species of fish or certifiable diseases of fish as defined in section 17.4982,

subdivision 6; and

(2) from infested waters as allowed under section 97C.341, paragraph (c).

The permit shall include conditions necessary to avoid spreading aquatic invasive species. Before receiving a permit, a person annually must satisfactorily complete aquatic invasive species-related training provided by the commissioner.

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

Sec. 17. Minnesota Statutes 2010, section 97A.015, subdivision 24, is amended to read:

Subd. 24. **Game birds.** "Game birds" means migratory waterfowl, ring-necked pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bobwhite quail, wild turkeys, coots, gallinules, sora and Virginia rails, mourning dove, sandhill crane, American woodcock, and common snipe.

Sec. 18. Minnesota Statutes 2010, section 97A.015, subdivision 45, is amended to read:

Subd. 45. **Small game.** "Small game" means game birds, gray squirrel, fox squirrel, cottontail rabbit, snowshoe hare, jack rabbit, raccoon, lynx, bobcat, gray wolf, red fox and gray fox, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter, and beaver.

Sec. 19. Minnesota Statutes 2010, section 97A.015, subdivision 49, is amended to read:

Subd. 49. **Undressed bird.** "Undressed bird" means:

(1) a bird, excluding migratory waterfowl, pheasant, Hungarian partridge, turkey, or grouse ducks, with feet and a fully feathered head wing intact;

(2) a migratory waterfowl, excluding geese, duck with a fully feathered wing and head attached;
or

(3) a pheasant, Hungarian partridge, or wild turkey, or grouse with one leg and foot or the fully feathered head or wing intact; or

(4) a goose with a fully feathered wing attached.

Sec. 20. Minnesota Statutes 2010, section 97A.015, subdivision 52, is amended to read:

Subd. 52. **Unprotected birds.** "Unprotected birds" means English sparrow, blackbird, starling, magpie, cormorant, common pigeon, Eurasian collared dove, chukar partridge, quail other than bobwhite quail, and mute swan.

Sec. 21. Minnesota Statutes 2010, section 97A.015, subdivision 55, is amended to read:

Subd. 55. **Wild animals.** "Wild animals" means all living creatures, whether dead or alive, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks.

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

Sec. 22. Minnesota Statutes 2010, section 97A.028, subdivision 3, is amended to read:

Subd. 3. **Emergency deterrent materials assistance.** (a) For the purposes of this subdivision, "cooperative damage management agreement" means an agreement between a landowner or tenant and the commissioner that establishes a program for addressing the problem of destruction of the landowner's or tenant's specialty crops or stored forage crops by wild animals, ~~or destruction of agricultural crops by flightless Canada geese, or destruction of agricultural crops or pasture by elk within the native elk range, as determined by the commissioner.~~

(b) A landowner or tenant may apply to the commissioner for emergency deterrent materials assistance in controlling destruction of the landowner's or tenant's specialty crops or stored forage crops by wild animals, ~~or destruction of agricultural crops by flightless Canada geese, or destruction of agricultural crops or pasture by elk within the native elk range, as determined by the commissioner.~~ Subject to the availability of money appropriated for this purpose, the commissioner shall provide suitable deterrent materials when the commissioner determines that:

- (1) immediate action is necessary to prevent significant damage from continuing; and
- (2) a cooperative damage management agreement cannot be implemented immediately.

(c) A person may receive emergency deterrent materials assistance under this subdivision more than once, but the cumulative total value of deterrent materials provided to a person, or for use on a parcel, may not exceed ~~\$3,000~~ \$5,000 for specialty crops, ~~\$750~~ \$1,500 for protecting stored forage crops other than silage or grain, \$3,000 for stored silage or grain, or \$500 \$1,000 for agricultural crops damaged by flightless Canada geese. The value of deterrent materials provided to a person to help protect stored forage crops, agricultural crops, or pasture from damage by elk may not exceed \$5,000. If a person is a co-owner or cotenant with respect to the ~~specialty~~ crops for which the deterrent materials are provided, the deterrent materials are deemed to be "provided" to the person for the purposes of this paragraph.

(d) As a condition of receiving emergency deterrent materials assistance under this subdivision, a landowner or tenant shall enter into a cooperative damage management agreement with the commissioner. Deterrent materials provided by the commissioner may include repellents, fencing materials, or other materials recommended in the agreement to alleviate the damage problem. If requested by a landowner or tenant, any fencing materials provided must be capable of providing long-term protection of specialty crops. A landowner or tenant who receives emergency deterrent materials assistance under this subdivision shall comply with the terms of the cooperative damage management agreement.

Sec. 23. Minnesota Statutes 2010, section 97A.075, subdivision 6, is amended to read:

Subd. 6. **Walleye stamp.** ~~(a) Revenue from walleye stamps must be credited to the walleye stamp account. Money in the account must be used only for stocking walleye walleyes purchased from the private sector in waters of the state and related activities.~~

~~(b) Money in the account may not be used for costs unless they are directly related to a specific body of water under paragraph (a), or for costs associated with supplies and equipment to implement walleye stocking activities under paragraph (a).~~

Sec. 24. Minnesota Statutes 2010, section 97A.101, subdivision 3, is amended to read:

Subd. 3. **Fishing may not be restricted.** Seasons or methods of taking fish other than minnows may not be restricted under this section.

Sec. 25. Minnesota Statutes 2010, section 97A.311, subdivision 5, is amended to read:

Subd. 5. **Refunds.** (a) The commissioner may issue a refund on a license, not including any issuing fees paid under section 97A.485, subdivision 6, if the request is received within 90 days of the original license purchase and:

(1) the licensee dies before the opening of the licensed season. The original license and a copy of the death certificate must be provided to the commissioner;

(2) the licensee is unable to participate in the licensed activity because the licensee is called to active military duty or military leave is canceled during the entire open season of the licensed activity. The original license and a copy of the military orders or notice of cancellation of leave must be provided to the commissioner; ~~or~~

(3) the licensee purchased two licenses for the same license season in error; or

(4) the licensee was not legally required to purchase the license to participate in the activity.

(b) This subdivision does not apply to lifetime licenses.

Sec. 26. Minnesota Statutes 2010, section 97A.321, subdivision 1, is amended to read:

Subdivision 1. **Owner responsibility; penalty amount.** The owner of a dog that pursues but does not kill or mortally wound a big game animal is subject to a civil penalty of \$100 for each violation. The owner of a dog that kills or mortally wounds a big game animal is subject to a civil penalty of \$500 for each violation.

Sec. 27. Minnesota Statutes 2010, section 97A.331, is amended by adding a subdivision to read:

Subd. 4a. **Hunting big game while under revocation.** Notwithstanding section 97A.421, subdivision 7, a person who takes big game during the time the person is prohibited from obtaining a license to take big game under section 97A.421 is guilty of a gross misdemeanor.

Sec. 28. Minnesota Statutes 2010, section 97A.405, subdivision 2, is amended to read:

Subd. 2. **Personal possession.** (a) A person acting under a license or traveling from an area where a licensed activity was performed must have in personal possession either: (1) the proper license, if the license has been issued to and received by the person; or (2) the proper license identification number or stamp validation, if the license has been sold to the person by electronic means but the actual license has not been issued and received.

(b) If possession of a license or a license identification number is required, a person must exhibit, as requested by a conservation officer or peace officer, either: (1) the proper license if the license has been issued to and received by the person; or (2) the proper license identification number or stamp validation and a valid state driver's license, state identification card, or other form of identification provided by the commissioner, if the license has been sold to the person by electronic means but the actual license has not been issued and received. A person charged with violating the license possession requirement shall not be convicted if the person produces in court or the office of the arresting officer, the actual license previously issued to that person, which was valid at the time of arrest, or satisfactory proof that at the time of the arrest the person was validly licensed. Upon request of a conservation officer or peace officer, a licensee shall write the licensee's name in the presence of the officer to determine the identity of the licensee.

(c) If the actual license has been issued and received, a receipt for license fees, a copy of a license, or evidence showing the issuance of a license, including the license identification number or stamp validation, does not entitle a licensee to exercise the rights or privileges conferred by a license.

(d) A license issued electronically and not immediately provided to the licensee shall be mailed to the licensee within 30 days of purchase of the license. A pictorial migratory waterfowl, pheasant, trout and salmon, or walleye stamp shall be provided to the licensee after purchase of a stamp validation only if the licensee pays an additional \$2 fee that covers the costs of producing and mailing a pictorial stamp. A pictorial turkey stamp may be purchased for a \$2 fee that covers the costs of producing and mailing the pictorial stamp. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish fees for providing the pictorial stamps. The fees must be set in an amount that does not recover significantly more or less than the cost of producing and mailing the stamps. The fees are not subject to the rulemaking provisions of chapter 14, and section 14.386 does not apply.

Sec. 29. Minnesota Statutes 2010, section 97A.415, subdivision 2, is amended to read:

Subd. 2. **Transfer prohibited.** A person may not lend, transfer, borrow, or solicit a license or permit, license identification number, application for a license or permit, coupon, tag, or seal, or use a license, permit, license identification number, coupon, tag, or seal not issued to the person unless otherwise expressly authorized. A person may transfer a license, as prescribed by the commissioner, for use by a person with a severe disability or critical illness who is participating in a hunting or fishing program sponsored by a nonprofit organization.

Sec. 30. Minnesota Statutes 2010, section 97A.425, subdivision 3, is amended to read:

Subd. 3. **Reports.** Except for persons licensed to mount specimens of wild animals, an annual report covering the preceding license year must be submitted to the commissioner by March 15. The commissioner may require other reports for statistical purposes. The reports must be on forms supplied or approved by the commissioner.

Sec. 31. Minnesota Statutes 2010, section 97A.433, is amended by adding a subdivision to read:

Subd. 5. **Mandatory separate selection.** The commissioner must conduct a separate selection for 20 percent of the elk licenses to be issued each year. Only individuals who have applied at least ten times for an elk license and who have never received a license are eligible for this separate selection.

Sec. 32. Minnesota Statutes 2010, section 97A.435, subdivision 1, is amended to read:

Subdivision 1. ~~Number of licenses to be issued~~ **License issuance.** The commissioner shall include in a rule setting the dates for a turkey season the number of licenses to be issued rules setting turkey seasons the methods for issuing licenses for those seasons.

Sec. 33. Minnesota Statutes 2010, section 97A.445, subdivision 1a, is amended to read:

Subd. 1a. **Angling in a state park.** (a) A resident may take fish by angling without an angling license:

(1) when shore fishing or wading on state-owned land within a state park; or

(2) when angling from a boat or float, this subdivision applies only to those or through the ice on water bodies completely encompassed within the statutory boundary of the state park.

(b) The exemption from an angling license does not apply to waters where a trout stamp is required.

Sec. 34. Minnesota Statutes 2010, section 97A.465, subdivision 5, is amended to read:

Subd. 5. **Preference to service members.** (a) For purposes of this subdivision:

(1) "qualified service member or veteran" means a Minnesota resident who:

(i) is currently serving, or has served at any time during the past 24 months, in active service as a member of the United States armed forces, including the National Guard or other military reserves;

(ii) has received a Purple Heart medal for qualifying military service, as shown by official military records; or

(iii) has a service-connected disability rated at 100 percent as defined by the United States Department of Veterans Affairs; and

(2) "active service" means service defined under section 190.05, subdivision 5b or 5c.

(b) Notwithstanding any other provision of this chapter, chapter 97B or 97C, or administrative rules, the commissioner may give first preference to qualified service members or veterans in any drawing or lottery involving the selection of applicants for hunting or fishing licenses, permits, and special permits. This subdivision does not apply to licenses or permits for taking moose, elk, or prairie chickens. Actions of the commissioner under this subdivision are not rules under the Administrative Procedure Act and section 14.386 does not apply.

Sec. 35. Minnesota Statutes 2010, section 97A.475, subdivision 7, is amended to read:

Subd. 7. **Nonresident fishing.** (a) Fees for the following licenses, to be issued to nonresidents, are:

(1) to take fish by angling, \$37.50;

(2) to take fish by angling limited to seven consecutive days selected by the licensee, \$26.50;

(3) to take fish by angling for a 72-hour period selected by the licensee, \$22;

(4) to take fish by angling for a combined license for a family for one or both parents and dependent children under the age of 16, \$50.50;

(5) to take fish by angling for a 24-hour period selected by the licensee, \$8.50;

(6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, \$38.50; and

(7) to take fish by spearing from a dark house, \$37.50.

(b) A \$2 surcharge shall be added to all nonresident fishing licenses, except licenses issued under paragraph (a), clause (5), and licenses purchased at the resident fee by nonresidents under age 16 under section 97A.451, subdivision 5, paragraph (b). An additional commission may not be assessed

on this surcharge.

Sec. 36. Minnesota Statutes 2010, section 97A.502, is amended to read:

97A.502 DEER KILLED BY MOTOR VEHICLES.

(a) Deer killed by a motor vehicle on a public road must be removed by the road authority, as defined by section 160.02, subdivision 25, unless the driver of the motor vehicle is allowed to possess the deer under paragraph (b). The commissioner of natural resources must provide to all road authorities standard forms for statistical purposes and the tracking of wild animals.

(b) The driver of a motor vehicle that has collided with and killed a deer on a public road has priority for a possession permit for the entire deer if the facts indicate that the deer was not taken illegally.

Sec. 37. Minnesota Statutes 2010, section 97A.505, subdivision 2, is amended to read:

Subd. 2. **Possession of unlawful animals brought into state prohibited.** (a) A person may not possess a wild animal that has been unlawfully taken, bought, sold, or possessed outside the state, or unlawfully shipped into the state.

(b) When entering the state from Canada, a person who possesses fish that were unlawfully taken or possessed under paragraph (a) may be charged in the same manner as for possessing fish that were unlawfully taken or possessed in the state.

Sec. 38. Minnesota Statutes 2010, section 97A.545, subdivision 5, is amended to read:

Subd. 5. **Birds must be in undressed condition; exceptions.** (a) Except as provided in paragraph (b), a person may ship or otherwise transport game birds in an undressed condition only.

(b) Paragraph (a) does not apply if the birds being shipped or otherwise transported:

(1) were taken on a shooting preserve and are marked or identified in accordance with section 97A.121, subdivision 5;

(2) were taken, dressed, and lawfully shipped or otherwise transported in another state; or

(3) are migratory game birds that were lawfully tagged and packed by a federally permitted migratory bird preservation facility; or

(4) are doves shipped or transported in accordance with federal law.

Sec. 39. **[97B.0215] PARENT OR GUARDIAN RESPONSIBILITY; VIOLATION.**

A parent or legal guardian of a minor may not knowingly direct, allow, or permit the minor to hunt without the required license, permit, training, or certification, or in violation of the game and fish laws.

Sec. 40. Minnesota Statutes 2010, section 97B.022, subdivision 2, is amended to read:

Subd. 2. **Apprentice hunter validation requirements.** A resident born after December 31, 1979, who is age 12 or older over and who does not possess a hunter education firearms safety certificate may be issued an apprentice hunter validation. An apprentice hunter validation is valid for only one year and may be purchased two license years in a lifetime and used to obtain hunting

licenses during the same license year that the validation is purchased. An individual in possession of an apprentice hunter validation may hunt small game and, deer, and bear only when accompanied by an adult licensed to hunt in Minnesota whose license was not obtained using an apprentice hunter validation. An apprentice hunter validation holder must obtain all required licenses and stamps.

Sec. 41. Minnesota Statutes 2010, section 97B.031, subdivision 5, is amended to read:

Subd. 5. Scopes; visually impaired hunters. (a) Notwithstanding any other law to the contrary, the commissioner may issue a special permit, without a fee, to use a muzzleloader with a scope to take deer during the muzzleloader season to a person who obtains the required licenses and who has a visual impairment. The scope may not have magnification capabilities.

(b) The visual impairment must be to the extent that the applicant is unable to identify targets and the rifle sights at the same time without a scope. The visual impairment and specific conditions must be established by medical evidence verified in writing by (1) a licensed physician, or a certified nurse practitioner or certified physician assistant acting under the direction of a licensed physician; (2) a licensed ophthalmologist; or (3) a licensed optometrist. The commissioner may request additional information from the physician if needed to verify the applicant's eligibility for the permit.

(c) A permit issued under this subdivision may be valid for up to five years, based on the permanence of the visual impairment as determined by the licensed physician, ophthalmologist, or optometrist.

(d) The permit must be in the immediate possession of the permittee when hunting under the special permit.

(e) The commissioner may deny, modify, suspend, or revoke a permit issued under this subdivision for cause, including a violation of the game and fish laws or rules.

(f) A person who knowingly makes a false application or assists another in making a false application for a permit under this subdivision is guilty of a misdemeanor. A physician, certified nurse practitioner, certified physician assistant, ophthalmologist, or optometrist who fraudulently certifies to the commissioner that a person is visually impaired as described in this subdivision is guilty of a misdemeanor.

Sec. 42. Minnesota Statutes 2010, section 97B.041, is amended to read:

97B.041 POSSESSION OF FIREARMS AND AMMUNITION RESTRICTED IN DEER ZONES.

(a) A person may not possess a firearm or ammunition outdoors during the period beginning the fifth day before the open firearms season and ending the second day after the close of the season within an area where deer may be taken by a firearm, except:

(1) during the open season and in an area where big game may be taken, a firearm and ammunition authorized for taking big game in that area may be used to take big game in that area if the person has a valid big game license in possession;

(2) an unloaded firearm that is in a case or in a closed trunk of a motor vehicle;

(3) a shotgun and shells containing No. 4 buckshot or smaller diameter lead shot or steel shot;

(4) a handgun or rifle capable of firing only rimfire cartridges of .17 and .22 caliber, including .22 magnum caliber cartridges;

(5) handguns possessed by a person authorized to carry a handgun under sections 624.714 and 624.715 for the purpose authorized; and

(6) on a target range operated under a permit from the commissioner.

(b) This section does not apply during an open firearms season in an area where deer may be taken only by muzzleloader, except that muzzleloading firearms lawful for the taking of deer may be possessed only by persons with a valid license to take deer by muzzleloader during ~~that~~ the muzzleloader season. While muzzleloader hunting, a person with a valid license to take deer by muzzleloader may not possess a firearm other than:

(1) a muzzleloader that is legal for taking deer under section 97B.031, subdivision 1; and

(2) a firearm as described in paragraph (a), clauses (2) to (5).

Sec. 43. Minnesota Statutes 2010, section 97B.045, subdivision 3, is amended to read:

Subd. 3. **Exceptions; hunting and shooting ranges.** (a) Notwithstanding provisions to the contrary under this chapter, a person may transport an unloaded, uncased firearm, excluding a pistol as defined in paragraph (b), in a motor vehicle while at a shooting range, as defined under section 87A.01, subdivision 3, where the person has received permission from the lawful owner or possessor to discharge firearms; lawfully hunting on private or public land; or travelling to or from a site the person intends to hunt lawfully that day or has hunted lawfully that day, unless:

(1) within Anoka, Hennepin, or Ramsey County;

~~(2) within an area where the discharge of a firearm has been prohibited under section 471.633;~~

~~(3) (2)~~ within the boundaries of a home rule charter or statutory city with a population of 2,500 or more;

~~(4) (3)~~ on school grounds; or

~~(5) (4)~~ otherwise restricted under section 97A.091, 97B.081, or 97B.086.

(b) For the purposes of this section, a "pistol" includes a weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length less than 16 inches in the case of a rifle:

(1) from which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or

(2) for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor.

Pistol does not include a device firing or ejecting a shot measuring .18 of an inch, or less, in diameter and commonly known as a "BB gun," a scuba gun, a stud gun or nail gun used in the construction industry, or children's pop guns or toys.

Sec. 44. Minnesota Statutes 2010, section 97B.055, subdivision 3, is amended to read:

Subd. 3. **Hunting from vehicle by disabled hunters.** (a) The commissioner may issue a special permit, without a fee, to discharge a firearm or bow and arrow from a stationary motor vehicle to a person who obtains the required licenses and who has a permanent physical disability that is more substantial than discomfort from walking. The permit recipient must be:

(1) unable to step from a vehicle without aid of a wheelchair, crutches, braces, or other mechanical support or prosthetic device; or

(2) unable to walk any distance because of a permanent lung, heart, or other internal disease that requires the person to use supplemental oxygen to assist breathing.

(b) The permanent physical disability must be established by medical evidence verified in writing by a licensed physician or, chiropractor, or certified nurse practitioner or certified physician assistant acting under the direction of a licensed physician. The commissioner may request additional information from the physician or chiropractor if needed to verify the applicant's eligibility for the permit. Notwithstanding section 97A.418, the commissioner may, in consultation with appropriate advocacy groups, establish reasonable minimum standards for permits to be issued under this section. In addition to providing the medical evidence of a permanent disability, the applicant must possess a valid disability parking certificate authorized by section 169.345 or license plates issued under section 168.021.

(c) A person issued a special permit under this subdivision and hunting deer may take a deer of either sex, except in those antlerless permit areas and seasons where no antlerless permits are offered. This subdivision does not authorize another member of a party to take an antlerless deer under section 97B.301, subdivision 3.

(d) A permit issued under this subdivision is valid for five years.

(e) The commissioner may deny, modify, suspend, or revoke a permit issued under this section for cause, including a violation of the game and fish laws or rules.

(f) A person who knowingly makes a false application or assists another in making a false application for a permit under this section is guilty of a misdemeanor. A physician, certified nurse practitioner, certified physician assistant, or chiropractor who fraudulently certifies to the commissioner that a person is permanently disabled as described in this section is guilty of a misdemeanor.

(g) Notwithstanding paragraph (d), the commissioner may issue a permit valid for the entire life of the applicant if the commissioner determines that there is no chance that an applicant will become ineligible for a permit under this section and the applicant requests a lifetime permit.

Sec. 45. Minnesota Statutes 2010, section 97B.075, is amended to read:

97B.075 HUNTING RESTRICTED BETWEEN EVENING AND MORNING.

(a) A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except as provided in this section.

(b) Big game may be taken from one-half hour before sunrise until one-half hour after sunset.

(c) Except as otherwise prescribed by the commissioner on or before the Saturday nearest October 8, waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner. ~~On the opening day of the duck season, shooting hours for migratory game birds, except woodcock, begin at 9:00 a.m.~~

Sec. 46. Minnesota Statutes 2010, section 97B.106, subdivision 1, is amended to read:

Subdivision 1. **Qualifications for crossbow permits.** (a) The commissioner may issue a special permit, without a fee, to take big game, small game, or rough fish with a crossbow to a person that is unable to hunt or take rough fish by archery because of a permanent or temporary physical disability. A crossbow permit issued under this section also allows the permittee to use a bow with a mechanical device that draws, releases, or holds the bow at full draw as provided in section 97B.035, subdivision 1, paragraph (a).

(b) To qualify for a crossbow permit under this section, a temporary disability must render the person unable to hunt or fish by archery for a minimum of two years after application for the permit is made. The permanent or temporary disability must be established by medical evidence, and the inability to hunt or fish by archery for the required period of time must be verified in writing by (1) a licensed physician or a certified nurse practitioner or certified physician assistant acting under the direction of a licensed physician; or (2) a licensed chiropractor. A person who has received a special permit under this section because of a permanent disability is eligible for subsequent special permits without providing medical evidence and verification of the disability.

(c) The person must obtain the appropriate license.

Sec. 47. Minnesota Statutes 2010, section 97B.211, subdivision 1, is amended to read:

Subdivision 1. **Possession of firearms prohibited.** (a) A person may not take deer by archery while in possession of a firearm.

(b) Paragraph (a) does not apply to a person carrying a handgun in compliance with section 624.714.

Sec. 48. Minnesota Statutes 2010, section 97B.325, is amended to read:

97B.325 DEER STAND RESTRICTIONS.

A person may not take deer from a constructed platform or other structure that is located within the right-of-way of an improved public highway ~~or is higher than 16 feet above the ground. The height restriction does not apply to a portable stand that is chained, belted, clamped, or tied with rope.~~

Sec. 49. Minnesota Statutes 2010, section 97B.405, is amended to read:

97B.405 COMMISSIONER MAY LIMIT NUMBER OF BEAR HUNTERS.

(a) The commissioner may limit the number of persons that may hunt bear in an area, if it is necessary to prevent an overharvest or improve the distribution of hunters. The commissioner may establish, by rule, a method, including a drawing, to impartially select the hunters for an area. The commissioner shall give preference to hunters that have previously applied and have not been selected.

~~(b) In the case of a drawing, the commissioner shall allow a person to apply for a permit in more than one area at the same time and rank the person's choice of area. A person selected through a drawing must purchase a license by August 1. Any remaining available licenses not purchased shall be issued to any eligible person as prescribed by the commissioner on a first-come, first-served basis beginning three business days after August 1.~~

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

Sec. 50. Minnesota Statutes 2010, section 97B.425, is amended to read:

97B.425 BAITING BEARS.

Notwithstanding section 609.68, a person may place bait to take bear and must display a tag at each site where bait is placed and register the sites. The commissioner shall prescribe the method of tagging and registering the sites. The tag displayed at each site where bait is placed must contain ~~identification information:~~ (1) the licensee's name and address; (2) the licensee's driver's license number; or (3) the "MDNR#" license identification number issued to the licensee for a licensed bear hunter or a licensed bear outfitter. A person must have the license identification number of the person with the bear license in their possession or be a licensed bear outfitter while attending a bear bait station. To attract bear a person may not use a bait with:

- (1) a carcass from a mammal, if the carcass contains more than 25 percent of the intact carcass;
- (2) meat from mammals, if the meat contains bones;
- (3) bones of mammals;
- (4) solid waste containing bottles, cans, plastic, paper, or metal;
- (5) materials that are not readily biodegradable; or
- (6) any part of a swine, except cured pork.

Sec. 51. **[97B.4251] BAITING BEAR; USE OF DRUM.**

Notwithstanding section 97B.425, a private landowner or person authorized by the private landowner may use a drum to bait bear on the person's private land. The drum must be securely chained or cabled to a tree so that it cannot be moved from the site by a bear and the drum may not include a mechanical device for dispensing feed. The drum must be marked as provided in section 97B.425. For purposes of this section, "drum" means a 30 gallon or larger drum.

Sec. 52. Minnesota Statutes 2010, section 97B.515, is amended by adding a subdivision to read:

Subd. 4. **Taking elk causing damage or nuisance.** The commissioner may authorize licensed hunters to take elk that are causing damage or nuisance from August 15 to March 1 under rules prescribed by the commissioner. The commissioner may issue licenses to hunters impartially selected from a list of elk hunt applicants who indicated on their application that they would be interested and available to respond to an elk damage or nuisance situation. Notwithstanding section 97A.433, subdivision 2, clause (2), a person receiving a license to hunt elk under this subdivision does not lose eligibility for future elk hunts.

Sec. 53. Minnesota Statutes 2010, section 97B.645, subdivision 9, is amended to read:

Subd. 9. **Open season.** There shall be no open season for gray wolves ~~for five years~~ until after the gray wolf is delisted under the federal Endangered Species Act of 1973. After that time, the commissioner may prescribe open seasons and restrictions for taking gray wolves but must provide opportunity for public comment.

Sec. 54. Minnesota Statutes 2010, section 97B.667, is amended to read:

97B.667 REMOVAL OF BEAVERS, BEAVER DAMS, AND LODGES BY ROAD AUTHORITIES.

When a drainage watercourse is impaired by a beaver dam and the water damages or threatens to damage a public road, the road authority, as defined in section 160.02, subdivision 25, may remove the impairment and any associated beaver lodge within 300 feet of the road. Notwithstanding any law to the contrary, the road authority may kill or arrange to have killed by any lawful means a beaver associated with the lodge. Before killing or arranging to kill a beaver under this section, the road authority must contact a conservation officer for a special beaver permit. The conservation officer must issue the permit for any beaver subject to this section. A road authority that kills or arranges to have killed a beaver under this section must notify a conservation officer or the officer's designee as specified in the permit within ten days after the animal is killed. A road authority may, after consultation with the Wildlife Division and the Board of Water and Soil Resources, implement a local beaver control program designed to reduce the number of incidents of beaver interfering with or damaging a public road. The local control program may include the offering of a bounty for the lawful taking of beaver.

Sec. 55. Minnesota Statutes 2010, section 97B.803, is amended to read:

97B.803 MIGRATORY WATERFOWL SEASONS AND LIMITS.

(a) The commissioner shall prescribe seasons, limits, and areas for taking migratory waterfowl in accordance with federal law.

~~(b) The regular duck season may not open before the Saturday closest to October 1.~~

Sec. 56. Minnesota Statutes 2010, section 97C.005, subdivision 3, is amended to read:

Subd. 3. **Seasons, limits, and other rules.** The commissioner may, in accordance with the procedures in subdivision 2, paragraphs (c) and (e), or by rule under chapter 14, establish open seasons, limits, methods, and other requirements for taking fish on special management waters. The commissioner may, by written order published in the State Register, amend daily, possession, or size limits to make midseason adjustments based on available harvest, angling pressure, and population data to manage the fisheries in the 1837 Ceded Territory in compliance with the court orders in Mille Lacs Band of Chippewa v. Minnesota, 119 S. Ct. 1187 (1999). The midseason adjustments in daily, possession, or size limits are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Before the written order is effective, the commissioner shall attempt to notify persons or groups of persons affected by the written order by public announcement, posting, and other appropriate means as determined by the commissioner.

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

Sec. 57. [97C.007] NORTHERN PIKE EXPERIMENTAL AND SPECIAL MANAGEMENT WATERS.

The combined number of lakes designated for northern pike under sections 97C.001 and 97C.005 may not exceed 90 at one time. Until November 1, 2021, the designated lakes must be selected from the lakes identified in rules adopted under sections 97C.001 and 97C.005 with northern pike slot limits effective on January 1, 2011. A designation under this section must continue for at least ten years, at which time the commissioner shall determine, based on scientific studies, whether the designation should be discontinued.

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

Sec. 58. Minnesota Statutes 2010, section 97C.081, subdivision 3, is amended to read:

Subd. 3. **Contests requiring a permit.** (a) Unless subdivision 3a applies, a person must have a permit from the commissioner to conduct a fishing contest that does not meet the criteria in subdivision 2. if:

(1) there are more than 25 boats for open water contests, more than 150 participants for ice fishing contests, or more than 100 participants for shore fishing contests;

(2) entry fees are more than \$25 per person; or

(3) the contest is limited to trout species.

(b) The commissioner shall charge a fee for the permit that recovers the costs of issuing the permit and of monitoring the activities allowed by the permit. Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish contest permit fees. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

~~(b)~~(c) The commissioner may require the applicant to furnish evidence of financial responsibility in the form of a surety bond or bank letter of credit in the amount of \$25,000 if entry fees are over \$25 per person, or total prizes are valued at more than \$25,000, and if the applicant has either:

(1) not previously conducted a fishing contest requiring a permit under this subdivision; or

(2) ever failed to make required prize awards in a fishing contest conducted by the applicant, ~~the commissioner may require the applicant to furnish the commissioner evidence of financial responsibility in the form of a surety bond or bank letter of credit in the amount of \$25,000.~~

~~(e)~~(d) The permit fee for any individual contest may not exceed the following amounts:

(1) \$60 for an open water contest not exceeding 50 boats and without off-site weigh-in;

(2) \$200 for an open water contest with more than 50 boats and without off-site weigh-in;

(3) \$250 for an open water contest not exceeding 50 boats with off-site weigh-in;

(4) \$500 for an open water contest with more than 50 boats with off-site weigh-in; or

(5) \$120 for an ice fishing contest with more than 150 participants.

Sec. 59. Minnesota Statutes 2010, section 97C.081, is amended by adding a subdivision to read:

Subd. 3a. **Contests without a permit.** A person may conduct a fishing contest without a permit from the commissioner if:

- (1) the contest is not limited to specifically named waters;
- (2) all the contest participants are age 18 years or under;
- (3) the contest is limited to rough fish; or
- (4) the total prize value is \$500 or less.

Sec. 60. Minnesota Statutes 2010, section 97C.087, subdivision 2, is amended to read:

Subd. 2. **Application for tag.** Application for special fish management tags must be accompanied by a \$5, nonrefundable application fee for each tag. A person may not make more than one tag application each calendar year. If a person makes more than one application, the person is ineligible for a special fish management tag for that ~~season~~ calendar year after determination by the commissioner, without a hearing.

Sec. 61. Minnesota Statutes 2010, section 97C.205, is amended to read:

97C.205 TRANSPORTING AND STOCKING FISH.

(a) Except on the water body where taken, a person may not transport a live fish in a quantity of water sufficient to keep the fish alive, unless the fish:

- (1) is being transported under an aquaculture license as authorized under sections 17.4985 and 17.4986;
- (2) is being transported for a fishing contest weigh-in under section 97C.081;
- (3) is a minnow being transported under section 97C.505 or 97C.515;
- (4) is being transported by a commercial fishing license holder under section 97C.821; or
- (5) is being transported as otherwise authorized in this section or as prescribed for certifiable diseases under sections 17.46 to 17.4999.

(b) The commissioner may adopt rules to allow and regulate:

- (1) the transportation of fish and fish eggs; and
- (2) the stocking of waters with fish or fish eggs.

(c) The commissioner must allow the possession of fish on special management or experimental waters to be prepared as a meal on the ice or on the shore of that water body if the fish:

- (1) were lawfully taken;
- (2) have been packaged by a licensed fish packer; and
- (3) do not otherwise exceed the statewide possession limits.

(d) The commissioner shall prescribe rules designed to encourage local sporting organizations to propagate game fish by using rearing ponds. The rules must:

- (1) prescribe methods to acquire brood stock for the ponds by seining public waters;

(2) allow the sporting organizations to own and use seines and other necessary equipment; and

(3) prescribe methods for stocking the fish in public waters that give priority to the needs of the community where the fish are reared and the desires of the organization operating the rearing pond.

(e) A person age 16 or under may, for purposes of display in a home aquarium, transport largemouth bass, smallmouth bass, yellow perch, rock bass, black crappie, white crappie, bluegill pumpkinseed, green sunfish, orange spotted sunfish, and black, yellow, and brown bullheads taken by angling, except as otherwise ordered by the commissioner upon documentation of an emergency fish disease in Minnesota waters, as defined in section 17.4982, subdivision 9. No more than four of each species may be transported at any one time, and any individual fish can be no longer than ten inches in total length. The commissioner may, by written order published in the State Register, prohibit transportation of live fish under this paragraph to help prevent spread of an emergency fish disease documented to occur in Minnesota waters. The order is exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 62. Minnesota Statutes 2010, section 97C.211, subdivision 5, is amended to read:

Subd. 5. **Price of walleye game fish fry and eggs.** The commissioner may not sell walleye or barter game fish fry or eggs for not less than fair market value, defined as the average price charged by private walleye fry wholesalers located in Minnesota the cost associated with the production of eggs or fry.

Sec. 63. Minnesota Statutes 2010, section 97C.341, is amended to read:

97C.341 CERTAIN AQUATIC LIFE PROHIBITED FOR BAIT.

(a) A person may not use live minnows imported from outside of the state, game fish, goldfish, or carp for bait. The commissioner may, by written order published in the State Register, authorize use of game fish eggs as bait and prescribe restrictions on their use. The order is exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(b) A person may not import or possess live, frozen, or processed bait from known waters where viral hemorrhagic septicemia has been identified as being present, except as provided in paragraph (c). For purposes of this paragraph, "bait" includes fish, aquatic worms, amphibians, invertebrates, and insects used for angling taking wild animals in waters of the state.

(c) Cisco and rainbow smelt taken under rules adopted by the commissioner may be used as:

(1) fresh or frozen bait only on Lake Superior; or

(2) bait that has been processed to inactivate viral hemorrhagic septicemia in a manner prescribed by rules adopted by the commissioner.

(d) To ensure that frozen or dead fish being brought into the state are not in violation of paragraph (b), the following paperwork must accompany the shipment. Documents must be open for inspection by the commissioner at any reasonable time. All documents must be available to purchasers of these bait items. Each container or package of frozen or dead fish must have the following information:

(1) water body source;

(2) lot number;

- (3) company contact including name, phone, and address;
- (4) date of packaging and labeling; and
- (5) valid negative fish health certification from the source water body.

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

Sec. 64. [97C.342] CERTIFICATION THAT FROZEN OR DEAD FISH BAIT ARE DISEASE FREE.

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

(1) "Water body" means waters identified by a unique Department of Natural Resources public water identification number; a body of water that has defined boundaries and that has no Department of Natural Resources public water identification number; or a section of stream designated by a Kittle number, lock and dam numbering system, or to the upstream and downstream barrier.

(2) "Commercial license" means a license issued under section 97A.475, subdivision 26, 27, 29, or 30.

Subd. 2. Bait restrictions. Frozen or dead fish on the official list of viral hemorrhagic septicemia susceptible species published by the United States Department of Agriculture, Animal and Plant Health Inspection Services; cisco (all Coregonus, including lake herring and tullibee); and smelt (all Osmerus, Spirincus, Hypomesus, and Allosmerus) being used as bait in waters of the state must originate from water bodies certified disease free. Certification for these water bodies is valid for one year from the date of test results.

Subd. 3. Testing requests. As a part of commercial licensing procedures, a list of water bodies requiring a fish health certification for commercial bait harvest must be provided to the commissioner no later than March 1 of each year, except in 2011 the list must be provided by August 1.

Subd. 4. Certification fees. Notwithstanding section 16A.1283, the commissioner may by written order published in the State Register, establish fees for the services and testing required to issue health certifications for a water body. The fees must be set in an amount that does not recover significantly more or less than the costs of providing services to health-certify a water body. The fees are not subject to the rulemaking provisions of chapter 14 and sections 14.125 and 14.386 do not apply. The services covered under this subdivision include:

- (1) cost of collecting the species for testing;
- (2) fish health inspection and certification, including initial tissue sample collection, basic fish health assessment, and fish disease testing; and
- (3) administrative overhead for tracking and documentation of testing.

Subd. 5. Transportation permit requirements. A commercial licensee harvesting from a certified disease-free water body must obtain a live fish importation, transportation, and stocking permit to move fish from that source. A live fish importation, transportation, and stocking permit may be used for multiple shipments within a 30-day term period if the source and destination

remain the same. The commercial licensee must contact the department within 24 hours of exercising the permit. Permits may be issued through the department's regional offices or St. Paul office and must be obtained prior to moving fish as approved for movement from these certified disease-free water bodies.

Subd. 6. **Reporting requirements.** A commercial licensee harvesting bait under this section must maintain records on forms provided by the commissioner for each lot of frozen or dead fish for sale as bait. The records must include the lot number for each batch of frozen or dead fish, water body health certification documentation, transportation permit number, and other information as specified on the reporting form. The commercial licensee must enter required records onto forms within 24 hours of packaging and labeling each lot of fish. The commercial licensee must retain records for three years following the year of creation. All records required to be retained must be open to inspection by the commissioner at any reasonable time.

Subd. 7. **Labeling requirements.** Frozen or dead fish from certified disease-free water bodies that are being sold as bait must be labeled. The seller of the product is responsible for making sure the items are labeled according to this section. Each container or package of frozen or dead fish bait must have the following information:

- (1) Department of Natural Resources certified water body number;
- (2) Department of Natural Resources transportation permit number;
- (3) lot number;
- (4) date of harvest from water body;
- (5) date of packaging and labeling;
- (6) bait store or vendor name where purchased; and
- (7) disease-free certification date.

Subd. 8. **Persons using frozen or dead fish bait.** A person on, or taking wild animals in, waters of the state with frozen or dead fish bait must possess all labeling as prescribed under subdivision 7. The person must retain the labeling until the bait is used and no longer in the person's possession.

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

Sec. 65. Minnesota Statutes 2010, 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 and implementation 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, contracts and easements, 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 or delegated purpose. The board may enter into a contract or agreement necessary or appropriate to accomplish the transfer. The board may conduct or participate in local, state, or federal programs or projects that have as one purpose or effect the preservation or enhancement of water and soil resources and may enter into and administer agreements with local governments or landowners or their designated agents as part of those programs or projects. 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. 66. Minnesota Statutes 2010, section 116.07, subdivision 7d, is amended to read:

Subd. 7d. **Exemption.** (a) Notwithstanding subdivision 7 or Minnesota Rules, chapter 7020, to the contrary, and notwithstanding the proximity to public or private waters, an owner or resident of agricultural land on which livestock have been allowed to pasture ~~as defined by Minnesota Rules, chapter 7020,~~ at any time during the ten-year period beginning January 1, ~~1990~~ 2010, is permanently exempt from requirements related to feedlot or manure management on that land for so long as the property remains in pasture.

(b) For the purposes of this subdivision, "pasture" means areas where livestock graze on grass or other growing plants. Pasture also means agricultural land where livestock are allowed to forage during the winter time and which land is used for cropping purposes in the growing season. In either case, the concentration of animals must be such that a vegetative cover, whether of grass, growing plants, or crops, is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Sec. 67. [348.125] COYOTE CONFLICT MANAGEMENT OPTION.

A county or town board may, by resolution, offer a bounty for the taking of coyotes (Canis latrans) by all legal methods. The resolution may be made applicable to the whole or any part of the county or town. The bounty must apply during the months specified in the resolution and be in an amount determined by the board.

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

Sec. 68. Minnesota Statutes 2010, section 604A.12, is amended to read:

604A.12 LIVESTOCK ACTIVITIES; IMMUNITY FROM LIABILITY.

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

(b) "Inherent risks of livestock activities" means dangers or conditions that are an integral part of livestock activities, including:

(1) the propensity of livestock to behave in ways that may result in death or injury to persons on or around them, such as kicking, biting, ~~or~~ bucking, or charging;

(2) the unpredictability of livestock's reaction to things like sound, sudden movement, unfamiliar objects, persons, or other animals;

(3) natural hazards such as surface or subsurface conditions; or

(4) collisions with other livestock or objects.

(c) "Livestock" means cattle, sheep, swine, horses, ponies, donkeys, mules, hinnies, goats, buffalo, llamas, or poultry.

(d) "Livestock activity" means an activity involving the maintenance or use of livestock, regardless of whether the activity is open to the general public, and, except in the case of livestock grazing under clause (7), provided the activity is not performed for profit. Livestock activity includes:

(1) livestock production;

(2) loading, unloading, or transporting livestock;

(3) livestock shows, fairs, competitions, performances, races, rodeos, or parades;

(4) livestock training or teaching activities;

(5) boarding, shoeing, or grooming livestock; ~~or~~

(6) riding or inspecting livestock or livestock equipment; or

(7) the use of state property for livestock grazing, pursuant to an agreement with the commissioner of natural resources.

(e) "Livestock activity sponsor" means a person who sponsors, organizes, or provides the facilities for a livestock activity that is open to the general public.

(f) "Participant" means a person who directly and intentionally engages in a livestock activity.

Participant does not include a spectator who is in an authorized area.

Subd. 2. **Immunity from liability; livestock events.** ~~Except as provided in subdivision 3,~~ A nonprofit corporation, association, or organization, or a person or other entity donating services, livestock, facilities, or equipment for the use of a nonprofit corporation, association, or organization, is not liable for the death of or an injury to a participant resulting from the inherent risks of livestock activities.

Subd. 3. **Exceptions; livestock events.** Subdivision 2 does not apply if any of the following exist:

(1) the person provided livestock for the participant and failed to make reasonable efforts to determine the ability of the participant to safely engage in the livestock activity or to determine the ability of the participant to safely manage the particular livestock based on the participant's representations of the participant's ability;

(2) the person provided equipment or tack for the livestock and knew or should have known that it was faulty to the extent that it caused the injury or death;

(3) the person owns or leases the land upon which a participant was injured or died because of a human-made dangerous latent condition and failed to use reasonable care to protect the participant;

(4) the person is a livestock activity sponsor and fails to comply with the notice requirement of subdivision 4; or

(5) the act or omission of the person was willful or negligent.

Subd. 3a. **Immunity from liability; grazing on public lands.** (a) Any person or entity grazing livestock on state lands under an agreement with the commissioner of natural resources is not liable for damage to property or the death of or an injury to a person due to the inherent risks of livestock activities.

(b) This subdivision does not apply if the person or entity grazing the livestock:

(1) fails to exercise reasonable care in using the land for grazing or in managing the livestock; or

(2) maintains a condition in material violation of an agreement with the commissioner of natural resources for use of the land, and the condition contributed to the damage, death, or injury.

Subd. 4. **Posting notice.** (a) A livestock activity sponsor shall post plainly visible signs at one or more prominent locations in the premises where the livestock activity takes place that include a warning of the inherent risks of livestock activity and the limitation of liability under this section.

(b) The commissioner of natural resources shall post plainly visible signs at one or more prominent locations on any state property being used for grazing purposes pursuant to an agreement with the commissioner. The signs shall include a warning of the inherent risks of livestock activity, and the limitations of liability provided in this section and any other applicable law.

EFFECTIVE DATE; APPLICABILITY. This section is effective the day following final enactment and applies to causes of action arising on or after that date. The commissioner shall post notice as required by subdivision 4 on any property subject to a livestock grazing agreement on the effective date of this section within 60 days of that date.

Sec. 69. Minnesota Statutes 2010, section 604A.24, is amended to read:

604A.24 LIABILITY; LEASED LAND, WATER-FILLED MINE PITS; MUNICIPAL POWER AGENCY LAND.

Unless otherwise agreed in writing, sections 604A.22 and 604A.23 also apply to the duties and liability of an owner of the following land:

- (1) land leased to the state or any political subdivision for recreational purpose; or
- (2) idled or abandoned, water-filled mine pits whose pit walls may slump or cave, and to which water the public has access from a water access site operated by a public entity; or
- (3) land of which a municipal power agency is an owner and that is used for recreational trail purposes, and other land of a municipal power agency which is within 300 feet of such land if the entry onto such land was from land that is dedicated for recreational purposes or recreational trail use; or
- (4) land leased to the state or otherwise subject to an agreement or contract for purposes of a state-sponsored walk-in access program.

Sec. 70. RULEMAKING; GAME FARMS.

(a) The commissioner of natural resources shall amend Minnesota Rules, parts 6242.0900, subpart 1, and 6242.1000, subpart 1, to allow an option for game farm licensees to use approved report and sales receipt formats.

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

Sec. 71. SHALLOW LAKES MANAGEMENT REPORT.

By January 1, 2012, the commissioner of natural resources shall submit a report to the senate and house of representatives committees and divisions with jurisdiction over natural resources policy that includes:

- (1) a summary of the science and ecology of shallow lakes;
- (2) a summary of the significance of shallow lakes to continental and state waterfowl populations and Minnesota's waterfowl heritage;
- (3) examples and documented results of previous temporary water-level management activities;
- (4) a list of current statutes and rules applicable to shallow lakes including, but not limited to, water-level management of shallow lakes; and
- (5) a list of any changes to statute necessary that would allow the commissioner of natural resources, through shallow lake management, to better achieve the state's wildlife habitat and clean water goals and address the threats of invasive species.

Sec. 72. RULEMAKING; SPEARING ON CASS LAKE.

The commissioner of natural resources shall amend Minnesota Rules, part 6264.0400, subpart

69, to allow a person to take fish by spearing on Cass Lake. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388. The commissioner shall not adopt restrictions on spearing northern pike on Cass Lake under Minnesota Statutes, section 97C.001 or 97C.005.

Sec. 73. DEER HUNTING RULES.

(a) If the commissioner of natural resources adopts a rule applicable for the Series 300 deer permit areas that imposes an antler point restriction for taking antlered deer, other than that imposed under Minnesota Rules, part 6232.0200, subpart 6, the rule must expire after the 2012 deer hunting season.

(b) The commissioner of natural resources may not reinstate an antler point restriction for the Series 300 deer permit areas, other than that imposed under Minnesota Rules, part 6232.0200, subpart 6, after the 2012 deer hunting season unless the legislature approves the antler point restriction.

(c) The commissioner of natural resources shall amend Minnesota Rules, part 6232.1300, subpart 3, item B, to allow legal bucks to be taken in season option A for a nine-day period beginning the Saturday nearest November 6. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply except as provided in Minnesota Statutes, section 14.388.

Sec. 74. CONSUMPTIVE USE OF WATER.

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves of the consumptive use of water under a permit of more than 2,000,000 gallons per day average in a 30-day period in Cook County, in connection with snowmaking and potable water. Notwithstanding any other law to the contrary, the permit for the consumptive use of water approved under this section shall be issued, subject to the fees specified under Minnesota Statutes, section 103G.271, without any additional administrative process to withdraw up to 150,000,000 gallons of water annually for snowmaking and potable water purposes. The permit authorized under this section shall be suspended if the flow of the Poplar River falls below 15 cubic feet per second for more than five consecutive days. The permit authorized under this section shall be reinstated when the flow of the Poplar River resumes to 15 cubic feet per second or greater. The permit shall be for a term of five years.

Sec. 75. INTEREST IN LANDS EXTENDED.

Notwithstanding any law to the contrary, Dakota County's reversionary interests in lands deeded by Dakota County to the state of Minnesota, as contemplated by Laws 1975, chapter 382, and currently maintained and used for the purposes of a state zoological garden in Apple Valley, Minnesota, to wit, those lands described in documents recorded in the Dakota County Property Records Office as Document No. 433980 and Document No. 439719, excluding lands subject to that certain quit claim deed recorded as Document No. 1246646 and excluding lands subject to that certain quit claim deed recorded as Document No. 1330383, are extended and remain permanently valid and operative.

EFFECTIVE DATE. This section is effective upon compliance by the Dakota County Board of Commissioners with the provisions of Minnesota Statutes, section 645.021.

Sec. 76. **REPEALER.**

Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, and 4; 97A.015, subdivisions 26b, 27b, and 27c; 97A.435, subdivision 5; 97B.511; 97B.515, subdivision 3; and 97C.081, subdivision 2, are repealed."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying aquaculture provisions; modifying compensation and assistance provisions for crop damage by elk; modifying definitions; modifying requirements for fish and wildlife management plans; modifying provisions for taking, possessing, and transporting wild animals; modifying penalty and license provisions; modifying duties of the Board of Water and Soil Resources; modifying feedlot exemption; modifying certain immunities from liability; approving certain consumptive use of water; extending certain interest in land; limiting landowner liability for state walk-in access program; requiring rulemaking; requiring reports; providing criminal penalties; amending Minnesota Statutes 2010, sections 3.7371; 16C.055, subdivision 2; 17.4982, subdivisions 8, 12, 13, by adding a subdivision; 17.4991, subdivision 3; 17.4992, subdivision 4; 17.4994; 84.92, subdivisions 8, 9, 10; 84.942, subdivision 1; 84.95, subdivision 2; 84D.11, subdivision 2a; 97A.015, subdivisions 24, 45, 49, 52, 55; 97A.028, subdivision 3; 97A.075, subdivision 6; 97A.101, subdivision 3; 97A.311, subdivision 5; 97A.321, subdivision 1; 97A.331, by adding a subdivision; 97A.405, subdivision 2; 97A.415, subdivision 2; 97A.425, subdivision 3; 97A.433, by adding a subdivision; 97A.435, subdivision 1; 97A.445, subdivision 1a; 97A.465, subdivision 5; 97A.475, subdivision 7; 97A.502; 97A.505, subdivision 2; 97A.545, subdivision 5; 97B.022, subdivision 2; 97B.031, subdivision 5; 97B.041; 97B.045, subdivision 3; 97B.055, subdivision 3; 97B.075; 97B.106, subdivision 1; 97B.211, subdivision 1; 97B.325; 97B.405; 97B.425; 97B.515, by adding a subdivision; 97B.645, subdivision 9; 97B.667; 97B.803; 97C.005, subdivision 3; 97C.081, subdivision 3, by adding a subdivision; 97C.087, subdivision 2; 97C.205; 97C.211, subdivision 5; 97C.341; 103B.101, subdivision 9; 116.07, subdivision 7d; 604A.12; 604A.24; proposing coding for new law in Minnesota Statutes, chapters 17; 97B; 97C; 348; repealing Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, 4; 97A.015, subdivisions 26b, 27b, 27c; 97A.435, subdivision 5; 97B.511; 97B.515, subdivision 3; 97C.081, subdivision 2."

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

Senate Conferees: Bill G. Ingebrigtsen, John J. Carlson, Paul Gazelka, Rod Skoe, Dan D. Hall

House Conferees: Tom Hackbarth, Mark Buesgens, Steve Drazkowski, Denny McNamara, David Dill

Senator Ingebrigtsen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 943 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. 943 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 53 and nays 13, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Koch	Miller	Rosen
Berglin	Gerlach	Kruse	Nelson	Saxhaug
Bonoff	Gimse	Kubly	Newman	Sieben
Brown	Goodwin	Langseth	Nienow	Skoe
Carlson	Hall	Latz	Olson	Sparks
Chamberlain	Hann	Lillie	Ortman	Thompson
Cohen	Harrington	Limmer	Parry	Tomassoni
Dahms	Hoffman	Lourey	Pederson	Wiger
Daley	Howe	Magnus	Reinert	Wolf
DeKruif	Ingebrigtsen	Metzen	Rest	
Fischbach	Jungbauer	Michel	Robling	

Those who voted in the negative were:

Bakk	Kelash	Pappas	Sheran	Vandevveer
Dibble	Marty	Pogemiller	Stumpf	
Higgins	McGuire	Senjem	Torres Ray	

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1105, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1105 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 23, 2011

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1105

A bill for an act relating to motor vehicles; modifying provisions related to pickup trucks; amending Minnesota Statutes 2010, sections 168.002, subdivisions 24, 26, 40, by adding subdivisions; 168.021, subdivision 1; 168.12, subdivisions 1, 2b; 168.123, subdivision 1; Laws 2008, chapter 350, article 1, section 5, as amended.

May 22, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 1105 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment.

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

House Conferees: Deb Kiel, Michael Beard, Kent Eken

Senate Conferees: Michael J. Jungbauer, Benjamin A. Kruse, Roger J. Reinert

Senator Jungbauer moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1105 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. 1105 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gerlach	Kubly	Nienow	Sieben
Benson	Gimse	Langseth	Olson	Skoe
Berglin	Goodwin	Latz	Ortman	Sparks
Bonoff	Hall	Lillie	Pappas	Stumpf
Brown	Hann	Limmer	Parry	Thompson
Carlson	Harrington	Lourey	Pederson	Tomassoni
Chamberlain	Higgins	Magnus	Pogemiller	Torres Ray
Cohen	Hoffman	Marty	Reinert	Vandever
Dahms	Howe	McGuire	Rest	Wiger
Daley	Ingebrigtsen	Metzen	Robling	Wolf
DeKruif	Jungbauer	Michel	Rosen	
Dibble	Kelash	Miller	Saxhaug	
Fischbach	Koch	Nelson	Senjem	
Gazelka	Kruse	Newman	Sheran	

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

MESSAGES FROM THE HOUSE - CONTINUED

Madam 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. 1286: A bill for an act relating to health; changing provisions to resident case mix classification; amending Minnesota Statutes 2010, section 144.0724, subdivisions 2, 3, 4, 5, 6, 9, by adding a subdivision.

Senate File No. 1286 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

CONCURRENCE AND REPASSAGE

Senator Hann moved that the Senate concur in the amendments by the House to S.F. No. 1286 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1286 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gerlach	Kubly	Nienow	Sieben
Benson	Gimse	Langseth	Olson	Skoe
Berglin	Goodwin	Latz	Ortman	Sparks
Bonoff	Hall	Lillie	Pappas	Stumpf
Brown	Hann	Limmer	Parry	Thompson
Carlson	Harrington	Lourey	Pederson	Tomassoni
Chamberlain	Higgins	Magnus	Pogemiller	Torres Ray
Cohen	Hoffman	Marty	Reinert	Vanderveer
Dahms	Howe	McGuire	Rest	Wiger
Daley	Ingebrigtsen	Metzen	Robling	Wolf
DeKruif	Jungbauer	Michel	Rosen	
Dibble	Kelash	Miller	Saxhaug	
Fischbach	Koch	Nelson	Senjem	
Gazelka	Kruse	Newman	Sheran	

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

MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1115, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1115: A bill for an act relating to natural resources; modifying nonnative species provisions; modifying certain requirements for public waters work permits; modifying requirements for permits to control or harvest aquatic plants; providing criminal penalties and civil penalties; amending Minnesota Statutes 2010, sections 84D.01, subdivisions 8a, 16, 21, by adding subdivisions; 84D.02, subdivision 6; 84D.03, subdivisions 3, 4; 84D.08; 84D.09; 84D.10,

subdivisions 1, 3, 4; 84D.11, subdivision 2a; 84D.13, subdivisions 3, 4, 5, 6, 7; 84D.15, subdivision 2; 97C.081, subdivision 4; 103G.311, subdivision 5; 103G.615, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 84D; 86B; repealing Minnesota Statutes 2010, section 84D.02, subdivision 4.

Senate File No. 1115 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

RECESS

Senator Koch 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 Koch 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. 232: Senators Ingebrigtsen, Senjem and Sparks.

Senator Koch moved that the foregoing appointments be approved. The motion prevailed.

RECESS

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the

Conference Committee on Senate File No. 1280, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1280: A bill for an act relating to employment; providing notice of sharing of gratuities and authorizing employers to safeguard and disburse shared gratuities; amending Minnesota Statutes 2010, section 177.24, subdivision 3.

Senate File No. 1280 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1045, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1045: A bill for an act relating to commerce; regulating continuing education requirements, insurance coverages, adjusters, and appraisers; amending Minnesota Statutes 2010, sections 45.011, subdivision 1; 45.25, by adding subdivisions; 45.30, subdivision 7, by adding a subdivision; 45.35; 60K.56, subdivision 6; 62A.095, subdivision 1; 62A.318, subdivision 17; 62E.14, subdivision 3, by adding a subdivision; 62L.03, subdivision 3; 72B.041, subdivision 5; 79A.06, subdivision 5; 79A.24, by adding subdivisions; 82.641, subdivision 1; 82B.11, subdivision 6; 82B.13, by adding a subdivision; 82B.14; 82C.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 45; 72B; repealing Minnesota Statutes 2010, section 45.25, subdivision 3.

Senate File No. 1045 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 943, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 943: A bill for an act relating to game and fish; modifying aquaculture provisions; modifying compensation and assistance provisions for crop damage by elk; modifying requirements for fish and wildlife management plans; modifying provisions for taking, possessing, and transporting wild animals; modifying penalty and license provisions; modifying duties of the Board of Water and Soil Resources; limiting landowner liability for state walk-in access program; requiring rulemaking; providing criminal penalties; amending Minnesota Statutes 2010, sections 3.7371; 16C.055, subdivision 2; 17.4982, subdivisions 8, 12, 13, by adding a subdivision; 17.4991, subdivision 3; 17.4992, subdivision 4; 17.4994; 84.942, subdivision 1; 84.95, subdivision 2; 84D.11, subdivision 2a; 97A.015, subdivisions 24, 45, 49, 52, 55; 97A.028, subdivision 3;

97A.075, subdivision 6; 97A.101, subdivision 3; 97A.311, subdivision 5; 97A.321, subdivision 1; 97A.331, by adding a subdivision; 97A.405, subdivision 2; 97A.415, subdivision 2; 97A.425, subdivision 3; 97A.433, by adding a subdivision; 97A.435, subdivision 1; 97A.445, subdivision 1a; 97A.465, subdivision 5; 97A.475, subdivision 7; 97A.505, subdivision 2; 97A.545, subdivision 5; 97B.022, subdivision 2; 97B.041; 97B.055, subdivision 3; 97B.075; 97B.106, subdivision 1; 97B.211, subdivision 1; 97B.425; 97B.515, by adding a subdivision; 97B.645, subdivision 9; 97B.711, by adding a subdivision; 97B.803; 97C.005, subdivision 3; 97C.081, subdivisions 3, 4, by adding a subdivision; 97C.087, subdivision 2; 97C.205; 97C.211, subdivision 5; 97C.341; 103B.101, subdivision 9; 604A.24; proposing coding for new law in Minnesota Statutes, chapters 17; 97B; 348; repealing Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, 4; 97A.015, subdivisions 26b, 27b, 27c; 97A.435, subdivision 5; 97C.081, subdivision 2.

Senate File No. 943 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 753:

H.F. No. 753: A bill for an act relating to local government; providing for concurrent detachment and annexation; amending Minnesota Statutes 2010, section 414.061, subdivisions 1, 2, 5.

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

Howes, McDonald and Anzelc have been appointed as such committee on the part of the House.

House File No. 753 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 23, 2011

Senator Nienow moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 753, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Koch 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 Koch 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. 753: Senators Nienow, Lourey and Hoffman.

Senator Koch moved that the foregoing appointments be approved. The motion prevailed.

MESSAGES FROM THE HOUSE - CONTINUED

Madam 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. 54: A bill for an act relating to claims against the state; providing for settlement of certain claims; appropriating money.

Senate File No. 54 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 23, 2011

CONCURRENCE AND REPASSAGE

Senator Jungbauer moved that the Senate concur in the amendments by the House to S.F. No. 54 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 54 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 6, as follows:

Those who voted in the affirmative were:

Bakk	Gerlach	Koch	Michel	Saxhaug
Benson	Gimse	Kruse	Miller	Senjem
Berglin	Goodwin	Kubly	Nelson	Sheran
Bonoff	Hall	Langseth	Olson	Skoe
Brown	Hann	Latz	Pappas	Sparks
Carlson	Harrington	Lillie	Parry	Stumpf
Chamberlain	Higgins	Limmer	Pederson	Tomassoni
Cohen	Hoffman	Lourey	Pogemiller	Torres Ray
Dahms	Howe	Magnus	Reinert	Wiger
Dibble	Ingebrigtsen	Marty	Rest	Wolf
Fischbach	Jungbauer	McGuire	Robling	
Gazelka	Kelash	Metzen	Rosen	

Those who voted in the negative were:

Daley
DeKruif

Newman
Nienow

Thompson
Vandevier

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Higgins moved that the name of Senator McGuire be added as a co-author to S.F. No. 1469. The motion prevailed.

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1381, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1381 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 23, 2011

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1381

A bill for an act relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, accounting, early childhood education, and student transportation; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 13.32, subdivision 6; 119A.50, subdivision 3; 120A.22, subdivision 11; 120A.24; 120A.40; 120B.023, subdivision 2; 120B.11; 120B.12; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 121A.15, subdivision 8; 121A.17, subdivision 3; 122A.09, subdivision 4; 122A.14, subdivision 3; 122A.16, as amended; 122A.18, subdivision 2; 122A.23, subdivision 2; 122A.40, subdivisions 5, 11, by adding a subdivision; 122A.41, subdivisions 1, 2, 5a, 10, 14; 123B.143, subdivision 1; 123B.147, subdivision 3; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.88, by adding a subdivision; 123B.92, subdivisions 1, 5; 124D.091, subdivision 2; 124D.36; 124D.37; 124D.38, subdivision 3; 124D.385, subdivision 3; 124D.39; 124D.40; 124D.42, subdivisions 6, 8; 124D.44; 124D.45, subdivision 2; 124D.52, subdivision 7; 124D.871; 125A.02, subdivision 1; 125A.15; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 127A.30, subdivision 1; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05, subdivision 1; Laws 2011, chapter 5, section 1; proposing coding for new law in Minnesota Statutes, chapter 120B;

repealing Minnesota Statutes 2010, sections 120A.26, subdivisions 1, 2; 124D.38, subdivisions 4, 5, 6; 125A.54; 126C.457.

May 23, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 1381 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1381 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2010, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **Calculation of income.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities ~~and~~, dividends on equity securities, and interest earned on certified monthly earnings prior to the transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following ten fiscal years.

Sec. 2. Minnesota Statutes 2010, section 123B.41, subdivision 2, is amended to read:

Subd. 2. **Textbook.** "Textbook" means any book or book substitute, including electronic books as well as other printed materials delivered electronically, which a pupil uses as a text or text substitute in a particular class or program in the school regularly attended and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term shall be limited to books, workbooks, or manuals, whether bound or in loose-leaf form, as well as electronic books and other printed materials delivered electronically, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available, used by, or of benefit to Minnesota public school pupils.

Sec. 3. Minnesota Statutes 2010, section 123B.41, subdivision 5, is amended to read:

Subd. 5. **Individualized instructional or cooperative learning materials.** "Individualized instructional or cooperative learning materials" means educational materials which:

- (a) are designed primarily for individual pupil use or use by pupils in a cooperative learning group in a particular class or program in the school the pupil regularly attends;
- (b) are secular, neutral, nonideological and not capable of diversion for religious use; and
- (c) are available, used by, or of benefit to Minnesota public school pupils.

Subject to the requirements in clauses (a), (b), and (c), "individualized instructional or cooperative learning materials" include, but are not limited to, the following if they do not fall within the definition of "textbook" in subdivision 2: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings; manipulative materials; desk charts; games; study prints and pictures; desk maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia systems; prepared instructional computer software programs; choral and band sheet music; electronic books and other printed materials delivered electronically; and CD-Rom.

"Individualized instructional or cooperative learning materials" do not include instructional equipment, instructional hardware, or ordinary daily consumable classroom supplies.

Sec. 4. Minnesota Statutes 2010, section 123B.63, subdivision 3, is amended to read:

Subd. 3. **Capital project levy referendum.** A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the board. A district must meet the requirements of section 123B.71 for projects funded under this section. If a review and comment is required under section 123B.71, subdivision 8, a referendum for a project not receiving a positive review and comment by the commissioner ~~under section 123B.71~~ must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

- (1) separately, before an election for the issuance of obligations for the project under chapter 475; or
- (2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or
- (3) notwithstanding section 475.59, as a conjunctive question authorizing both the capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the capital project levy proposed by the board of School District No. be approved?"

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years, not to exceed ten, approved.

In the event a conjunctive question proposes to authorize both the capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Sec. 5. Minnesota Statutes 2010, section 123B.75, subdivision 5, is amended to read:

Subd. 5. **Levy recognition.** (a) For fiscal 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.4531, 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).

Sec. 6. Minnesota Statutes 2010, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, equipment, and transportation services under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" for a school district means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, ~~plus the total qualifying referendum revenue specified in paragraph (e)~~ minus transportation sparsity revenue minus total operating capital revenue. "General revenue" for a charter school means the sum of the general education revenue according to section 124D.11, subdivision 1, and transportation revenue according to section 124D.11, subdivision 2, excluding alternative teacher compensation revenue, minus referendum equalization aid minus transportation sparsity revenue minus operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2012 and later.

~~(e) "Total qualifying referendum revenue" means two-thirds of the district's total referendum revenue as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c), for fiscal year 2006, one-third of the district's total referendum revenue for fiscal year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.~~

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

Sec. 7. Minnesota Statutes 2010, section 126C.10, subdivision 8a, is amended to read:

Subd. 8a. **Sparsity revenue for school districts that close facilities.** A school district that closes

a school facility is eligible for elementary and secondary sparsity revenue equal to the greater of the amounts calculated under subdivisions 6, 7, and 8 or the total amount of sparsity revenue for the previous fiscal year if the school board of the district has adopted a written resolution stating that the district intends to close the school facility, but cannot proceed with the closure without the adjustment to sparsity revenue authorized by this subdivision. The written resolution must be approved by the school board and filed with the commissioner of education at least 60 days prior to the start of the fiscal year for which aid under this subdivision is first requested.

EFFECTIVE DATE. This section is effective for board resolutions approved by the school board in fiscal year 2011 and later for sparsity revenue calculations in fiscal year 2012 and later.

Sec. 8. Minnesota Statutes 2010, section 126C.15, subdivision 2, is amended to read:

Subd. 2. **Building allocation.** (a) A district or cooperative must allocate its compensatory revenue to each school building in the district or cooperative where the children who have generated the revenue are served unless the school district or cooperative has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to student performance measures developed by the school board.

(b) Notwithstanding paragraph (a), a district or cooperative may allocate up to five percent of the amount of compensatory revenue that the district receives to school sites according to a plan adopted by the school board. The money reallocated under this paragraph must be spent for the purposes listed in subdivision 1, but may be spent on students in any grade, including students attending school readiness or other prekindergarten programs.

(c) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) Notwithstanding section 123A.26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

(e) A district or cooperative with school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics between the prior year and the current year may reallocate compensatory revenue among sites to reflect these changes. A district or cooperative must report to the department any adjustments it makes according to this paragraph and the department must use the adjusted compensatory revenue allocations in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

Sec. 9. Minnesota Statutes 2010, section 126C.41, subdivision 2, is amended to read:

Subd. 2. **Retired employee health benefits.** (a) A district may levy an amount up to the amount the district is required by the collective bargaining agreement in effect on March 30, 1992, to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable, before July 1, 1992, and to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable before July 1, 1998, only if a sunset clause is in effect for the current collective bargaining agreement. The total amount of the levy each year may not exceed \$600,000.

(b) In addition to the levy authority granted under paragraph (a), a school district may levy

for other postemployment benefits expenses actually paid during the previous fiscal year. For purposes of this subdivision, "postemployment benefits" means benefits giving rise to a liability under Statement No. 45 of the Government Accounting Standards Board. A district seeking levy authority under this subdivision must:

(1) create or have created an actuarial liability to pay postemployment benefits to employees or officers after their termination of service;

(2) have a sunset clause in effect for the current collective bargaining agreement as required by paragraph (a); and

(3) apply for the authority in the form and manner required by the commissioner of education.

If the total levy authority requested under this paragraph exceeds the amount established in paragraph (c), the commissioner must proportionately reduce each district's maximum levy authority under this subdivision. The commissioner may subsequently adjust each district's levy authority under this subdivision so long as the total levy authority does not exceed the maximum levy authority for that year.

(c) The maximum levy authority under paragraph (b) must not exceed the following amounts:

(1) \$9,242,000 for taxes payable in 2010;

(2) \$29,863,000 for taxes payable in 2011; and

(3) for taxes payable in 2012 and later, the maximum levy authority must not exceed the sum of the previous year's authority and \$14,000,000.

Sec. 10. Minnesota Statutes 2010, section 127A.30, subdivision 1, is amended to read:

Subdivision 1. **Membership and terms.** (a) A state Permanent School Fund Advisory Committee is established to advise the Department of Natural Resources on the management of permanent school fund land, which is held in trust for the school districts of the state.

(b) The advisory committee must consist of the following persons or their designees: the chairs of the education committees of the legislature, the chairs of the legislative committees with jurisdiction over the K-12 education budget, the chairs of the legislative committees with jurisdiction over the environment and natural resources policy and budget, the chair of the senate Committee on Finance and the chair of the house of representatives Committee on Ways and Means, one member of the house of representatives of the minority party appointed by the minority leader, one senator of the minority party appointed pursuant to the rules of the senate, the commissioner of education, one superintendent from a nonmetropolitan district, one superintendent from a metropolitan area district, one person with expertise on school finance matters, one person with an expertise in forestry, one person with an expertise in minerals and mining, one person with an expertise in real estate development, one person with an expertise in renewable energy, one person with an expertise in finance and land management, and one person with an expertise in natural resource conservation. The school district superintendents and the member with expertise on school finance matters shall be appointed by the commissioner of education. The committee members with areas of expertise in forestry, minerals and mining, real estate development, renewable energy, finance and land management, and natural resource conservation shall be appointed by the commissioner of natural resources. Members of the legislature shall be given the

opportunity to recommend candidates for vacancies on the committee to the commissioners of education and natural resources. The advisory committee must also include a nonvoting member appointed by the commissioner of natural resources.

(c) The commissioner of natural resources shall provide administrative support to the committee.

(d) The members of the committee shall serve without compensation. The members of the Permanent School Fund Advisory Committee shall elect their chair and are bound by the provisions of sections 43A.38 and 116P.09, subdivision 6.

(e) The terms of members appointed by the commissioners of education and natural resources are staggered four-year terms according to section 15.059, subdivision 2. Members may be reappointed at the pleasure of the appointing authority. Members are subject to removal according to section 15.059, subdivision 4.

(f) The other members of the Permanent School Fund Advisory Committee serve at the pleasure of their respective appointing authorities and their terms expire upon the appointment of their successors.

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

Sec. 11. **REPEALER.**

Minnesota Statutes 2010, section 126C.457, is repealed.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2010, section 13.32, subdivision 6, is amended to read:

Subd. 6. **Admissions forms; remedial instruction.** (a) Minnesota postsecondary education institutions, for purposes of reporting and research, may collect on the 1986-1987 admissions form, and disseminate to any public educational agency or institution the following data on individuals: student sex, ethnic background, age, and disabilities. The data shall not be required of any individual and shall not be used for purposes of determining the person's admission to an institution.

(b) A school district that receives information under subdivision 3, paragraph (h) from a postsecondary institution about an identifiable student shall maintain the data as educational data and use that data to conduct studies to improve instruction. Public postsecondary systems annually shall provide summary data to the Department of Education indicating the extent and content of the remedial instruction received in each system during the prior academic year by, and the results of assessment testing and the academic performance of, students who graduated from a Minnesota school district within two years before receiving the remedial instruction, and include as separate categories of summary data the number and percentage of recent high school graduates who prepared for postsecondary academic and career opportunities under section 120B.35, subdivision 3, paragraph (c), and the number of recent high school graduates who graduated as students with disabilities. The department shall evaluate the data and annually report its findings to the education committees of the legislature.

(c) This section supersedes any inconsistent provision of law.

Sec. 2. Minnesota Statutes 2010, section 120A.22, subdivision 11, is amended to read:

Subd. 11. **Assessment of performance.** (a) Each year the performance of every child who is not enrolled in a public school must be assessed using a nationally norm-referenced standardized achievement examination. ~~The superintendent of the district in which the child receives instruction and the person in charge of the child's instruction must agree about the specific examination to be used and the administration and location of the examination~~ or a nationally recognized college entrance exam.

~~(b) To the extent the examination in paragraph (a) does not provide assessment in all of the subject areas in subdivision 9, the parent must assess the child's performance in the applicable subject area. This requirement applies only to a parent who provides instruction and does not meet the requirements of subdivision 10, clause (1), (2), or (3).~~

~~(c) If the results of the assessments in paragraphs (a) and (b) indicate that the child's performance on the total battery score is at or below the 30th percentile or one grade level below the performance level for children of the same age, the parent must obtain additional evaluation of the child's abilities and performance for the purpose of determining whether the child has learning problems.~~

~~(d) (b)~~ A child receiving instruction from a nonpublic school, person, or institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements of this subdivision.

Sec. 3. Minnesota Statutes 2010, section 120A.24, is amended to read:

120A.24 REPORTING.

Subdivision 1. **Reports to superintendent.** (a) The person in charge of providing instruction to a child must submit the following information to the superintendent of the district in which the child resides the name, birth date, and address of the child; the annual tests intended to be used under section 120A.22, subdivision 11, if required; the name of each instructor; and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10:

~~(1) by October 1 of each the first school year, the name, birth date, and address of each child receiving instruction~~ the child receives instruction after reaching the age of seven;

~~(2) the name of each instructor and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10;~~

~~(3) an annual instructional calendar; and~~

~~(4) for each child instructed by a parent who meets only the requirement of section 120A.22, subdivision 10, clause (6), a quarterly report card on the achievement of the child in each subject area required in section 120A.22, subdivision 9.~~

(2) within 15 days of when a parent withdraws a child from public school after age seven to homeschool;

(3) within 15 days of moving out of a district; and

(4) by October 1 after a new resident district is established.

(b) The person in charge of providing instruction to a child between the ages of seven and 16 must submit, by October 1 of each school year, a letter of intent to continue to provide instruction under this section for all students under the person's supervision and any changes to the information required in paragraph (a) for each student.

(c) The superintendent may collect the required information under this section through an electronic or Web-based format, but must not require electronic submission of information under this section from the person in charge of reporting under this subdivision.

Subd. 2. Availability of documentation. (a) The person in charge of providing instruction to a child must ~~make available~~ maintain documentation indicating that the subjects required in section 120A.22, subdivision 9, are being taught and proof that the tests under section 120A.22, subdivision 11, have been administered. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

(b) The parent of a child who enrolls full time in public school after having been enrolled in a home school under section 120A.22, subdivision 6, must provide the enrolling public school or school district with the child's scores on any tests administered to the child under section 120A.22, subdivision 11, and other education-related documents the enrolling school or district requires to determine where the child is placed in school and what course requirements apply. This paragraph does not apply to a shared-time student who does not seek a public school diploma.

(c) The person in charge of providing instruction to a child must make the documentation in this subdivision available to the county attorney when a case is commenced under section 120A.26, subdivision 5; chapter 260C; or when diverted under chapter 260A.

Subd. 3. Exemptions. A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements in ~~subdivisions 1 and subdivision 2, except for the requirement in subdivision 1, clause (1).~~

Subd. 4. Reports to the state. A superintendent must make an annual report to the commissioner of education by December 1 of the total number of nonpublic schoolchildren reported as residing in the district. ~~The report must include the following information:~~

~~(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;~~

~~(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and~~

~~(3) the number of children in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.~~

Subd. 5. Obligations. Nothing in this section alleviates the obligations under section 120A.22.

Sec. 4. Minnesota Statutes 2010, section 120A.40, is amended to read:

120A.40 SCHOOL CALENDAR.

(a) Except for learning programs during summer, flexible learning year programs authorized under sections 124D.12 to 124D.127, and learning year programs under section 124D.128, a district

must not commence an elementary or secondary school year before Labor Day, except as provided under paragraph (b). Days devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.

(b) A district may begin the school year on any day before Labor Day:

(1) to accommodate a construction or remodeling project of \$400,000 or more affecting a district school facility;

(2) if the district has an agreement under section 123A.30, 123A.32, or 123A.35 with a district that qualifies under clause (1); ~~or~~

(3) if the district agrees to the same schedule with a school district in an adjoining state; or

(4) if the district canceled at least two instructional school days in at least two of the previous five consecutive school years because of flooding.

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

Sec. 5. Minnesota Statutes 2010, section 120B.023, subdivision 2, is amended to read:

Subd. 2. **Revisions and reviews required.** (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review cycle for state academic standards and related benchmarks, consistent with this subdivision. The commissioner must revise and align the state's academic standards and graduation requirements, consistent with the review cycle established in this subdivision and the requirements of chapter 14, but must not proceed to finally adopt revised and realigned academic standards and graduation requirements in rule without first receiving specific legislative authority to do so. During each review cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for college readiness and advanced work in the particular subject area.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and

(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 are aligned with the state academic standards in mathematics, consistent with section 120B.30, subdivision 1, paragraph (b). The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011 school year. The commissioner

must implement a review of the academic standards and related benchmarks in arts beginning in the 2016-2017 school year.

(d) The commissioner in the 2008-2009 school year must revise and align the state's academic standards and high school graduation requirements in science to require that students satisfactorily complete the revised science standards, beginning in the 2011-2012 school year. Under the revised standards, students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete a chemistry or physics credit, or a career and technical education credit that meets the standards underlying either the chemistry or physics credit. The commissioner must implement a review of the academic standards and related benchmarks in science beginning in the 2017-2018 school year.

(e) The commissioner in the 2009-2010 school year must revise and align the state's academic standards and high school graduation requirements in language arts to require that students satisfactorily complete the revised language arts standards beginning in the 2012-2013 school year. The commissioner must implement a review of the academic standards and related benchmarks in language arts beginning in the 2018-2019 school year.

(f) The commissioner in the 2010-2011 school year must revise and align the state's academic standards and high school graduation requirements in social studies to require that students satisfactorily complete the revised social studies standards beginning in the ~~2013-2014~~ 2014-2015 school year. The commissioner must again implement a review of the academic standards and related benchmarks in social studies beginning in the ~~2019-2020~~ 2020-2021 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, world languages, and career and technical education to require students to complete the revised standards beginning in a school year determined by the school district or charter school. School districts and charter schools must formally establish a periodic review cycle for the academic standards and related benchmarks in health, world languages, and career and technical education.

(h) With specific legislative authority, the commissioner may adopt common core state standards in any subject and school year listed in any revision cycle under this section that were developed with the participation of the National Governors Association and the Council of Chief State School Officers.

Sec. 6. Minnesota Statutes 2010, section 120B.11, is amended to read:

120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM, INSTRUCTION, AND STUDENT ACHIEVEMENT.

Subdivision 1. **Definitions.** For the purposes of this section and section 120B.10, the following terms have the meanings given them.

(a) "Instruction" means methods of providing learning experiences that enable a student to meet state and district academic standards and graduation requirements.

(b) "Curriculum" means district or school adopted programs and written plans for providing students with learning experiences that lead to expected knowledge and skills and college and career readiness.

Subd. 2. **Adopting policies.** A school board shall ~~have in place an adopted written~~ adopt a policy to support and improve teaching and learning that includes the following:

(1) district goals for instruction including the use of best teaching practices, district and school curriculum, and achievement for all student subgroups identified in section 120B.35, subdivision 3, paragraph (b), clause (2);

(2) a process for evaluating each student's progress toward meeting state and local academic standards and identifying the strengths and weaknesses of instruction in pursuit of student and school success and curriculum affecting students' progress academic achievement and growth;

(3) a performance-based system for periodically reviewing and evaluating the effectiveness of all instruction and curriculum that includes, among other measures to improve teaching and learning, a performance-based system for annually evaluating school principals under section 123B.147, subdivision 3;

(4) a plan for improving instruction, curriculum, and student academic achievement and growth;
and

(5) an education effectiveness plan aligned with section sections 120B.023, subdivision 2, and 122A.625 that integrates high quality instruction, rigorous curriculum, and technology, and a collaborative professional culture that develops teacher quality, performance, and effectiveness.

Subd. 3. **District advisory committee.** Each school board shall establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards, consistent with subdivision 2. A district advisory committee, to the extent possible, shall reflect the diversity of the district and its learning school sites, and shall include teachers, parents, support staff, students, and other community residents. The district may establish building site teams as subcommittees of the district advisory committee under subdivision 4. The district advisory committee shall recommend to the school board rigorous academic standards, student achievement goals and measures consistent with section 120B.35, district assessments, and program evaluations. Learning School sites may expand upon district evaluations of instruction, curriculum, assessments, or programs. Whenever possible, parents and other community residents shall comprise at least two-thirds of advisory committee members.

Subd. 4. **Building Site team.** A school may establish a building site team to develop and implement an education effectiveness plan to improve instruction, curriculum, and student achievement at the school site, consistent with subdivision 2. The team shall advise the board and the advisory committee about developing an instruction and curriculum improvement plan that aligns curriculum, assessment of student progress in meeting state and district academic standards, and instruction.

Subd. 5. **Local report.** ~~(a) By October 1 of each year, the school board shall use standard statewide reporting procedures the commissioner develops and adopt a report that includes the following:~~

~~(1) student achievement goals for meeting state academic standards;~~

~~(2) results of local assessment data, and any additional test data;~~

~~(3) the annual school district improvement plans including staff development goals under section 122A.60;~~

~~(4) information about district and learning site progress in realizing previously adopted improvement plans; and~~

~~(5) the amount and type of revenue attributed to each education site as defined in section 123B.04.~~

~~(b) Consistent with requirements for school performance report cards under section 120B.36, subdivision 1, the school board shall publish a summary of the report about student achievement goals, local assessment outcomes, plans for improving curriculum and instruction, and success in realizing previously adopted improvement plans in the local newspaper with the largest circulation in the district, by mail, or by electronic means such as the district Web site. If electronic means are used, school districts must publish notice of the report in a periodical of general circulation in the district. School districts must make copies of the report available to the public on request.~~

~~(c) The title of the report shall contain the name and number of the school district and read "Annual Report on Curriculum, Instruction, and Student Achievement." The report must include at least the following information about advisory committee membership:~~

~~(1) the name of each committee member and the date when that member's term expires;~~

~~(2) the method and criteria the school board uses to select committee members; and~~

~~(3) the date by which a community resident must apply to next serve on the committee.~~

Subd. 6. **Student evaluation.** The school board annually shall provide high school graduates or GED recipients who ~~receive~~ received a diploma or its equivalent from the school district within the two previous school years with an opportunity to report to the board by electronic means on the following:

(1) the quality of district instruction, curriculum, and services; and

(2) the quality of district delivery of instruction, curriculum, and services;

~~(3) the utility of district facilities; and~~

~~(4) the effectiveness of district administration.~~

For purposes of improving instruction and curriculum and consistent with section 13.32, subdivision 6, paragraph (b), the board must forward a summary of its evaluation findings to the commissioner upon request.

Subd. 7. **Periodic report.** Each school district shall periodically ask affected constituencies about their level of satisfaction with school. The district shall include the results of this evaluation in the report required under subdivision 5.

Subd. 8. **Biennial evaluation; assessment program.** At least once every two years, the district report under subdivision 5 shall include an evaluation of the effectiveness of district testing programs, according to the following:

~~(1) written objectives of the assessment program;~~

- ~~(2) names of tests and grade levels tested;~~
- ~~(3) use of test results; and~~
- ~~(4) student achievement results compared to previous years.~~

EFFECTIVE DATE. This section is effective the day following final enactment and applies to reports on the 2011-2012 school year and later.

Sec. 7. Minnesota Statutes 2010, section 120B.12, is amended to read:

120B.12 READING INTERVENTION PROFICIENTLY NO LATER THAN THE END OF GRADE 3.

Subdivision 1. **Literacy goal.** ~~The legislature seeks to have Minnesota's children able to read no later than the end of second grade~~ every child reading at or above grade level no later than the end of grade 3 and that teachers provide comprehensive, scientifically based reading instruction consistent with section 122A.06, subdivision 4.

Subd. 2. **Identification; report.** For the ~~2002-2003~~ 2011-2012 school year and later, each school district shall identify before the end of ~~first~~ kindergarten, grade 1, and grade 2 students who are ~~at risk of not learning to read~~ not reading at grade level before the end of ~~second grade~~ the current school year. Reading assessments must identify and evaluate students' areas of academic need related to literacy. The district must use a locally adopted assessment method. ~~The district must and~~ annually report the summary assessment results of the assessment to the commissioner by June 1.

Subd. 2a. **Parent notification and involvement.** Schools, at least annually, must give the parent of each student who is not reading at or above grade level timely information about:

- (1) student's reading proficiency as measured by a locally adopted assessment;
- (2) reading-related services currently being provided to the student; and
- (3) strategies for parents to use in helping their student succeed in becoming grade-level proficient in reading.

Subd. 3. **Intervention.** For each student identified under subdivision 2, the district shall provide ~~a reading intervention method or program to assist the student in reaching~~ reading intervention to accelerate student growth in order to reach the goal of ~~learning to read no later than~~ reading at or above grade level by the end of ~~second~~ the current grade and school year. District intervention methods shall encourage parental involvement and, where possible, collaboration with appropriate school and community programs. Intervention methods may include, but are not limited to, requiring attendance in summer school ~~and,~~ intensified reading instruction that may require that the student be removed from the regular classroom for part of the school day ~~or extended-day programs.~~

Subd. 4. **Staff development.** Each district shall use the data under subdivision 2 to identify the staff development needs to ensure so that:

- (1) elementary teachers are able to implement comprehensive, scientifically based, and balanced reading instruction programs that have resulted in improved student performance in the five reading areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension as defined in section 122A.06, subdivision 4, until the student achieves grade-level reading proficiency;

(2) elementary teachers ~~who are instructing students identified under subdivision 2 are prepared to teach~~ have sufficient training to provide comprehensive, scientifically based reading instruction using the intervention methods or programs selected by the district for the identified students; and

(3) ~~all~~ licensed teachers employed by the district have regular opportunities to improve reading instruction; and

(4) licensed teachers recognize students' diverse needs in cross-cultural settings and are able to serve the oral language and linguistic needs of students who are English language learners.

Subd. 4a. Local literacy plan. Consistent with this section, a school district must adopt a local literacy plan to have every child reading at or above grade level no later than the end of grade 3. The plan must include a process to assess students' level of reading proficiency, notify and involve parents, intervene with students who are not reading at or above grade level, and identify and meet staff development needs. The district must post its literacy plan on the official school district Web site.

Subd. 5. Commissioner. The commissioner shall recommend to districts multiple assessment tools ~~that will to~~ assist districts and teachers with identifying students under subdivision 2. The commissioner shall also make available ~~to districts~~ examples of nationally recognized and research-based instructional methods or programs ~~that to districts may use~~ to provide comprehensive, scientifically based reading instruction and intervention ~~according to~~ under this section.

Sec. 8. Minnesota Statutes 2010, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. Statewide testing. (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed from and aligned with the state's required academic standards under section 120B.021, include multiple choice questions, and be administered annually to all students in grades 3 through 8. State-developed high school tests aligned with the state's required academic standards under section 120B.021 and administered to all high school students in a subject other than writing must include multiple choice questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year. For students enrolled in grade 8 before the 2005-2006 school year, Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of basic skills tests in reading and mathematics are the equivalent of 75 percent correct for students entering grade 9 based on the first uniform test administered in February 1998. Students who have not successfully passed a Minnesota basic skills test by the end of the 2011-2012 school year must pass the graduation-required assessments for diploma under paragraph (c).

(b) The state assessment system must be aligned to the most recent revision of academic standards as described in section 120B.023 in the following manner:

(1) mathematics;

(i) grades 3 through 8 beginning in the 2010-2011 school year; and

(ii) high school level beginning in the 2013-2014 school year;

(2) science; grades 5 and 8 and at the high school level beginning in the 2011-2012 school year; and

(3) language arts and reading; grades 3 through 8 and high school level beginning in the 2012-2013 school year.

(c) For students enrolled in grade 8 in the 2005-2006 school year and later, only the following options shall fulfill students' state graduation test requirements:

(1) for reading and mathematics:

(i) obtaining an achievement level equivalent to or greater than proficient as determined through a standard setting process on the Minnesota comprehensive assessments in grade 10 for reading and grade 11 for mathematics or achieving a passing score as determined through a standard setting process on the graduation-required assessment for diploma in grade 10 for reading and grade 11 for mathematics or subsequent retests;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in reading and the mathematics test for English language learners or the graduation-required assessment for diploma equivalent of those assessments for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan;

(iv) obtaining achievement level equivalent to or greater than proficient as determined through a standard setting process on the state-identified alternate assessment or assessments in grade 10 for reading and grade 11 for mathematics for students with an individual education plan; or

(v) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan; and

(2) for writing:

(i) achieving a passing score on the graduation-required assessment for diploma;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in writing for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan; or

(iv) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan.

(d) Students enrolled in grade 8 in any school year from the 2005-2006 school year to the 2009-2010 school year who do not pass the mathematics graduation-required assessment for

diploma under paragraph (c) are eligible to receive a high school diploma if they:

(1) complete with a passing score or grade all state and local coursework and credits required for graduation by the school board granting the students their diploma;

(2) participate in district-prescribed academic remediation in mathematics; and

(3) fully participate in at least two retests of the mathematics GRAD test or until they pass the mathematics GRAD test, whichever comes first. A school, district, or charter school must place on the high school transcript a student's highest current pass status for each subject that has a required graduation assessment score for each of the following assessments on the student's high school transcript: the mathematics Minnesota Comprehensive Assessment, reading Minnesota Comprehensive Assessment, and writing Graduation Required Assessment for Diploma, and when applicable, the mathematics Graduation Required Assessment for Diploma and reading Graduation Required Assessment for Diploma.

In addition, the school board granting the students their diplomas may formally decide to include a notation of high achievement on the high school diplomas of those graduating seniors who, according to established school board criteria, demonstrate exemplary academic achievement during high school.

(e) The 3rd through 8th grade and high school test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the high school test results upon receiving those results.

(f) The 3rd through 8th grade and high school tests must be aligned with state academic standards. The commissioner shall determine the testing process and the order of administration. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

(g) In addition to the testing and reporting requirements under this section, the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all students in grades 3 through 8 and at the high school level that provides appropriate, technically sound accommodations or alternate assessments;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) state results on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

Sec. 9. Minnesota Statutes 2010, section 120B.30, subdivision 3, is amended to read:

Subd. 3. **Reporting.** The commissioner shall report test data results publicly and to stakeholders, including the performance achievement levels developed from students' unweighted test scores in each tested subject and a listing of demographic factors that strongly correlate with student

performance. The test results must not include personally identifiable information as defined in Code of Federal Regulations, title 34, section 99.3. The commissioner shall also report data that compares performance results among school sites, school districts, Minnesota and other states, and Minnesota and other nations. The commissioner shall disseminate to schools and school districts a more comprehensive report containing testing information that meets local needs for evaluating instruction and curriculum. The commissioner shall disseminate to charter school authorizers a more comprehensive report containing testing information that contains anonymized data where cell count data are sufficient to protect student identity and that meets the authorizer's needs in fulfilling its obligations under section 124D.10.

Sec. 10. Minnesota Statutes 2010, section 120B.30, subdivision 4, is amended to read:

Subd. 4. **Access to tests.** Consistent with section 13.34, the commissioner must adopt and publish a policy to provide public and parental access for review of basic skills tests, Minnesota Comprehensive Assessments, or any other such statewide test and assessment which would not compromise the objectivity or fairness of the testing or examination process. Upon receiving a written request, the commissioner must make available to parents or guardians a copy of their student's actual responses to the test questions for their review.

Sec. 11. Minnesota Statutes 2010, section 120B.31, subdivision 4, is amended to read:

Subd. 4. **Statistical adjustments; Student performance data.** In developing policies and assessment processes to hold schools and districts accountable for high levels of academic standards under section 120B.021, the commissioner shall aggregate student data over time to report student performance and growth levels measured at the school, school district, and statewide level. When collecting and reporting the performance data, the commissioner shall: ~~(1) acknowledge the impact of significant demographic factors such as residential instability, the number of single parent families, parents' level of education, and parents' income level on school outcomes; and (2) organize and report the data so that state and local policy makers can understand the educational implications of changes in districts' demographic profiles over time. Any report the commissioner disseminates containing summary data on student performance must integrate student performance and the demographic factors that strongly correlate with that performance.~~

Sec. 12. Minnesota Statutes 2010, section 120B.36, subdivision 1, is amended to read:

Subdivision 1. **School performance report cards.** (a) The commissioner shall report student academic performance under section 120B.35, subdivision 2; the percentages of students showing low, medium, and high growth under section 120B.35, subdivision 3, paragraph (b); school safety and student engagement and connection under section 120B.35, subdivision 3, paragraph (d); rigorous coursework under section 120B.35, subdivision 3, paragraph (c); two separate student-to-teacher ratios that clearly indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for purposes of determining these ratios; staff characteristics excluding salaries; student enrollment demographics; district mobility; and extracurricular activities. The report also must indicate a school's adequate yearly progress status, and must not set any designations applicable to high- and low-performing schools due solely to adequate yearly progress status.

(b) The commissioner shall develop, annually update, and post on the department Web site school performance report cards.

(c) The commissioner must make available performance report cards by the beginning of each school year.

(d) A school or district may appeal its adequate yearly progress status in writing to the commissioner within 30 days of receiving the notice of its status. The commissioner's decision to uphold or deny an appeal is final.

(e) School performance report card data are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in paragraph (d) concludes the commissioner publicly releases the data. The department commissioner shall annually post school performance report cards to its the department's public web site no later than September 1, except that in years when the report card reflects new performance standards, the commissioner shall post the school performance report cards no later than October 1.

Sec. 13. Minnesota Statutes 2010, section 120B.36, subdivision 2, is amended to read:

Subd. 2. **Adequate yearly progress and other data.** All data the department receives, collects, or creates to determine adequate yearly progress status under Public Law 107-110, section 1116, set state growth targets, and determine student growth are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in subdivision 1, paragraph (d), concludes the commissioner publicly releases the data. Districts must provide parents sufficiently detailed summary data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). The department commissioner shall annually post federal adequate yearly progress data and state student growth data to its the department's public Web site no later than September 1, except that in years when adequate yearly progress reflects new performance standards, the commissioner shall post federal adequate yearly progress data and state student growth data no later than October 1.

Sec. 14. Minnesota Statutes 2010, section 121A.15, subdivision 8, is amended to read:

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, ~~and 4,~~ and 12 to the superintendent of the district in which the person resides by October 1 of each school year the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must

be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.05 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 15. Minnesota Statutes 2010, section 122A.14, subdivision 3, is amended to read:

Subd. 3. **Rules for continuing education requirements.** The board shall adopt rules establishing continuing education requirements that promote continuous improvement and acquisition of new and relevant skills by school administrators. A retired school principal who serves as a substitute principal or assistant principal for the same person on a day-to-day basis for no more than 15 consecutive school days is not subject to continuing education requirements as a condition of serving as a substitute principal or assistant principal.

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

Sec. 16. Minnesota Statutes 2010, section 122A.16, as amended by Laws 2011, chapter 5, section 2, is amended to read:

122A.16 HIGHLY QUALIFIED TEACHER DEFINED.

(a) A qualified teacher is one holding a valid license, under this chapter, to perform the particular service for which the teacher is employed in a public school.

(b) For the purposes of the federal No Child Left Behind Act, a highly qualified teacher is one who holds a valid license under this chapter, including under section 122A.245, among other sections, to perform the particular service for which the teacher is employed in a public school or who meets the requirements of a highly objective uniform state standard of evaluation (HOUSSE) and is determined by local administrators as having highly qualified status in accordance with the approved Minnesota highly qualified plan. Teachers delivering core content instruction must be deemed highly qualified at the local level and reported to the state via the staff automated reporting system.

~~All Minnesota teachers teaching in a core academic subject area, as defined by the federal No Child Left Behind Act, in which they are not fully licensed may complete the following HOUSSE process in the core subject area for which the teacher is requesting highly qualified status by completing an application, in the form and manner described by the commissioner, that includes:~~

~~(1) documentation of student achievement as evidenced by norm-referenced test results that are objective and psychometrically valid and reliable;~~

~~(2) evidence of local, state, or national activities, recognition, or awards for professional~~

~~contribution to achievement;~~

~~(3) description of teaching experience in the teachers' core subject area in a public school under a waiver, variance, limited license or other exception; nonpublic school; and postsecondary institution;~~

~~(4) test results from the Praxis II content test;~~

~~(5) evidence of advanced certification from the National Board for Professional Teaching Standards;~~

~~(6) evidence of the successful completion of course work or pedagogy courses; and~~

~~(7) evidence of the successful completion of high quality professional development activities.~~

~~Districts must assign a school administrator to serve as a HOUSSE reviewer to meet with teachers under this paragraph and, where appropriate, certify the teachers' applications. Teachers satisfy the definition of highly qualified when the teachers receive at least 100 of the total number of points used to measure the teachers' content expertise under clauses (1) to (7). Teachers may acquire up to 50 points only in any one clause (1) to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified for more than one subject area.~~

~~(e) Achievement of the HOUSSE criteria is not equivalent to a license. A teacher must obtain permission from the Board of Teaching in order to teach in a public school.~~

EFFECTIVE DATE. This section is effective for the 2011-2012 school year and later.

Sec. 17. Minnesota Statutes 2010, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and ~~after completion thereof,~~ the probationary period in each district in which the teacher is thereafter employed also shall be ~~one year~~ three consecutive years of teaching experience except that for purposes of this provision, the probationary period for principals and assistant principals shall be two consecutive years. A school board may, in its discretion, shorten a three-year probationary period to two years or one year provided that the teacher has served an initial three-year probationary period in another district. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times periodically throughout each school year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days during that school year. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect before ~~July~~ June 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such

request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 122A.44.

(b) A board must discharge a probationary teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

(c) A probationary teacher whose first three years of consecutive employment in a district are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(d) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all probationary teacher employment contracts ratified or modified after that date.

Sec. 18. Minnesota Statutes 2010, section 122A.40, is amended by adding a subdivision to read:

Subd. 8a. **Probationary period for principals hired internally.** A probationary period of two school years is required for a licensed teacher employed by the board who is subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of two years is required for a licensed assistant principal employed by the board who is subsequently employed by the board as a licensed principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains the teacher's continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to the teacher's previous position or an equivalent position, if available, if the teacher is not promoted.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all contracts for internally hired licensed school principals and assistant principals ratified or modified after that date.

Sec. 19. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

Subd. 11. **Unrequested leave of absence.** (a) The board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave is effective at the close of the school year. In placing teachers on unrequested leave, the board may exempt from the effects of paragraphs (b) to (g) those teachers who teach in a Montessori or a language immersion program, provide instruction in an advanced placement course, or hold a kindergarten through grade 12 instrumental vocal classroom music license and currently serve as a choir, band or orchestra director and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher must be placed on unrequested leave of absence consistent with paragraphs (b) to (g). ~~the board is governed by the following provisions:~~

~~(a)~~ (b) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. A teacher who has acquired continuing contract rights must not be placed on

unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

~~(b)~~ (c) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed is negotiable;

~~(e)~~ (d) Notwithstanding the provisions of ~~clause (b)~~ paragraph (c), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses;

~~(d)~~ (e) Notwithstanding ~~clauses (a), (b) and (e)~~ paragraphs (b), (c), and (d), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of ~~clause (e)~~ paragraph (d) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

~~(e)~~ (f) Teachers placed on unrequested leave of absence must be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement must be in the inverse order of placement on leave of absence. A teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year is negotiable;

~~(f)~~ (g) Appointment of a new teacher must not be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher who may return to employment and assume the duties of the position to which appointed on a future date determined by the board;

~~(g)~~ (h) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave;

~~(h)~~ (i) The unrequested leave of absence must not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service;

~~(i)~~ (j) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate. The teacher's right to reinstatement shall also terminate if the teacher fails to file with the board by April 1 of any year a written statement requesting reinstatement;

~~(j)~~ (k) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence.

~~(k)~~ (l) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment benefits if otherwise eligible.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all collective bargaining agreements ratified or modified after that date.

Sec. 20. Minnesota Statutes 2010, section 122A.41, subdivision 1, is amended to read:

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of the following subdivisions in this section shall be defined as follows:

(a) **Teachers.** The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if licensed as teachers or as school librarians.

(b) **School board.** The term "school board" includes a majority in membership of any and all boards or official bodies having the care, management, or control over public schools.

(c) **Demote.** The word "demote" means to reduce ~~in rank or to transfer to a lower branch of the service or to a position carrying a lower salary or~~ the compensation a person actually receives in the new position.

(d) **Nonprovisional license.** For purposes of this section, "nonprovisional license" shall mean an entrance, continuing, or life license.

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

Sec. 21. Minnesota Statutes 2010, section 122A.41, subdivision 2, is amended to read:

Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times periodically throughout each school year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion

shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A probationary teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

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

Sec. 22. Minnesota Statutes 2010, section 122A.41, subdivision 5a, is amended to read:

Subd. 5a. **Probationary period for principals hired internally.** ~~A board and the exclusive representative of the school principals in the district may negotiate a plan for~~ A probationary period of ~~up to~~ two school years is required for licensed teachers employed by the board who are subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of ~~up to~~ two years is required for licensed assistant principals employed by the board who are subsequently employed by the board as a licensed school principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains the teacher's continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to the teacher's previous position or an equivalent position, if available, if the teacher is not promoted.

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

Sec. 23. Minnesota Statutes 2010, section 122A.41, subdivision 10, is amended to read:

Subd. 10. **Decision, when rendered.** The hearing must be concluded and a decision in writing, stating the grounds on which it is based, rendered within 25 days after giving of such notice. Where the hearing is before a school board the teacher may be discharged or demoted upon the affirmative vote of a majority of the members of the board. If the charges, or any of such, are found to be true, the board conducting the hearing must discharge, demote, or suspend the teacher, as seems to be for the best interest of the school. ~~A teacher must not be discharged for either of the causes specified in subdivision 6, clause (3), except during the school year, and then only upon charges filed at least four months before the close of the school sessions of such school year.~~

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

Sec. 24. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

Subd. 14. **Services terminated by discontinuance or lack of pupils; preference given.** (a) ~~A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is qualified.~~ In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must receive first consideration for other positions in the district for which that teacher is qualified and must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan

providing otherwise.

(b) The board may exempt from the effects of paragraph (a) those teachers who teach in a Montessori or a language immersion program or provide instruction in an advanced placement course and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher shall be discontinued based on the inverse order in which the teacher was employed.

~~(b)~~ (c) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the Board of Teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.

~~(e)~~ (d) Notwithstanding the provisions of clause (a), a teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.

Sec. 25. Minnesota Statutes 2010, section 123B.143, subdivision 1, is amended to read:

Subdivision 1. **Contract; duties.** All districts maintaining a classified secondary school must employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent must be vested in the board in all cases. An individual employed by a board as a superintendent shall have an initial employment contract for a period of time no longer than three years from the date of employment. Any subsequent employment contract must not exceed a period of three years. A board, at its discretion, may or may not renew an employment contract. A board must not, by action or inaction, extend the duration of an existing employment contract. Beginning 365 days prior to the expiration date of an existing employment contract, a board may negotiate and enter into a subsequent employment contract to take effect upon the expiration of the existing contract. A subsequent contract must be contingent upon the employee completing the terms of an existing contract. If a contract between a board and a superintendent is terminated prior to the date specified in the contract, the board may not enter into another superintendent contract with that same individual that has a term that extends beyond the date specified in the terminated contract. A board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 122A.40, subdivision 9 or 13. A superintendent shall not rely upon an employment contract with a board to assert any other continuing contract rights in the position of superintendent under section 122A.40. Notwithstanding the provisions of sections 122A.40, subdivision 10 or 11, 123A.32, 123A.75, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on order of employment in any district. If two or more districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on order of employment in a contracting district. The superintendent of a district shall perform the following:

(1) visit and supervise the schools in the district, report and make recommendations about their

condition when advisable or on request by the board;

(2) recommend to the board employment and dismissal of teachers;

(3) annually evaluate each school principal assigned responsibility for supervising a school building within the district, consistent with section 123B.147, subdivision 3, paragraph (b);

(4) superintend school grading practices and examinations for promotions;

~~(4)~~ (5) make reports required by the commissioner; and

~~(5)~~ (6) perform other duties prescribed by the board.

EFFECTIVE DATE. This section is effective for the 2013-2014 school year and later.

Sec. 26. Minnesota Statutes 2010, section 123B.147, subdivision 3, is amended to read:

Subd. 3. **Duties; evaluation.** (a) The principal shall provide administrative, supervisory, and instructional leadership services, under the supervision of the superintendent of schools of the district and ~~in accordance with~~ according to the policies, rules, and regulations of the school board of education, for the planning, management, operation, and evaluation of the education program of the building or buildings to which the principal is assigned.

(b) To enhance a principal's leadership skills and support and improve teaching practices, school performance, and student achievement, a district must develop and implement a performance-based system for annually evaluating school principals assigned to supervise a school building within the district. The evaluation must be designed to improve teaching and learning by supporting the principal in shaping the school's professional environment and developing teacher quality, performance, and effectiveness. The annual evaluation must:

(1) support and improve a principal's instructional leadership, organizational management, and professional development, and strengthen the principal's capacity in the areas of instruction, supervision, evaluation, and teacher development;

(2) include formative and summative evaluations;

(3) be consistent with a principal's job description, a district's long-term plans and goals, and the principal's own professional multiyear growth plans and goals, all of which must support the principal's leadership behaviors and practices, rigorous curriculum, school performance, and high-quality instruction;

(4) include on-the-job observations and previous evaluations;

(5) allow surveys to help identify a principal's effectiveness, leadership skills and processes, and strengths and weaknesses in exercising leadership in pursuit of school success;

(6) use longitudinal data on student academic growth as an evaluation component and incorporate district achievement goals and targets; and

(7) be linked to professional development that emphasizes improved teaching and learning, curriculum and instruction, student learning, and a collaborative professional culture.

The provisions of this paragraph are intended to provide districts with sufficient flexibility to

accommodate district needs and goals related to developing, supporting, and evaluating principals.

EFFECTIVE DATE. This section is effective for the 2013-2014 school year and later.

Sec. 27. Minnesota Statutes 2010, section 124D.091, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** A district that offers a concurrent enrollment course according to an agreement under section 124D.09, subdivision 10, is eligible to receive aid for the costs of providing postsecondary courses at the high school. Beginning in fiscal year 2011, districts only are eligible for aid if the college or university concurrent enrollment courses offered by the district are accredited by the National Alliance of Concurrent Enrollment Partnership, in the process of being accredited, or are shown by clear evidence to be of comparable standard to accredited courses, or are technical courses within a recognized career and technical education program of study approved by the commissioner of education and the chancellor of the Minnesota State Colleges and Universities.

Sec. 28. Minnesota Statutes 2010, section 124D.10, is amended to read:

124D.10 CHARTER SCHOOLS.

Subdivision 1. **Purposes.** (a) The purpose of this section is to:

- (1) improve pupil learning and student achievement;
- (2) increase learning opportunities for pupils;
- (3) encourage the use of different and innovative teaching methods;
- (4) measure learning outcomes and create different and innovative forms of measuring outcomes;
- (5) establish new forms of accountability for schools; and
- (6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(b) This section does not provide a means to keep open a school that ~~otherwise would be closed or to reestablish a school that has been closed. Applicants in these circumstances bear the burden of proving that conversion to a charter school or establishment of a new charter school fulfills the purposes specified in this subdivision, independent of the school's closing~~ a school board decides to close. However, a school board may endorse or authorize the establishing of a charter school to replace the school the board decided to close. Applicants seeking a charter under this circumstance must demonstrate to the authorizer that the charter sought is substantially different in purpose and program from the school the board closed and that the proposed charter satisfies the requirements of this subdivision. If the school board that closed the school authorizes the charter, it must document in its affidavit to the commissioner that the charter is substantially different in program and purpose from the school it closed.

An authorizer shall not approve an application submitted by a charter school developer under subdivision 4, paragraph (a), if the application does not comply with this subdivision. The commissioner shall not approve an affidavit submitted by an authorizer under subdivision 4, paragraph (b), if the affidavit does not comply with this subdivision.

Subd. 2. **Applicability.** This section applies only to charter schools formed and operated under this section.

Subd. 3. **Authorizer.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

"Application" to receive approval as an authorizer means the proposal an eligible authorizer submits to the commissioner under paragraph (c) before that authorizer is able to submit any affidavit to charter to a school.

"Application" under subdivision 4 means the charter school business plan a school developer submits to an authorizer for approval to establish a charter school that documents the school developer's mission statement, school purposes, program design, financial plan, governance and management structure, and background and experience, plus any other information the authorizer requests. The application also shall include a "statement of assurances" of legal compliance prescribed by the commissioner.

"Affidavit" means a written statement the authorizer submits to the commissioner for approval to establish a charter school under subdivision 4 attesting to its review and approval process before chartering a school.

~~"Affidavit" means the form an authorizer submits to the commissioner that is a precondition to a charter school organizing an affiliated nonprofit building corporation under subdivision 17a.~~

(b) The following organizations may authorize one or more charter schools:

(1) a school board; intermediate school district school board; education district organized under sections 123A.15 to 123A.19;

(2) a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, excluding a nonpublic sectarian or religious institution, any person other than a natural person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution, and any other charitable organization under this clause that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose, that:

(i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations;

(ii) is registered with the attorney general's office; and

(iii) ~~reports an end-of-year fund balance of at least \$2,000,000; and~~

~~(iv) is incorporated in the state of Minnesota and has been operating continuously for at least five years but does not operate a charter school;~~

(3) a Minnesota private college, notwithstanding clause (2), that grants two- or four-year degrees and is registered with the Minnesota Office of Higher Education under chapter 136A; community college, state university, or technical college governed by the Board of Trustees of the Minnesota State Colleges and Universities; or the University of Minnesota; or

(4) a nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt

from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may authorize one or more charter schools if the charter school has operated for at least three years under a different authorizer and if the nonprofit corporation has existed for at least 25 years.

(5) ~~no more than three~~ single-purpose authorizers that are charitable, nonsectarian organizations formed under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota whose sole purpose is to charter schools. Eligible organizations interested in being approved as an authorizer under this paragraph must submit a proposal to the commissioner that includes the provisions of paragraph (c) and a five-year financial plan. Such authorizers shall consider and approve applications using the criteria provided in subdivision 4 and shall not limit the applications it solicits, considers, or approves to any single curriculum, learning program, or method.

(c) An eligible authorizer under this subdivision must apply to the commissioner for approval as an authorizer before submitting any affidavit to the commissioner to charter a school. The application for approval as a charter school authorizer must demonstrate the applicant's ability to implement the procedures and satisfy the criteria for chartering a school under this section. The commissioner must approve or disapprove an application within ~~60~~ 45 business days of the application deadline. If the commissioner disapproves the application, the commissioner must notify the applicant of the specific deficiencies in writing and the applicant then has 20 business days to address the deficiencies to the commissioner's satisfaction. After the 20 business days expire, the commissioner has 15 business days to make a final decision to approve or disapprove the application. Failing to address the deficiencies to the commissioner's satisfaction makes an applicant ineligible to be an authorizer. The commissioner, in establishing criteria for approval, must consider the applicant's:

- (1) capacity and infrastructure;
- (2) application criteria and process;
- (3) contracting process;
- (4) ongoing oversight and evaluation processes; and
- (5) renewal criteria and processes.

(d) ~~The affidavit to be submitted to and evaluated by~~ An applicant must include in its application to the commissioner must include to be an approved authorizer at least the following:

- (1) how chartering schools is a way for the organization to carry out its mission;
- (2) a description of the capacity of the organization to serve as an authorizer, including the personnel who will perform the authorizing duties, their qualifications, the amount of time they will be assigned to this responsibility, and the financial resources allocated by the organization to this responsibility;
- (3) a description of the application and review process the authorizer will use to make decisions regarding the granting of charters, ~~which will include at least the following:~~
 - ~~(i) how the statutory purposes defined in subdivision 1 are addressed;~~
 - ~~(ii) the mission, goals, program model, and student performance expectations;~~

~~(iii) an evaluation plan for the school that includes criteria for evaluating educational, organizational, and fiscal plans;~~

~~(iv) the school's governance plan;~~

~~(v) the financial management plan; and~~

~~(vi) the administration and operations plan;~~

(4) a description of the type of contract it will arrange with the schools it charters that meets the provisions of subdivision 6 ~~and defines the rights and responsibilities of the charter school for governing its educational program, controlling its funds, and making school management decisions;~~

(5) the process to be used for providing ongoing oversight of the school consistent with the contract expectations specified in clause (4) that assures that the schools chartered are complying with both the provisions of applicable law and rules, and with the contract;

(6) a description of the criteria and process the authorizer will use to grant expanded applications under subdivision 4, paragraph (j);

(7) the process for making decisions regarding the renewal or termination of the school's charter based on evidence that demonstrates the academic, organizational, and financial competency of the school, including its success in increasing student achievement and meeting the goals of the charter school agreement; and

~~(7)(8) an assurance specifying that the organization is committed to serving as an authorizer for the full five-year term.~~

(e) A disapproved applicant under this paragraph section may resubmit an application during a future application period.

(f) If the governing board of an approved authorizer that has chartered multiple schools votes to withdraw as an approved authorizer for a reason unrelated to any cause under subdivision 23, the authorizer must notify all its chartered schools and the commissioner in writing by July 15 of its intent to withdraw as an authorizer on June 30 in the next calendar year. The commissioner may approve the transfer of a charter school to a new authorizer under this paragraph after the new authorizer submits an affidavit to the commissioner.

~~(e)(g) The authorizer must participate in department-approved training.~~

~~(f)(h) An authorizer that chartered a school before August 1, 2009, must apply by June 30, 2011, to the commissioner for approval, under paragraph (c), to continue as an authorizer under this section. For purposes of this paragraph, an authorizer that fails to submit a timely application is ineligible to charter a school.~~

~~(g)(i) The commissioner shall review an authorizer's performance every five years in a manner and form determined by the commissioner and may review an authorizer's performance more frequently at the commissioner's own initiative or at the request of a charter school operator, charter school board member, or other interested party. The commissioner, after completing the review, shall transmit a report with findings to the authorizer. If, consistent with this section, the commissioner finds that an authorizer has not fulfilled the requirements of this section, the commissioner may subject the authorizer to corrective action, which may include terminating the~~

contract with the charter school board of directors of a school it chartered. The commissioner must notify the authorizer in writing of any findings that may subject the authorizer to corrective action and the authorizer then has 15 business days to request an informal hearing before the commissioner takes corrective action. If the commissioner terminates a contract between an authorizer and a charter school under this paragraph, the commissioner may assist the charter school in acquiring a new authorizer.

~~(h)~~ (j) The commissioner may at any time take corrective action against an authorizer, including terminating an authorizer's ability to charter a school for:

(1) failing to demonstrate the criteria under paragraph (c) under which the commissioner approved the authorizer;

(2) violating a term of the chartering contract between the authorizer and the charter school board of directors; ~~or~~

(3) unsatisfactory performance as an approved authorizer; or

(4) any good cause shown that provides the commissioner a legally sufficient reason to take corrective action against an authorizer.

Subd. 4. **Formation of school.** (a) An authorizer, after receiving an application from a school developer, may charter a licensed teacher under section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed teachers under section 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the authorizer's affidavit under paragraph (b). The school must be organized and operated as a ~~cooperative under chapter 308A~~ ~~or~~ nonprofit corporation under chapter 317A and the provisions under the applicable chapter shall apply to the school except as provided in this section.

Notwithstanding sections 465.717 and 465.719, a school district, subject to this section and section 124D.11, may create a corporation for the purpose of establishing a charter school.

(b) Before the operators may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. The affidavit must state the terms and conditions under which the authorizer would charter a school and how the authorizer intends to oversee the fiscal and student performance of the charter school and to comply with the terms of the written contract between the authorizer and the charter school board of directors under subdivision 6. The commissioner must approve or disapprove the authorizer's affidavit within 60 business days of receipt of the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business days to address the deficiencies. If the authorizer does not address deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. Failure to obtain commissioner approval precludes an authorizer from chartering the school that is the subject of this affidavit.

(c) The authorizer may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this section or does not meet the ready-to-open standards that are part of the authorizer's oversight and evaluation process or are stipulated in the charter school contract.

(d) The operators authorized to organize and operate a school, before entering into a contract

or other agreement for professional or other services, goods, or facilities, must incorporate as a ~~cooperative under chapter 308A~~ or as a nonprofit corporation under chapter 317A and must establish a board of directors composed of at least five members who are not related parties until a timely election for members of the ongoing charter school board of directors is held according to the school's articles and bylaws under paragraph (f). A charter school board of directors must be composed of at least five members who are not related parties. Staff members employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents or legal guardians of children enrolled in the school are the voters eligible to elect the members of the school's board of directors. A charter school must notify eligible voters of the school board election dates at least 30 days before the election. Board of director meetings must comply with chapter 13D.

(e) Upon the request of an individual, the charter school must make available in a timely fashion the minutes of meetings of the board of directors, and of members and committees having any board-delegated authority; financial statements showing all operations and transactions affecting income, surplus, and deficit during the school's last annual accounting period; and a balance sheet summarizing assets and liabilities on the closing date of the accounting period. A charter school also must post on its official Web site information identifying its authorizer and indicate how to contact that authorizer and include that same information about its authorizer in other school materials that it makes available to the public.

(f) Every charter school board member shall attend ~~department-approved~~ ongoing training throughout the member's term on board governance, including training on the board's role and responsibilities, employment policies and practices, and financial management. A board member who does not begin the required initial training within six months ~~of~~ after being seated and complete ~~the required~~ that training within 12 months of being seated on the board is ineligible to continue to serve as a board member.

(g) The ongoing board must be elected before the school completes its third year of operation. Board elections must be held at a time during ~~a time when the school is in session~~ year but may not be conducted on days when the school is closed for holidays or vacations. The charter school board of directors shall be composed of at least five nonrelated members and include: (i) at least one licensed teacher employed at the school or a licensed teacher providing instruction under ~~a contract~~ contract between the charter school and a cooperative; (ii) the parent or legal guardian of a student enrolled in the charter school who is not an employee of the charter school; and (iii) an interested community member who is not employed by the charter school and does not have a child enrolled in the school. The board may be a teacher majority board composed of teachers described in this paragraph. The chief financial officer and the chief administrator ~~are~~ may only serve as ex-officio nonvoting board members and may not serve as a voting member of the board. Charter school employees shall not serve on the board unless item (i) applies. Contractors providing facilities, goods, or services to a charter school shall not serve on the board of directors of the charter school. Board bylaws shall outline the process and procedures for changing the board's governance model, consistent with chapter 317A. A board may change its governance model only:

(1) by a majority vote of the board of directors and the licensed teachers employed by the school, including licensed teachers providing instruction under a contract between the school and a cooperative; and

(2) with the authorizer's approval.

Any change in board governance must conform with the board structure established under this paragraph.

(h) The granting or renewal of a charter by an authorizer must not be conditioned upon the bargaining unit status of the employees of the school.

(i) The granting or renewal of a charter school by an authorizer must not be contingent on the charter school being required to contract, lease, or purchase services from the authorizer. Any potential contract, lease, or purchase of service from an authorizer must be disclosed to the commissioner, accepted through an open bidding process, and be a separate contract from the charter contract. The school must document the open bidding process. An authorizer must not enter into a contract to provide management and financial services for a school that it authorizes, unless the school documents that it received at least two competitive bids.

(j) An authorizer may permit the board of directors of a charter school to expand the operation of the charter school to additional sites or to add additional grades at the school beyond those described in the authorizer's original affidavit as approved by the commissioner only after submitting a supplemental affidavit for approval to the commissioner in a form and manner prescribed by the commissioner. The supplemental affidavit must ~~show~~ document that:

(1) ~~the expansion proposed by the charter school is supported by~~ expansion plan demonstrates need and projected enrollment;

(2) ~~the charter school expansion is warranted, at a minimum, by longitudinal data demonstrating students' improved academic performance and growth on statewide assessments under chapter 120B;~~

(3) ~~the charter school is fiscally~~ financially sound and ~~has the financial capacity~~ the financing needed to implement the proposed expansion exists; and

(4) ~~the authorizer finds that the~~ charter school has the governance structure and management capacity to carry out its expansion.

(k) The commissioner shall have 30 business days to review and comment on the supplemental affidavit. The commissioner shall notify the authorizer of any deficiencies in the supplemental affidavit and the authorizer then has ~~30~~ 20 business days to address, to the commissioner's satisfaction, any deficiencies in the supplemental affidavit. The school may not expand grades or add sites until the commissioner has approved the supplemental affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a member of the charter school board of directors if the individual, an immediate family member, or the individual's partner is an owner, employee or agent of, or a contractor with a for-profit or nonprofit entity or individual with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates this prohibition is individually liable to the charter school for any damage caused by the violation.

(b) No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict

exists when:

- (1) the board member, employee, officer, or agent;
- (2) the immediate family of the board member, employee, officer, or agent;
- (3) the partner of the board member, employee, officer, or agent; or
- (4) an organization that employs, or is about to employ any individual in clauses (1) to (3),

has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(c) Any employee, agent, or board member of the authorizer who participates in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or nonrenewal process or decision is ineligible to serve on the board of directors of a school chartered by that authorizer.

(d) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

(e) The conflict of interest provisions under this subdivision do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.

(f) The conflict of interest provisions under this subdivision do not apply to a teacher who provides services to a charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

Subd. 5. Conversion of existing schools. A board of an independent or special school district may convert one or more of its existing schools to charter schools under this section if 60 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 6. Charter contract. The authorization for a charter school must be in the form of a written contract signed by the authorizer and the board of directors of the charter school. The contract must be completed within 45 business days of the commissioner's approval of the authorizer's affidavit. The authorizer shall submit to the commissioner a copy of the signed charter contract within ten business days of its execution. The contract for a charter school must be in writing and contain at least the following:

- (1) a declaration of the purposes in subdivision 1 that the school intends to carry out and how the school will report its implementation of those purposes;
- (2) a description of the school program and the specific academic and nonacademic outcomes that pupils must achieve;
- (3) a statement of admission policies and procedures;
- (4) a governance, management, and administration plan for the school;
- (5) signed agreements from charter school board members to comply with all federal and state laws governing organizational, programmatic, and financial requirements applicable to charter schools;

(6) the criteria, processes, and procedures that the authorizer will use for ongoing oversight of operational, financial, and academic performance;

(7) the performance evaluation that is a prerequisite for reviewing a charter contract under subdivision 15;

(8) types and amounts of insurance liability coverage to be obtained by the charter school;

(9) consistent with subdivision 25, paragraph (d), a provision to indemnify and hold harmless the authorizer and its officers, agents, and employees from any suit, claim, or liability arising from any operation of the charter school, and the commissioner, and department officers, agents, and employees notwithstanding section 3.736;

(10) the term of the initial contract, which may be up to three years ~~for an initial contract~~ plus an additional preoperational planning year, and up to five years for a renewed contract or a contract with a new authorizer after a transfer of authorizers, if warranted by the school's academic, financial, and operational performance;

~~(10)~~ (11) how the board of directors or the operators of the charter school will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability;

~~(11)~~ (12) the process and criteria the authorizer intends to use to monitor and evaluate the fiscal and student performance of the charter school, consistent with subdivision 15; and

~~(12)~~ (13) the plan for an orderly closing of the school under chapter ~~308A or~~ 317A, if the closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract, and that includes establishing the responsibilities of the school board of directors and the authorizer and notifying the commissioner, authorizer, school district in which the charter school is located, and parents of enrolled students about the closure, the transfer of student records to students' resident districts, and procedures for closing financial operations.

Subd. 6a. **Audit report.** (a) The charter school must submit an audit report to the commissioner and its authorizer by December 31 each year.

(b) The charter school, with the assistance of the auditor conducting the audit, must include with the report a copy of all charter school agreements for corporate management services. If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986.

(c) ~~If the commissioner receives an audit report indicating~~ finds that a material weakness exists in the financial reporting systems of a charter school, the charter school must submit a written report to the commissioner explaining how the material weakness will be resolved. An auditor, as a condition of providing financial services to a charter school, must agree to make available information about a charter school's financial audit to the commissioner and authorizer upon request.

Subd. 7. **Public status; exemption from statutes and rules.** A charter school is a public school and is part of the state's system of public education. A charter school is exempt from all statutes and rules applicable to a school, school board, or school district unless a statute or rule is made

specifically applicable to a charter school or is included in this section.

Subd. 8. **Federal, state, and local requirements.** (a) A charter school shall meet all federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A school authorized by a school board may be located in any district, unless the school board of the district of the proposed location disapproves by written resolution.

(d) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. An authorizer may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution. A charter school student must be released for religious instruction, consistent with section 120A.22, subdivision 12, clause (3).

(e) Charter schools must not be used as a method of providing education or generating revenue for students who are being home-schooled.

(f) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(g) A charter school may not charge tuition.

(h) A charter school is subject to and must comply with chapter 363A and section 121A.04.

(i) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56, and the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(j) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district. Audits must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, if applicable, and section 6.65. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06; 471.38; 471.391; 471.392; and 471.425. The audit must comply with the requirements of sections 123B.75 to 123B.83, except to the extent deviations are necessary because of the program at the school. Deviations must be approved by the commissioner and authorizer. The Department of Education, state auditor, legislative auditor, or authorizer may conduct financial, program, or compliance audits. A charter school determined to be in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(k) A charter school is a district for the purposes of tort liability under chapter 466.

(l) A charter school must comply with chapters 13 and 13D; and sections 120A.22, subdivision 7; 121A.75; and 260B.171, subdivisions 3 and 5.

(m) A charter school is subject to the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

(n) A charter school offering online courses or programs must comply with section 124D.095.

(o) A charter school and charter school board of directors are subject to chapter 181.

(p) A charter school must comply with section 120A.22, subdivision 7, governing the transfer of students' educational records and sections 138.163 and 138.17 governing the management of local records.

(q) A charter school that provides early childhood health and developmental screening must comply with sections 121A.16 to 121A.19.

Subd. 8a. **Aid reduction.** The commissioner may reduce a charter school's state aid under section 127A.42 or 127A.43 if the charter school board fails to correct a violation under this section.

Subd. 8b. **Aid reduction for violations.** The commissioner may reduce a charter school's state aid by an amount not to exceed 60 percent of the charter school's basic revenue for the period of time that a violation of law occurs.

Subd. 9. **Admission requirements.** A charter school may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.

A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish a lottery policy and process that it must use when accepting pupils by lot.

A charter school shall give enrollment preference ~~for enrollment~~ to a sibling of an enrolled pupil and to a foster child of that pupil's parents and may give preference for enrolling children of the school's ~~teachers~~ staff before accepting other pupils by lot.

A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this subdivision.

The charter school shall not distribute any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

Subd. 10. **Pupil performance.** A charter school must design its programs to at least meet the outcomes adopted by the commissioner for public school students. In the absence of the commissioner's requirements, the school must meet the outcomes contained in the contract with the authorizer. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the commissioner for public school students.

Subd. 11. **Employment and other operating matters.** (a) A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The charter school's state aid may be reduced under section 127A.43 if the school employs a teacher who is

not appropriately licensed or approved by the board of teaching. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees. The charter school board is subject to section 181.932. When offering employment to a prospective employee, a charter school must give that employee a written description of the terms and conditions of employment and the school's personnel policies.

(b) A person, without holding a valid administrator's license, may perform administrative, supervisory, or instructional leadership duties. The board of directors shall establish qualifications for persons that hold administrative, supervisory, or instructional leadership roles. The qualifications shall include at least the following areas: instruction and assessment; human resource and personnel management; financial management; legal and compliance management; effective communication; and board, authorizer, and community relationships. The board of directors shall use those qualifications as the basis for job descriptions, hiring, and performance evaluations of those who hold administrative, supervisory, or instructional leadership roles. The board of directors and an individual who does not hold a valid administrative license and who serves in an administrative, supervisory, or instructional leadership position shall develop a professional development plan. Documentation of the implementation of the professional development plan of these persons shall be included in the school's annual report.

(c) The board of directors also shall decide matters related to the operation of the school, including budgeting, curriculum and operating procedures.

Subd. 12. **Pupils with a disability.** A charter school must comply with sections 125A.02, 125A.03 to 125A.24, and 125A.65 and rules relating to the education of pupils with a disability as though it were a district.

Subd. 13. **Length of school year.** A charter school must provide instruction each year for at least the number of days required by section 120A.41. It may provide instruction throughout the year according to sections 124D.12 to 124D.127 or 124D.128.

Subd. 14. **Annual public reports.** A charter school must publish an annual report approved by the board of directors. The annual report must at least include information on school enrollment, student attrition, governance and management, staffing, finances, academic performance, operational performance, innovative practices and implementation, and future plans. A charter school must distribute the annual report by publication, mail, or electronic means to the commissioner, authorizer, school employees, and parents and legal guardians of students enrolled in the charter school and must also post the report on the charter school's official Web site. The reports are public data under chapter 13.

Subd. 15. **Review and comment.** (a) The authorizer shall provide a formal written evaluation of the school's performance before the authorizer renews the charter contract. The department must review and comment on the authorizer's evaluation process at the time the authorizer submits its application for approval and each time the authorizer undergoes its five-year review under subdivision 3, paragraph (e).

(b) An authorizer shall monitor and evaluate the fiscal, operational, and student performance of the school, and may for this purpose annually assess a charter school a fee according to paragraph (c). The agreed-upon fee structure must be stated in the charter school contract.

(c) The fee that each charter school pays to an authorizer each year is the greater of:

(1) the basic formula allowance for that year; or

(2) the lesser of:

(i) the maximum fee factor times the basic formula allowance for that year; or

(ii) the fee factor times the basic formula allowance for that year times the charter school's adjusted marginal cost pupil units for that year. The fee factor equals .005 in fiscal year 2010, .01 in fiscal year 2011, .013 in fiscal year 2012, and .015 in fiscal years 2013 and later. The maximum fee factor equals 1.5 in fiscal year 2010, 2.0 in fiscal year 2011, 3.0 in fiscal year 2012, and 4.0 in fiscal years 2013 and later.

(d) The department and any charter school it charters must not assess or pay a fee under paragraphs (b) and (c).

(e) For the preoperational planning period, the authorizer may assess a charter school a fee equal to the basic formula allowance.

(f) By September 30 of each year, an authorizer shall submit to the commissioner a statement of expenditures related to chartering activities during the previous school year ending June 30. A copy of the statement shall be given to all schools chartered by the authorizer.

Subd. 16. **Transportation.** (a) A charter school after its first fiscal year of operation by March 1 of each fiscal year and a charter school by July 1 of its first fiscal year of operation must notify the district in which the school is located and the Department of Education if it will provide its own transportation or use the transportation services of the district in which it is located for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for

a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Subd. 17. **Leased space.** A charter school may lease space from an independent or special school board eligible to be an authorizer, other public organization, private, nonprofit nonsectarian organization, private property owner, or a sectarian organization if the leased space is constructed as a school facility. The department must review and approve or disapprove leases in a timely manner.

Subd. 17a. **Affiliated nonprofit building corporation.** (a) Before a charter school may organize an affiliated nonprofit building corporation (i) to renovate or purchase an existing facility to serve as a school or (ii) to construct a new school facility, an authorizer must submit an affidavit to the commissioner for approval in the form and manner the commissioner prescribes, and consistent with paragraphs (b) and (c) or (d).

(b) An affiliated nonprofit building corporation under this subdivision must:

(1) be incorporated under section 317A and comply with applicable Internal Revenue Service regulations;

(2) submit to the commissioner each fiscal year a list of current board members and a copy of its annual audit; and

(3) comply with government data practices law under chapter 13.

An affiliated nonprofit building corporation must not serve as the leasing agent for property or facilities it does not own. A charter school that leases a facility from an affiliated nonprofit building corporation that does not own the leased facility is ineligible to receive charter school lease aid. The state is immune from liability resulting from a contract between a charter school and an affiliated nonprofit building corporation.

(c) A charter school may organize an affiliated nonprofit building corporation to renovate or purchase an existing facility to serve as a school if the charter school:

(1) has been operating for at least five consecutive school years ~~and the school's charter has been renewed for a five-year term;~~

(2) has had a net positive unreserved general fund balance as of June 30 in the preceding five fiscal years;

(3) has a long-range strategic and financial plan;

(4) completes a feasibility study of available buildings; and

(5) documents ~~sustainable~~ enrollment projections and the need to use an affiliated building corporation to renovate or purchase an existing facility to serve as a school.

(d) A charter school may organize an affiliated nonprofit building corporation to construct a new school facility if the charter school:

(1) demonstrates the lack of facilities available to serve as a school;

- (2) has been operating for at least eight consecutive school years;
- (3) has had a net positive unreserved general fund balance as of June 30 in the preceding eight fiscal years;
- (4) completes a feasibility study of facility options;
- (5) has a long-range strategic and financial plan that includes ~~sustainable~~ enrollment projections and demonstrates the need for constructing a new school facility; and
- (6) has a positive review and comment from the commissioner under section 123B.71.

Subd. 19. **Disseminate information.** (a) The authorizer, the operators, and the department must disseminate information to the public on how to form and operate a charter school. Charter schools must disseminate information about how to use the offerings of a charter school. Targeted groups include low-income families and communities, students of color, and students who are at risk of academic failure.

(b) Authorizers, operators, and the department also may disseminate information about the successful best practices in teaching and learning demonstrated by charter schools.

Subd. 20. **Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require that the request for a leave or extension of leave be made before February 1 in the school year preceding the school year in which the teacher intends to leave, or February 1 of the calendar year in which the teacher's leave is scheduled to terminate. Except as otherwise provided in this subdivision and except for section 122A.46, subdivision 7, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the Teachers' Retirement Association account under chapters 354 and 354A, consistent with subdivision 22.

Subd. 21. **Collective bargaining.** Employees of the board of directors of a charter school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of a charter school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school must be separate from any other units within an authorizing district, except that bargaining units may remain part of the appropriate unit within an authorizing district, if the employees of the school, the board of directors of the school, the exclusive representative of the appropriate unit in the authorizing district, and the board of the authorizing district agree to include the employees in the appropriate unit of the authorizing district.

Subd. 22. **Teacher and other employee retirement.** (a) Teachers in a charter school must be public school teachers for the purposes of chapters 354 and 354a.

(b) Except for teachers under paragraph (a), employees in a charter school must be public employees for the purposes of chapter 353.

Subd. 23. **Causes for nonrenewal or termination of charter school contract.** (a) The duration

of the contract with an authorizer must be for the term contained in the contract according to subdivision 6. The authorizer may or may not renew a contract at the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 business days before not renewing or terminating a contract, the authorizer shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the authorizer within 15 business days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for ~~a~~ an informal hearing within the 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the authorizer shall give ten business days' notice to the charter school's board of directors of the hearing date. The authorizer shall conduct an informal hearing before taking final action. The authorizer shall take final action to renew or not renew a contract no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

(b) A contract may be terminated or not renewed upon any of the following grounds:

- (1) failure to meet the requirements for pupil performance contained in the contract;
- (2) failure to meet generally accepted standards of fiscal management;
- (3) violations of law; or
- (4) other good cause shown.

If a contract is terminated or not renewed under this paragraph, the school must be dissolved according to the applicable provisions of chapter ~~308A~~ or 317A.

(c) If the authorizer and the charter school board of directors mutually agree to terminate or not renew the contract, a ~~change in~~ transfer of authorizers is allowed if the commissioner approves the transfer to a different eligible authorizer to authorize the charter school. Both parties must jointly submit their intent in writing to the commissioner to mutually terminate the contract. The authorizer that is a party to the existing contract ~~at least~~ must inform the ~~approved different eligible proposed~~ authorizer about the fiscal and operational status and student performance of the school. Before the commissioner determines whether to approve a transfer of authorizer, the ~~commissioner first proposed authorizer~~ must determine whether the charter school and prospective new authorizer can identify and effectively resolve those circumstances causing the previous authorizer and the charter school to mutually agree to terminate the contract identify any outstanding issues in the proposed charter contract that were unresolved in the previous charter contract and have the charter school agree to resolve those issues. If no transfer of authorizer is approved, the school must be dissolved according to applicable law and the terms of the contract.

(d) The commissioner, after providing reasonable notice to the board of directors of a charter school and the existing authorizer, and after providing an opportunity for a public hearing, may terminate the existing contract between the authorizer and the charter school board if the charter school has a history of:

- (1) failure to meet pupil performance requirements ~~contained in the contract~~ consistent with state law;

(2) financial mismanagement or failure to meet generally accepted standards of fiscal management; or

(3) repeated or major violations of the law.

~~(e) If the commissioner terminates a charter school contract under subdivision 3, paragraph (g), the commissioner shall provide the charter school with information about other eligible authorizers.~~

Subd. 23a. **Related party lease costs.** (a) A charter school is prohibited from entering a lease of real property with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124D.11, subdivision 4, clause (1).

(b) For purposes of this section and section 124D.11:

(1) "related party" means an affiliate or immediate relative of the other party in question, an affiliate of an immediate relative, or an immediate relative of an affiliate;

(2) "affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(3) "immediate family" means an individual whose relationship by blood, marriage, adoption, or partnering is no more remote than first cousin;

(4) "person" means an individual or entity of any kind; and

(5) "control" means the ability to affect the management, operations, or policy actions or decisions of a person, whether through ownership of voting securities, by contract, or otherwise.

(c) A lease of real property to be used for a charter school, not excluded in paragraph (a), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a."

(d) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section 124D.11, subdivision 4, clause (1).

Subd. 24. **Pupil enrollment upon nonrenewal or termination of charter school contract.** If a contract is not renewed or is terminated according to subdivision 23, a pupil who attended the school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 124D.03 at any time. Applications and notices required by section 124D.03 must be processed and provided in a prompt manner. The application and notice deadlines in section 124D.03 do not apply under these circumstances. The closed charter school must transfer the student's educational records within ten business days of closure to the student's school district of residence where the records must be retained or transferred under section 120A.22, subdivision 7.

Subd. 25. **Extent of specific legal authority.** (a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The commissioner, an authorizer, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or authorize. The board of directors shall obtain at least the amount of and types of insurance up to the applicable tort liability limits under chapter 466. The charter school board must submit a copy of the insurance policy to its authorizer and the commissioner before starting operations. The charter school board must submit changes in its insurance carrier or policy to its authorizer and the commissioner within 20 business days of the change.

(d) Notwithstanding section 3.736, the charter school shall assume full liability for its activities and indemnify and hold harmless the commissioner and the authorizer, and the officers, agents, and employees of the department and authorizer from any suit, claim, or liability arising from any operation of the charter school. A charter school is not required to indemnify or hold harmless a state employee if the state would not be required to indemnify and hold the employee harmless under section 3.736, subdivision 9.

Sec. 29. Minnesota Statutes 2010, section 124D.11, subdivision 9, is amended to read:

Subd. 9. **Payment of aids to charter schools.** (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school shall be of an equal amount on each of the 24 payment dates.

(b) Notwithstanding paragraph (a) and section 127A.45, for a charter school ceasing operation on or prior to June 30 of a school year, for the payment periods occurring after the school ceases serving students, the commissioner shall withhold the estimated state aid owed the school. The charter school board of directors and authorizer must submit to the commissioner a closure plan under chapter 308A or 317A, and financial information about the school's liabilities and assets. After receiving the closure plan, financial information, an audit of pupil counts, documentation of lease expenditures, and monitoring of special education expenditures, the commissioner may release cash withheld and may continue regular payments up to the current year payment percentages if further amounts are owed. If, based on audits and monitoring, the school received state aid in excess of the amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid overpayment. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after receiving the closure plan, audit of pupil counts, monitoring of special education expenditures, documentation of lease expenditures, and school submission of Uniform Financial Accounting and Reporting Standards (UFARS) financial data for the final year of operation. Final payment may be made upon receipt of audited financial statements under section 123B.77, subdivision 3.

(c) If a charter school fails to comply with the commissioner's directive to return, for cause, federal or state funds administered by the department, the commissioner may withhold an amount of state aid sufficient to satisfy the directive.

(d) If, within the timeline under section 471.425, a charter school fails to pay the state of Minnesota, a school district, intermediate school district, or service cooperative after receiving an undisputed invoice for goods and services, the commissioner may withhold an amount of state aid sufficient to satisfy the claim and shall distribute the withheld aid to the interested state agency, school district, intermediate school district, or service cooperative. An interested state agency, school district, intermediate school district, or education cooperative shall notify the commissioner

when a charter school fails to pay an undisputed invoice within 75 business days of when it received the original invoice.

(e) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 80 percent of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day of student attendance for that school year.

(f) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a school calendar in the form and manner requested by the department and a quarterly report to the Department of Education. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a Web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the department in the form and manner requested by the department.

(g) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter school and satisfaction of creditors, cash and investment balances remaining shall be returned to the state.

(h) A charter school must have a valid, signed contract under section 124D.10, subdivision 6, on file at the Department of Education at least 15 days prior to the date of first payment of state aid for the fiscal year.

(i) State aid entitlements shall be computed for a charter school only for the portion of a school year for which it has a valid, signed contract under section 124D.10, subdivision 6.

Sec. 30. Minnesota Statutes 2010, section 124D.19, subdivision 3, is amended to read:

Subd. 3. **Community education director.** (a) Except as provided under paragraphs (b) and (c), each board shall employ a licensed community education director. The board shall submit the name of the person who is serving as director of community education under this section on the district's annual community education report to the commissioner.

(b) A board may apply to the Minnesota Board of School Administrators under Minnesota Rules, part 3512.3500, subpart 9, for authority to use an individual who is not licensed as a community education director.

(c) A board of a district with a total population of ~~2,000~~ 6,000 or less may identify an employee who holds a valid ~~Minnesota principal or~~ superintendent license under Minnesota Rules, chapter 3512, to serve as director of community education. To be eligible for an exception under this paragraph, the board shall certify in writing to the commissioner that the district has not placed a licensed director of community education on unrequested leave. A principal serving as a community education director under this paragraph on June 1, 2011, may continue to serve in that capacity.

Sec. 31. Minnesota Statutes 2010, section 124D.36, is amended to read:

124D.36 CITATION; ~~MINNESOTA—YOUTHWORKS~~ SERVEMINNESOTA INNOVATION ACT.

Sections 124D.37 to 124D.45 shall be cited as the "~~Minnesota Youthworks~~ ServeMinnesota Innovation Act."

Sec. 32. Minnesota Statutes 2010, section 124D.37, is amended to read:

124D.37 PURPOSE OF MINNESOTA — YOUTHWORKS — SERVE MINNESOTA INNOVATION ACT.

The purposes of sections 124D.37 to 124D.45 are to:

- (1) renew the ethic of civic responsibility in Minnesota;
- (2) empower youth to improve their life opportunities through literacy, job placement, and other essential skills;
- (3) empower government to meet its responsibility to prepare young people to be contributing members of society;
- (4) help meet human, educational, environmental, and public safety needs, particularly those needs relating to poverty;
- (5) prepare a citizenry that is academically competent, ready for work, and socially responsible;
- (6) demonstrate the connection between youth and community service, community service and education, and education and meaningful opportunities in the business community;
- (7) demonstrate the connection between providing opportunities for at-risk youth and reducing crime rates and the social costs of troubled youth;
- (8) create linkages for a comprehensive youth service and learning program in Minnesota including school age programs, higher education programs, youth work programs, and service corps programs; and
- (9) coordinate federal and state activities that advance the purposes in this section.

Sec. 33. Minnesota Statutes 2010, section 124D.38, subdivision 3, is amended to read:

Subd. 3. **Federal law.** "Federal law" means Public Law ~~401-610~~ 111-13, as amended, or any other federal law or program assisting youth community service, work-based learning, or youth transition from school to work.

Sec. 34. Minnesota Statutes 2010, section 124D.385, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The commission shall:

- (1) develop, with the assistance of the governor, the commissioner of education, and affected state agencies, a comprehensive state plan to provide services under sections 124D.37 to 124D.45 and federal law;
- (2) actively pursue public and private funding sources for services, including funding available under federal law;
- (3) administer the ~~Youthworks~~ ServeMinnesota Innovation grant program under sections 124D.39 to 124D.44, including soliciting and approving grant applications from eligible

organizations, and administering individual postservice benefits;

(4) establish an evaluation plan for programs developed and services provided under sections 124D.37 to 124D.45;

(5) report to the governor, commissioner of education, and legislature; and

(6) administer the federal AmeriCorps Program.

(b) Nothing in sections 124D.37 to 124D.45 precludes an organization from independently seeking public or private funding to accomplish purposes similar to those described in paragraph (a).

Sec. 35. Minnesota Statutes 2010, section 124D.39, is amended to read:

124D.39 ~~YOUTHWORKS SERVE~~MINNESOTA INNOVATION PROGRAM.

The ~~Youthworks~~ ServeMinnesota Innovation program is established to provide funding for the commission to leverage federal and private funding to fulfill the purposes of section 124D.37. The Youthworks ServeMinnesota Innovation program must supplement existing programs and services. The program must not displace existing programs and services, existing funding of programs or services, or existing employment and employment opportunities. No eligible organization may terminate, layoff, or reduce the hours of work of an employee to place or hire a program participant. No eligible organization may place or hire an individual for a project if an employee is on layoff from the same or a substantially equivalent position.

Sec. 36. Minnesota Statutes 2010, section 124D.40, is amended to read:

124D.40 ~~YOUTHWORKS SERVE~~MINNESOTA INNOVATION GRANTS.

Subdivision 1. **Application.** An eligible organization interested in receiving a grant under sections 124D.39 to 124D.44 may prepare and submit an application to the commission. As part of the grant application process, the commission must establish and publish grant application guidelines that: (1) are consistent with this subdivision, section 124D.37, and Public Law 111-13; (2) include criteria for reviewing an applicant's cost-benefit analysis; and (3) require grantees to use research-based measures of program outcomes to generate valid and reliable data that are available to the commission for evaluation and public reporting purposes.

Subd. 2. **Grant authority.** The commission must use any state appropriation and any available federal funds, including any grant received under federal law, to award grants to establish programs for ~~Youthworks~~ ServeMinnesota Innovation. At least one grant each must be available for a metropolitan proposal, a rural proposal, and a statewide proposal. If a portion of the suburban metropolitan area is not included in the metropolitan grant proposal, the statewide grant proposal must incorporate at least one suburban metropolitan area. In awarding grants, the commission may select at least one residential proposal and one nonresidential proposal.

Sec. 37. Minnesota Statutes 2010, section 124D.42, subdivision 6, is amended to read:

Subd. 6. **Program training.** The commission must, within available resources:

(1) orient each grantee organization in the nature, philosophy, and purpose of the program; and

- (2) build an ethic of community service through general community service training; and
- (3) provide guidance on integrating performance-based measurement into program models.

Sec. 38. Minnesota Statutes 2010, section 124D.42, subdivision 8, is amended to read:

Subd. 8. **Minnesota reading corps program.** (a) A Minnesota reading corps program is established to provide ~~Americorps~~ ServeMinnesota Innovation members with a data-based problem-solving model of literacy instruction to use in helping to train local Head Start program providers, other prekindergarten program providers, and staff in schools with students in kindergarten through grade 3 to evaluate and teach early literacy skills to children age 3 to grade 3.

(b) Literacy programs under this subdivision must comply with the provisions governing literacy program goals and data use under section 119A.50, subdivision 3, paragraph (b).

(c) The commission must submit a biennial report to the legislature that records and evaluates literacy program data to determine the efficacy of the programs under this subdivision.

Sec. 39. Minnesota Statutes 2010, section 124D.44, is amended to read:

124D.44 MATCH REQUIREMENTS.

~~Youthworks~~ ServeMinnesota Innovation grant funds must be used for the living allowance, cost of employer taxes under sections 3111 and 3301 of the Internal Revenue Code of 1986, workers' compensation coverage, health benefits, training, and evaluation for each program participant, and administrative expenses, which must not exceed ~~five~~ seven percent of total program costs. ~~Youthworks grant funds may also be used to supplement applicant resources to fund postservice benefits for program participants.~~ Applicant resources, from sources and in a form determined by the commission, must be used to provide for all other program costs, ~~including the portion of the applicant's obligation for postservice benefits that is not covered by state or federal grant funds and such costs as supplies, materials, transportation, and salaries and benefits of those staff directly involved in the operation, internal monitoring, and evaluation of the program.~~

Sec. 40. Minnesota Statutes 2010, section 124D.45, subdivision 2, is amended to read:

Subd. 2. **Interim report.** The commission must report ~~semiannually~~ annually to the legislature with interim recommendations to change the program.

Sec. 41. Minnesota Statutes 2010, section 124D.52, subdivision 7, is amended to read:

Subd. 7. **Performance tracking system.** (a) By July 1, 2000, each approved adult basic education program must develop and implement a performance tracking system to provide information necessary to comply with federal law and serve as one means of assessing the effectiveness of adult basic education programs. For required reporting, longitudinal studies, and program improvement, the tracking system must be designed to collect data on the following core outcomes for learners who have completed ~~participation~~ participating in the adult basic education program:

- (1) demonstrated improvements in literacy skill levels in reading, writing, speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;
- (2) placement in, retention in, or completion of postsecondary education, training, unsubsidized

employment, or career advancement; ~~and~~

(3) receipt of a secondary school diploma or its recognized equivalent; and

(4) reduction in participation in the diversionary work program, Minnesota family investment program, and food support education and training program.

(b) A district, group of districts, state agency, or private nonprofit organization providing an adult basic education program may meet this requirement by developing a tracking system based on either or both of the following methodologies:

(1) conducting a reliable follow-up survey; or

(2) submitting student information, including Social Security numbers for data matching.

Data related to obtaining employment must be collected in the first quarter following program completion or can be collected while the student is enrolled, if known. Data related to employment retention must be collected in the third quarter following program exit. Data related to any other specified outcome may be collected at any time during a program year.

(c) When a student in a program is requested to provide the student's Social Security number, the student must be notified in a written form easily understandable to the student that:

(1) providing the Social Security number is optional and no adverse action may be taken against the student if the student chooses not to provide the Social Security number;

(2) the request is made under section 124D.52, subdivision 7;

(3) if the student provides the Social Security number, it will be used to assess the effectiveness of the program by tracking the student's subsequent career; and

(4) the Social Security number will be shared with the Department of Education; Minnesota State Colleges and Universities; Office of Higher Education; Department of Human Services; and the Department of Employment and Economic Development in order to accomplish the purposes of ~~this section~~ described in paragraph (a) and will not be used for any other purpose or reported to any other governmental entities.

(d) Annually a district, group of districts, state agency, or private nonprofit organization providing programs under this section must forward the tracking data collected to the Department of Education. For the purposes of longitudinal studies on the employment status of former students under this section, the Department of Education must forward the Social Security numbers to the Department of Employment and Economic Development to electronically match the Social Security numbers of former students with wage detail reports filed under section 268.044. The results of data matches must, for purposes of this section and consistent with the requirements of the United States Code, title 29, section 2871, of the Workforce Investment Act of 1998, be compiled in a longitudinal form by the Department of Employment and Economic Development and released to the Department of Education in the form of summary data that does not identify the individual students. The Department of Education may release this summary data. State funding for adult basic education programs must not be based on the number or percentage of students who decline to provide their Social Security numbers or on whether the program is evaluated by means of a follow-up survey instead of data matching.

EFFECTIVE DATE. This section is effective the day following final enactment and applies through the 2020-2021 school year.

Sec. 42. Minnesota Statutes 2010, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, ~~the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides,~~ and the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety, and the student's parent has certified the student's homeschool and home-classroom driver training status on the form approved by the commissioner;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) For the purposes of determining compliance with the certification in paragraph (a), clause (1), item (ii), the commissioner may request verification of a student's homeschool status from the superintendent of the school district in which the student resides, and the superintendent shall provide that verification.

(c) The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

Sec. 43. Minnesota Statutes 2010, section 171.17, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of:

(1) manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) a violation of section 169A.20 or 609.487;

(3) a felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under section 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the application, ownership, or operation of a motor vehicle, including on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student;

(6) except as this section otherwise provides, three charges of violating within a period of 12 months any of the provisions of chapter 169 or of the rules or municipal ordinances enacted in conformance with chapter 169, for which the accused may be punished upon conviction by imprisonment;

(7) two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);

(8) the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b);

(9) an offense in another state that, if committed in this state, would be grounds for revoking the driver's license; or

(10) a violation of an applicable speed limit by a person driving in excess of 100 miles per hour. The person's license must be revoked for six months for a violation of this clause, or for a longer minimum period of time applicable under section 169A.53, 169A.54, or 171.174.

(b) The department shall immediately revoke the school bus endorsement of a driver upon receiving a record of the driver's conviction of the misdemeanor offense described in section 169.443, subdivision 7.

Sec. 44. Minnesota Statutes 2010, section 171.22, subdivision 1, is amended to read:

Subdivision 1. **Violations.** With regard to any driver's license, including a commercial driver's license, it shall be unlawful for any person:

(1) to display, cause or permit to be displayed, or have in possession, any fictitious or fraudulently altered driver's license or Minnesota identification card;

(2) to lend the person's driver's license or Minnesota identification card to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license or Minnesota identification card not issued to that person;

(4) to use a fictitious name or date of birth to any police officer or in any application for a driver's license or Minnesota identification card, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(5) to alter any driver's license or Minnesota identification card;

(6) to take any part of the driver's license examination for another or to permit another to take the examination for that person;

(7) to make a counterfeit driver's license or Minnesota identification card;

(8) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer; ~~or~~

(9) to display as a valid driver's license any canceled, revoked, or suspended driver's license. A person whose driving privileges have been withdrawn may display a driver's license only for identification purposes; or

(10) to submit a false affidavit or statement to the department on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student.

Sec. 45. Laws 2011, chapter 5, section 1, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective the day following final enactment and applies to individuals who complete a teacher preparation program ~~by the end of~~ beginning no later than the 2013-2014 school year ~~or later~~. The Board of Teaching shall submit to the kindergarten through grade 12 education finance and reform committees of the legislature by April 1, 2012, a progress report on its implementation of teacher performance assessment under paragraph (d).

Sec. 46. IMPLEMENTING A PERFORMANCE-BASED EVALUATION SYSTEM FOR PRINCIPALS.

(a) To implement the requirements of Minnesota Statutes, sections 123B.143, subdivision 1, clause (3), and 123B.147, subdivision 3, paragraph (b), the commissioner of education, the Minnesota Association of Secondary School Principals, and the Minnesota Association of Elementary School Principals must convene a group of recognized and qualified experts and interested stakeholders, including principals, superintendents, teachers, school board members, and parents, among other stakeholders, to develop a performance-based system model for annually evaluating school principals. In developing the system model, the group must at least consider how principals develop and maintain:

(1) high standards for student performance;

(2) rigorous curriculum;

(3) quality instruction;

(4) a culture of learning and professional behavior;

(5) connections to external communities;

(6) systemic performance accountability; and

(7) leadership behaviors that create effective schools and improve school performance, including how to plan for, implement, support, advocate for, communicate about, and monitor continuous and improved learning.

The group also may consider whether to establish a multitiered evaluation system that supports newly licensed principals in becoming highly skilled school leaders and provides opportunities for advanced learning for more experienced school leaders.

(b) The commissioner, the Minnesota Association of Secondary School Principals, and the Minnesota Association of Elementary School Principals must submit a written report and all the group's working papers to the education committees of the legislature by February 1, 2012, discussing the group's responses to paragraph (a) and its recommendations for a performance-based system model for annually evaluating school principals. The group convened under this section expires June 1, 2012.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to principal evaluations beginning in the 2013-2014 school year and later.

Sec. 47. SCHOOL DISTRICTS' JOINT OPERATION AND INNOVATIVE DELIVERY OF EDUCATION; PILOT PROJECT.

Subdivision 1. **Establishment; requirements for participation.** (a) A four-year pilot project is established to allow groups of school districts to pursue benefits of operating jointly to deliver innovative education programs and activities and share resources.

(b) To participate in this pilot project, a group of three or more school districts, after consulting with affected employees, must form a joint partnership to share elements common to all the partners in providing innovative delivery of educational programs and activities and sharing resources. The member districts of a joint partnership selected by the commissioner may elect to admit another district at any time during the pilot project.

(c) A partnership under paragraph (b) interested in participating in this pilot project must apply to the commissioner of education in the form and manner the commissioner prescribes, consistent with subdivision 2. When submitting its application, each participating school district in each partnership also must submit to the commissioner:

(1) a formally adopted school board agreement identifying the specific joint use opportunities the participating district intends to pursue as part of the joint partnership; and

(2) a binding and specific plan for a minimum of two years and a maximum of four years to provide innovative delivery of educational programs and activities and to share resources, consistent with this paragraph.

A participating district's plan under clause (2) must describe its educational objectives and processes for seeking advice and collaboration and managing the project; its budget arrangements that include regular reviews of expenditures; its administrative structures for implementing and evaluating the plan; and any other applicable conditions, regulations, responsibilities, duties, provisions, fee schedules, or legal considerations needed to implement its plan.

(d) The member districts of the joint partnership must comply with Minnesota Statutes, section 124D.10, subdivision 8, and are otherwise exempt from all statutes and rules applicable to a school,

school board, or school district unless a statute or rule is made specifically applicable to a school under Minnesota Statutes, section 124D.10.

(e) Notwithstanding paragraph (d), a school district that participates in the pilot project under this section shall continue to receive revenue and maintain its taxation authority as if it were a school district and not participating in the pilot project.

(f) Notwithstanding paragraph (d), a school district that participates in the pilot project under this section shall continue to be organized and governed by an elected school board with the general powers under Minnesota Statutes, section 123B.02, as if it were a school district and not participating in the pilot project.

Subd. 2. **Role of the commissioner.** The commissioner, using available department resources and staff, may select up to three applicants under subdivision 1, paragraph (b), from throughout the state to participate in this pilot project. The commissioner may consider and select only those applicants that the commissioner determines have fully complied with the requirements in subdivision 1.

Subd. 3. **Pilot project evaluation.** The commissioner must gather and evaluate data on the measurable success of the joint partnerships in delivering innovative education programs and activities and sharing resources. The commissioner must use the data to develop and submit to the education policy and finance committees of the legislature by February 1, 2016, a report evaluating the success of this pilot project and recommend whether or not to continue or expand the pilot project.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to the 2011-2012 through 2014-2015 school year.

Sec. 48. 90-DAY GOOD FAITH EFFORT EXCEPTION.

Notwithstanding Minnesota Statutes, section 128C.07, subdivision 3, or other law to the contrary, the Minnesota State High School League must work with Albany Senior High in Independent School District No. 745, Albany, Melrose Secondary School in Independent School District No. 740, Melrose, and New London-Spicer Senior High in Independent School District No. 345, New London-Spicer, to help each school arrange an interscholastic conference membership after a 90-day good faith attempt by the school to join a conference.

EFFECTIVE DATE. This section is effective the day following final enactment and applies through December 31, 2011.

Sec. 49. ENGLISH LANGUAGE PROFICIENCY STANDARDS.

Subdivision 1. **Standards.** The Department of Education shall adopt, as statewide standards, English language proficiency standards for instruction of students identified as limited English proficient under Minnesota Statutes, sections 124D.58 to 124D.64.

Subd. 2. **Adoption.** Notwithstanding Minnesota Statutes, chapter 14, and sections 14.386, 120B.02, 120B.021, and 120B.023, the commissioner of education shall adopt the most recent English language proficiency standards for English learners developed by World-Class Instructional Design and Assessment in kindergarten through grade 12. These standards shall be adopted as permanent rules when:

- (1) the revisor of statutes approves the form of the rule by certificate;
- (2) the commissioner signs an order adopting the rule; and
- (3) a copy of the rule is published by the department in the State Register.

Sec. 50. **REPEALER.**

Minnesota Statutes 2010, sections 120A.26, subdivisions 1 and 2; and 124D.38, subdivisions 4, 5, and 6, are repealed.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2010, section 125A.02, subdivision 1, is amended to read:

Subdivision 1. **Child with a disability.** "Child with a disability" means a child identified under federal and state special education law as ~~having a hearing impairment, blindness, visual disability, deaf or hard-of-hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical disability impairment, other health impairment disability, mental developmental cognitive disability, emotional/behavioral~~ an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple disabilities impairments, or deafblind disability and who needs special education and related services, as determined by the rules of the commissioner, ~~is a child with a disability.~~ A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

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

Sec. 2. Minnesota Statutes 2010, section 125A.0942, subdivision 3, is amended to read:

Subd. 3. **Physical holding or seclusion.** Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

- (1) the physical holding or seclusion must be the least intrusive intervention that effectively responds to the emergency;
- (2) physical holding or seclusion must end when the threat of harm ends and the staff determines that the child can safely return to the classroom or activity;
- (3) staff must directly observe the child while physical holding or seclusion is being used;
- (4) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion shall document, as soon as possible after the incident concludes, the following information:
 - (i) a description of the incident that led to the physical holding or seclusion;
 - (ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;
 - (iii) the time the physical holding or seclusion began and the time the child was released; and

- (iv) a brief record of the child's behavioral and physical status;
- (5) the room used for seclusion must:
 - (i) be at least six feet by five feet;
 - (ii) be well lit, well ventilated, adequately heated, and clean;
 - (iii) have a window that allows staff to directly observe a child in seclusion;
 - (iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;
 - (v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and
 - (vi) not contain objects that a child may use to injure the child or others; ~~and~~
- (6) before using a room for seclusion, a school must:
 - (i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and
 - (ii) register the room with the commissioner, who may view that room; and
- (7) until August 1, 2012, a school district may use prone restraints under the following conditions:
 - (i) a district has provided to the department a list of staff who have had specific training on the use of prone restraints;
 - (ii) a district provides information on the type of training that was provided and by whom;
 - (iii) prone restraints may only be used by staff who have received specific training;
 - (iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department or on a district's restrictive procedure documentation form; and
 - (v) a district, prior to using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints.

The department will report back to the chairs and ranking minority members of the legislative committees with primary jurisdiction over education policy by February 1, 2012, on the use of prone restraints in the schools.

Sec. 3. Minnesota Statutes 2010, section 125A.15, is amended to read:

125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

The responsibility for special instruction and services for a child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner:

- (a) The district of residence of a child shall be the district in which the child's parent resides, if

living, or the child's guardian, ~~or the district designated by the commissioner if neither parent nor guardian is living within the state.~~ If there is a dispute between school districts regarding residency, the district of residence is the district designated by the commissioner.

(b) If a district other than the resident district places a pupil for care and treatment, the district placing the pupil must notify and give the resident district an opportunity to participate in the placement decision. When an immediate emergency placement of a pupil is necessary and time constraints foreclose a resident district from participating in the emergency placement decision, the district in which the pupil is temporarily placed must notify the resident district of the emergency placement within 15 days. The resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(c) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation to and from the care and treatment program and an appropriate educational program for the child. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district.

(d) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in section 125A.11, except as provided in paragraph (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(e) A privately owned and operated residential facility may enter into a contract to obtain appropriate educational programs for special education children and services with a joint powers entity. The entity with which the private facility contracts for special education services shall be the district responsible for providing students placed in that facility an appropriate educational program in place of the district in which the facility is located. If a privately owned and operated residential facility does not enter into a contract under this paragraph, then paragraph (d) applies.

(f) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation costs must be paid by the district responsible for providing the transportation and the state must pay transportation

aid to that district.

Sec. 4. Minnesota Statutes 2010, section 125A.51, is amended to read:

125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.

The responsibility for providing instruction and transportation for a pupil without a disability who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the commissioner, and who is temporarily placed for care and treatment for that illness or disability, must be determined as provided in this section.

(a) The school district of residence of the pupil is the district in which the pupil's parent or guardian resides. If there is a dispute between school districts regarding residency, the district of residence is the district designated by the commissioner.

(b) When parental rights have been terminated by court order, the legal residence of a child placed in a residential or foster facility for care and treatment is the district in which the child resides.

(c) Before the placement of a pupil for care and treatment, the district of residence must be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, must notify the district of residence of the emergency placement within 15 days of the placement. When a nonresident district makes an emergency placement without first consulting with the resident district, the resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(d) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence must provide instruction and necessary transportation to and from the care and treatment program for the pupil. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state Board of Teaching.

(e) When a pupil without a disability is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed must provide instruction for the pupil and necessary transportation while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district must bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs.

(f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or private homeless shelter, then the district that enrolls the pupil under section 127A.47, subdivision 2, shall provide the transportation, unless the district that enrolls the pupil and the district in which the pupil is temporarily placed agree that the district in which the pupil is temporarily placed shall provide transportation. When a pupil without a disability is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil must send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state Board of Teaching. For purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(g) The district of residence must include the pupil in its residence count of pupil units and pay tuition as provided in section 123A.488 to the district providing the instruction. Transportation costs must be paid by the district providing the transportation and the state must pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision must be included in the disabled transportation category if the pupils cannot be transported on a regular school bus route without special accommodations.

Sec. 5. **REPEALER.**

Minnesota Statutes 2010, section 125A.54, is repealed.

ARTICLE 4

FACILITIES AND TECHNOLOGY

Section 1. Minnesota Statutes 2010, section 123B.57, is amended to read:

123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.

Subdivision 1. **Health and safety program revenue application.** (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner ~~an a capital expenditure health and safety revenue application for aid and levy~~ by the date determined by the commissioner. ~~The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management.~~ The application must include a health and safety ~~program~~ budget adopted and confirmed by the school district board as being consistent with the district's health and safety policy under subdivision 2. ~~The program budget must include the estimated cost, per building, of the program per Uniform Financial Accounting and Reporting Standards (UFARS) finance code, by fiscal year.~~ Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the Department of Education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

(b) Health and safety projects with an estimated cost of \$500,000 or more per site are not eligible for health and safety revenue. Health and safety projects with an estimated cost of \$500,000 or more per site that meet all other requirements for health and safety funding, are eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy

revenue.

(c) The commissioner of education shall not make eligibility for health and safety revenue contingent on a district's compliance status, level of program development, or training. The commissioner shall not mandate additional performance criteria such as training, certifications, or compliance evaluations as a prerequisite for levy approval.

Subd. 2. ~~Contents of program~~ **Health and safety policy.** To qualify for health and safety revenue, a district school board must adopt a health and safety program policy. The program policy must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and provisions for implementing a health and safety program that complies with health, safety, and environmental management, regulations and best practices including indoor air quality management.

~~(a) A hazardous substance plan must contain provisions for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01. If a district has already developed a plan for the removal or encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act of 1986, the district may use a summary of that plan, which includes a description and schedule of response actions, for purposes of this section. The plan must also contain provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances, as regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is determined by the commissioner to present a significant risk to district staff or student health and safety as a result of foreseeable use, handling, accidental spill, exposure, or contamination.~~

~~(b) A fire and life safety plan must contain a description of the current fire and life safety code violations, a plan for the removal or repair of the fire and life safety hazard, and a description of safety preparation and awareness procedures to be followed until the hazard is fully corrected.~~

~~(c) A facilities and equipment violation plan must contain provisions to correct health and safety hazards as provided in Department of Labor and Industry standards pursuant to section 182.655.~~

~~(d) A health, safety, and environmental management plan must contain a description of training, record keeping, hazard assessment, and program management as defined in section 123B.56.~~

~~(e) A plan to test for and mitigate radon produced hazards.~~

~~(f) A plan to monitor and improve indoor air quality.~~

Subd. 3. **Health and safety revenue.** A district's health and safety revenue for a fiscal year equals the district's alternative facilities levy under section 123B.59, subdivision 5, paragraph (b), plus the greater of zero or:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59,

123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

Subd. 4. Health and safety levy. To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to \$2,935.

Subd. 5. Health and safety aid. A district's health and safety aid is the difference between its health and safety revenue and its health and safety levy. If a district does not levy the entire amount permitted, health and safety aid must be reduced in proportion to the actual amount levied. Health and safety aid may not be reduced as a result of reducing a district's health and safety levy according to section 123B.79.

Subd. 6. Uses of health and safety revenue. ~~(a) Health and safety revenue may be used only for approved expenditures necessary to correct for the correction of fire and life safety hazards, or for the; design, purchase, installation, maintenance, and inspection of fire protection and alarm equipment; purchase or construction of appropriate facilities for the storage of combustible and flammable materials; inventories and facility modifications not related to a remodeling project to comply with lab safety requirements under section 121A.31; inspection, testing, repair, removal or encapsulation, and disposal of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, asbestos-containing building materials; cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the; cleanup and disposal of hazardous and infectious wastes; cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, Minnesota; correction of occupational safety and health administration regulated facility and equipment hazards; indoor air quality inspections, investigations, and testing; mold abatement; upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code; design, materials, and installation of local exhaust ventilation systems, including required make-up air for controlling regulated hazardous substances; correction of Department of Health Food Code and violations; correction of swimming pool hazards excluding depth correction; playground safety inspections, the repair of unsafe outdoor playground equipment, and the installation of impact surfacing materials; bleacher repair or rebuilding to comply with the order of a building code inspector under section 326B.112; testing and mitigation of elevated radon hazards; lead testing; copper in water testing; cleanup after major weather-related disasters or flooding; reduction of excessive organic and inorganic levels in wells and capping of abandoned wells; installation and testing of boiler backflow valves to prevent contamination of potable water; vaccinations, titers, and preventative supplies for bloodborne pathogen compliance; costs to comply with the Janet B. Johnson Parents' Right to Know Act; automated external defibrillators and other emergency plan equipment and supplies specific to the district's emergency action plan; and health, safety, and environmental management costs associated with implementing the district's health and safety program including costs to establish and operate safety committees, in school buildings or property owned or being acquired~~

~~by the district. Testing and calibration activities are permitted for existing mechanical ventilation systems at intervals no less than every five years. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education.~~

Subd. 6a. **Restrictions on health and safety revenue.** (b) Notwithstanding paragraph (a) subdivision 6, health and safety revenue must not be used:

(1) to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement;

(2) for the construction of new facilities, remodeling of existing facilities, or the purchase of portable classrooms;

(3) for interest or other financing expenses;

(4) for energy efficiency projects under section 123B.65, for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education;

(5) for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics;

(6) for public announcement systems and emergency communications devices; or

(7) for building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

Subd. 6b. **Health and safety projects.** (a) Health and safety revenue applications defined in subdivision 1 must be accompanied by a description of each project for which funding is being requested. Project descriptions must provide enough detail for an auditor to determine if the work qualifies for revenue. For projects other than fire and life safety projects, playground projects, and health, safety, and environmental management activities, a project description does not need to include itemized details such as material types, room locations, square feet, names, or license numbers. The commissioner may request supporting information and shall approve only projects that comply with subdivisions 6 and 8, as defined by the Department of Education.

(b) Districts may request funding for allowable projects based on self-assessments, safety committee recommendations, insurance inspections, management assistance reports, fire marshal orders, or other mandates. Notwithstanding subdivision 1, paragraph (b), and subdivision 8, paragraph (b), for projects under \$500,000, individual project size for projects authorized by this subdivision is not limited and may include related work in multiple facilities. Health and safety management costs from subdivision 8 may be reported as a single project.

(c) All costs directly related to a project shall be reported in the appropriate Uniform Financial Accounting and Reporting Standards (UFARS) finance code.

(d) For fire and life safety egress and all other projects exceeding \$20,000, cited under Minnesota Fire Code, a fire marshal plan review is required.

(e) Districts shall update project estimates with actual expenditures for each fiscal year. If a project's final cost is significantly higher than originally approved, the commissioner may request additional supporting information.

Subd. 6c. **Appeals process.** In the event a district is denied funding approval for a project the district believes complies with subdivisions 6 and 8, and is not otherwise excluded, a district may appeal the decision. All such requests must be in writing. The commissioner shall respond in writing. A written request must contain the following: project number; description and amount; reason for denial; unresolved questions for consideration; reasons for reconsideration; and a specific statement of what action the district is requesting.

Subd. 7. **Proration.** In the event that the health and safety aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Subd. 8. **Health, safety, and environmental management cost.** (a) "Health, safety, and environmental management" is defined in section 123B.56.

(b) A district's cost for health, safety, and environmental management is limited to the lesser of:

(1) actual cost to implement their plan; or

(2) an amount determined by the commissioner, based on enrollment, building age, and size.

~~(b)~~ (c) The department may contract with regional service organizations, private contractors, Minnesota Safety Council, or state agencies to provide management assistance to school districts for health and safety capital projects. Management assistance is the development of written programs for the identification, recognition and control of hazards, and prioritization and scheduling of district health and safety capital projects. The ~~department~~ commissioner shall not mandate management assistance or exclude private contractors from the opportunity to provide any health and safety services to school districts.

~~(c) Notwithstanding paragraph (b), the department may approve revenue, up to the limit defined in paragraph (a) for districts having an approved health, safety, and environmental management plan that uses district staff to accomplish coordination and provided services.~~

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

Sec. 2. Minnesota Statutes 2010, section 123B.71, subdivision 5, is amended to read:

Subd. 5. **Final plans.** If a construction contract has not been awarded within two years of approval, the approval shall not be valid. After approval, final plans and the approval shall be ~~filed with~~ made available, if requested, to the commissioner of education. If substantial changes are made to the initial approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

Sec. 3. Minnesota Statutes 2010, section 123B.72, subdivision 3, is amended to read:

Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause ~~(11)~~ (12). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

Sec. 4. **HEALTH AND SAFETY POLICY.**

Notwithstanding Minnesota Statutes, section 123B.57, subdivision 2, a school board that has not yet adopted a health and safety policy by September 30, 2011, may submit an application for health and safety revenue for taxes payable in 2012 in the form and manner specified by the commissioner of education.

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

ARTICLE 5

ACCOUNTING

Section 1. Minnesota Statutes 2010, section 127A.42, subdivision 2, is amended to read:

Subd. 2. **Violations of law.** The commissioner may reduce or withhold the district's state aid for any school year whenever the board of the district authorizes or permits violations of law within the district by:

- (1) employing a teacher who does not hold a valid teaching license or permit in a public school;
- (2) noncompliance with a mandatory rule of general application promulgated by the commissioner in accordance with statute, unless special circumstances make enforcement inequitable, impose an extraordinary hardship on the district, or the rule is contrary to the district's best interests;
- (3) the district's continued performance of a contract made for the rental of rooms or buildings for school purposes or for the rental of any facility owned or operated by or under the direction of any private organization, if the contract has been disapproved, the time for review of the determination of disapproval has expired, and no proceeding for review is pending;
- (4) any practice which is a violation of sections 1 and 2 of article 13 of the Constitution of the state of Minnesota;
- (5) failure to reasonably provide for a resident pupil's school attendance under Minnesota Statutes;
- (6) noncompliance with state laws prohibiting discrimination because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, as defined in sections 363A.08 to 363A.19 and 363A.28, subdivision 10; or

(7) using funds contrary to the statutory purpose of the funds.

The reduction or withholding must be made in the amount and upon the procedure provided in this section, or, in the case of the violation stated in clause (1), upon the procedure provided in section 127A.43.

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

Sec. 2. Minnesota Statutes 2010, section 127A.43, is amended to read:

127A.43 DISTRICT EMPLOYMENT OF UNLICENSED TEACHERS; AID REDUCTION.

When a district employs one or more teachers who do not hold a valid teaching license, state aid shall be ~~withheld~~ reduced in the proportion that the number of such teachers is to the total number of teachers employed by the district, multiplied by 60 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the year in which the employment occurred.

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

Sec. 3. Minnesota Statutes 2010, section 127A.45, is amended by adding a subdivision to read:

Subd. 17. **Payment to creditors.** Except where otherwise specifically authorized, state education aid payments shall be made only to the school district, charter school, or other education organization earning state aid revenues as a result of providing education services.

ARTICLE 6

STUDENT TRANSPORTATION

Section 1. Minnesota Statutes 2010, section 123B.88, is amended by adding a subdivision to read:

Subd. 1a. **Full-service school zones.** The board may establish a full-service school zone by adopting a written resolution and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency. The pupil transportation must be intended to stabilize enrollment and reduce mobility at the school located in a full-service school zone.

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

Sec. 2. Minnesota Statutes 2010, section 123B.88, subdivision 13, is amended to read:

Subd. 13. **Area learning center pupils between buildings.** Districts may provide between-building bus transportation along school bus routes when space is available, for pupils attending programs at an area learning center. The transportation is ~~only~~ permitted between schools ~~and~~ if it does not increase the district's expenditures for transportation. The cost of these services shall be considered part of the authorized cost ~~for nonregular transportation~~ for the purpose of section 123B.92.

Sec. 3. Minnesota Statutes 2010, section 123B.90, subdivision 3, is amended to read:

Subd. 3. **Model training program.** The commissioner shall develop and maintain a comprehensive model list of school bus safety training program instructional materials for pupils who ride the bus that includes bus safety curriculum for both classroom and practical instruction and age-appropriate instructional materials.

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

Sec. 4. Minnesota Statutes 2010, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type III vehicles, as defined in section 169.011, subdivision 71, which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a

district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person or other location chosen by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence, or program is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by

sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; ~~and~~

(vii) transportation of pupils for a curricular field trip activity on a school bus equipped with a power lift when the power lift is required by a student's disability or section 504 plan; and

(viii) services described in clauses (i) to ~~(vi)~~ (vii), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education initial aid under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2012 and later.

Sec. 5. Minnesota Statutes 2010, section 123B.92, subdivision 5, is amended to read:

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff,

teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, must be allocated among transportation categories based on cost-per-mile, or cost-per-student, cost-per-hour, or cost-per-route, regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile, or cost-per-student, cost-per-hour, or cost-per-route. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

(e) Notwithstanding paragraph (d), districts contracting for transportation services are exempt from the standard cost allocation method for authorized and nonauthorized transportation categories if the district: (1) bids its contracts separately for authorized and nonauthorized transportation categories and for special transportation separate from regular and excess transportation; (2) receives bids or quotes from more than one vendor for these transportation categories; and (3) the district's cost-per-mile does not vary more than ten percent among categories, excluding salaries and fringe benefits of bus aides. If the costs reported by the district for contractor-owned operations vary by more than ten percent among categories, the department shall require the district to reallocate its transportation costs, excluding salaries and fringe benefits of bus aides, among all categories.

ARTICLE 7

EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2010, section 119A.50, subdivision 3, is amended to read:

Subd. 3. **Early childhood literacy programs.** (a) A research-based early childhood literacy program premised on actively involved parents, ongoing professional staff development, and high quality early literacy program standards is established to increase the literacy skills of children participating in Head Start to prepare them to be successful readers and to increase families' participation in providing early literacy experiences to their children. Program providers must:

- (1) work to prepare children to be successful learners;
- (2) work to close the achievement gap for at-risk children;

(3) use an integrated approach to early literacy that daily offers a literacy-rich classroom learning environment composed of books, writing materials, writing centers, labels, rhyming, and other related literacy materials and opportunities;

(4) support children's home language while helping the children master English and use multiple literacy strategies to provide a cultural bridge between home and school;

(5) use literacy mentors, ongoing literacy groups, and other teachers and staff to provide appropriate, extensive professional development opportunities in early literacy and classroom strategies for preschool teachers and other preschool staff;

(6) use ongoing data-based assessments that enable preschool teachers to understand, plan, and implement literacy strategies, activities, and curriculum that meet children's literacy needs and continuously improve children's literacy; and

(7) foster participation by parents, community stakeholders, literacy advisors, and evaluation specialists.

Program providers are encouraged to collaborate with qualified, community-based early childhood providers in implementing this program and to seek nonstate funds to supplement the program.

(b) Program providers under paragraph (a) interested in extending literacy programs to children in kindergarten through grade 3 may elect to form a partnership with an eligible organization under section 124D.38, subdivision 2, or 124D.42, subdivision 6, clause (3), schools enrolling children in kindergarten through grade 3, and other interested and qualified community-based entities to provide ongoing literacy programs that offer seamless literacy instruction focused on closing the literacy achievement gap. To close the literacy achievement gap by the end of third grade, partnership members must agree to use best efforts and practices and to work collaboratively to implement a seamless literacy model from age three to grade 3, consistent with paragraph (a). Literacy programs under this paragraph must collect and use literacy data to:

(1) evaluate children's literacy skills; and

(2) formulate specific intervention strategies to provide reading instruction to children premised on the outcomes of formative and summative assessments and research-based indicators of literacy development.

The literacy programs under this paragraph also must train teachers and other providers working with children to use the assessment outcomes under clause (2) to develop and use effective, long-term literacy coaching models that are specific to the program providers.

~~(c) The commissioner must collect and evaluate literacy data on children from age three to grade 3 who participate in literacy programs under this section to determine the efficacy of early literacy programs on children's success in developing the literacy skills that they need for long-term academic success and the programs' success in closing the literacy achievement gap. Annually by February 1, the commissioner must report to the education policy and finance committees of the legislature on the ongoing impact of these programs.~~

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

Sec. 2. Minnesota Statutes 2010, section 121A.17, subdivision 3, is amended to read:

Subd. 3. **Screening program.** (a) A screening program must include at least the following components: developmental assessments, hearing and vision screening or referral, immunization review and referral, the child's height and weight, identification of risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified. The district and the person performing or supervising the screening must provide a parent or guardian with clear written notice that the parent or guardian may decline to answer questions or provide information about family circumstances that might affect development and identification of risk factors that may influence learning. The notice must state "Early childhood developmental screening helps a school district identify children who may benefit from district and community resources available to help in their development. Early childhood developmental screening includes a vision screening that helps detect potential eye problems but is not a substitute for a comprehensive eye exam." The notice must clearly state that declining to answer questions or provide information does not prevent the child from being enrolled in kindergarten or first grade if all other screening components are met. If a parent or guardian is not able to read and comprehend the written notice, the district and the person performing or supervising the screening must convey the information in another manner. The notice must also inform the parent or guardian that a child need not submit to the district screening program if the child's health records indicate to the school that the child has received comparable developmental screening performed within the preceding 365 days by a public or private health care organization or individual health care provider. The notice must be given to a parent or guardian at the time the district initially provides information to the parent or guardian about screening and must be given again at the screening location.

(b) All screening components shall be consistent with the standards of the state commissioner of health for early developmental screening programs. A developmental screening program must not provide laboratory tests or a physical examination to any child. The district must request from the public or private health care organization or the individual health care provider the results of any laboratory test or physical examination within the 12 months preceding a child's scheduled screening.

(c) If a child is without health coverage, the school district must refer the child to an appropriate health care provider.

(d) A board may offer additional components such as nutritional, physical and dental assessments, review of family circumstances that might affect development, blood pressure, laboratory tests, and health history.

(e) If a statement signed by the child's parent or guardian is submitted to the administrator or other person having general control and supervision of the school that the child has not been screened because of conscientiously held beliefs of the parent or guardian, the screening is not required."

Delete the title and insert:

"A bill for an act relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, student transportation, and early childhood education; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 13.32, subdivision 6; 119A.50, subdivision 3; 120A.22, subdivision 11; 120A.24; 120A.40; 120B.023, subdivision 2; 120B.11; 120B.12; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 121A.15, subdivision

8; 121A.17, subdivision 3; 122A.14, subdivision 3; 122A.16, as amended; 122A.40, subdivisions 5, 11, by adding a subdivision; 122A.41, subdivisions 1, 2, 5a, 10, 14; 123B.143, subdivision 1; 123B.147, subdivision 3; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.88, subdivision 13, by adding a subdivision; 123B.90, subdivision 3; 123B.92, subdivisions 1, 5; 124D.091, subdivision 2; 124D.10; 124D.11, subdivision 9; 124D.19, subdivision 3; 124D.36; 124D.37; 124D.38, subdivision 3; 124D.385, subdivision 3; 124D.39; 124D.40; 124D.42, subdivisions 6, 8; 124D.44; 124D.45, subdivision 2; 124D.52, subdivision 7; 125A.02, subdivision 1; 125A.0942, subdivision 3; 125A.15; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 127A.30, subdivision 1; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; Laws 2011, chapter 5, section 1; repealing Minnesota Statutes 2010, sections 120A.26, subdivisions 1, 2; 124D.38, subdivisions 4, 5, 6; 125A.54; 126C.457."

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

House Conferees: Sondra Erickson, Connie Doepke, Keith Downey, Pam Myhra

Senate Conferees: Gen Olson, Carla J. Nelson, Al D. DeKruif, Terri E. Bonoff, Theodore J. "Ted" Daley

Senator Olson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1381 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. 1381 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 38 and nays 27, as follows:

Those who voted in the affirmative were:

Benson	Fischbach	Ingebrigtsen	Miller	Robling
Bonoff	Gazelka	Jungbauer	Nelson	Rosen
Brown	Gerlach	Koch	Newman	Senjem
Carlson	Gimse	Kruse	Nienow	Thompson
Chamberlain	Hall	Lillie	Olson	Vanderveer
Dahms	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	

Those who voted in the negative were:

Bakk	Higgins	Marty	Rest	Tomassoni
Berglin	Kelash	McGuire	Saxhaug	Torres Ray
Cohen	Kubly	Metzen	Sheran	Wiger
Dibble	Langseth	Pappas	Skoe	
Goodwin	Latz	Pogemiller	Sparks	
Harrington	Lourey	Reinert	Stumpf	

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

RECESS

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Rosen and Pogemiller introduced—

S.F. No. 1474: A bill for an act relating to state government; authorizing retirement incentives for certain state employees.

Referred to the Committee on State Government Innovation and Veterans.

Senator Stumpf introduced—

S.F. No. 1475: A bill for an act relating to retirement; general employees retirement plan of the Public Employees Retirement Association; authorizing the purchase of prior service credit for uncredited public employment by Crookston Township.

Referred to the Committee on State Government Innovation and Veterans.

Senators Thompson, Chamberlain and Carlson introduced—

S.F. No. 1476: A bill for an act relating to health; prohibiting health care providers from inquiring about firearms; amending Minnesota Statutes 2010, section 144.651, by adding a subdivision.

Referred to the Committee on Health and Human Services.

Senators Bakk and Dibble introduced—

S.F. No. 1477: A bill for an act relating to state government; proposing a constitutional amendment to change the method for amending the Minnesota Constitution.

Referred to the Committee on State Government Innovation and Veterans.

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

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 753, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 753 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 23, 2011

CONFERENCE COMMITTEE REPORT ON H. F. NO. 753

A bill for an act relating to local government; providing for concurrent detachment and annexation; amending Minnesota Statutes 2010, section 414.061, subdivisions 1, 2, 5.

May 23, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 753 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

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

House Conferees: Larry Howes, Joe McDonald, Tom Anzelc

Senate Conferees: Sean Nienow, Gretchen Hoffman, Tony Lourey

Senator Nienow moved that the foregoing recommendations and Conference Committee Report on H.F. No. 753 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. 753 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kruse	Newman	Senjem
Benson	Gerlach	Langseth	Nienow	Sheran
Berglin	Gimse	Latz	Olson	Sieben
Bonoff	Hall	Lillie	Ortman	Skoe
Brown	Hann	Limmer	Pappas	Sparks
Carlson	Harrington	Lourey	Parry	Stumpf
Chamberlain	Higgins	Magnus	Pederson	Thompson
Cohen	Hoffman	Marty	Pogemiller	Tomassoni
Dahms	Howe	McGuire	Reinert	Torres Ray
Daley	Ingebrigtsen	Metzen	Rest	Vandever
DeKruif	Jungbauer	Michel	Robling	Wiger
Dibble	Kelash	Miller	Rosen	Wolf
Fischbach	Koch	Nelson	Saxhaug	

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

MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1023, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1023 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 23, 2011

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1023

A bill for an act relating to judiciary; modifying certain provisions relating to courts, the sharing and release of certain data, juvenile delinquency proceedings, child support calculations, protective orders, wills and trusts, property interests, protected persons and wards, receiverships, assignments for the benefit of creditors, notice regarding civil rights, and seat belts; amending Minnesota Statutes 2010, sections 13.82, by adding a subdivision; 13.84, subdivision 6; 169.686, subdivision 1; 169.79, subdivision 6; 169.797, subdivision 4; 203B.06, subdivision 3; 260B.163, subdivision 1; 260C.331, subdivision 3; 279.37, subdivision 8; 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 357.021, subdivision 6; 359.061, subdivisions

1, 2; 462A.05, subdivision 32; 469.012, subdivision 2i; 514.69; 514.70; 518.552, by adding a subdivision; 518A.29; 518B.01, subdivision 8; 524.2-712; 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116; 524.5-502; 525.091, subdivisions 1, 3; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 5B; 201; 243; 576; 577; 630; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

May 23, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 1023 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H. F. No. 1023 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
JUDICIARY

Section 1. [5B.11] LEGAL PROCEEDINGS; PROTECTIVE ORDER.

If a program participant is involved in a legal proceeding as a party or witness, the court or other tribunal may issue a protective order to prevent disclosure of information that could reasonably lead to the discovery of the program participant's location.

Sec. 2. Minnesota Statutes 2010, section 279.37, subdivision 8, is amended to read:

Subd. 8. **Fees.** The party or parties making such confession of judgment shall pay the county auditor a fee as set by the county board to defray the costs of processing the confession of judgment and making the annual billings required. Fees as set by the county board shall be ~~paid to the court administrator of the court for entry of judgment and for the entry of each full or partial release thereof. The fees paid to the court administrator under this section are~~ in lieu of the fees provided for in section 357.021. Fees collected under this section and shall be processed by the county and credited to the general revenue fund of the county.

Sec. 3. Minnesota Statutes 2010, section 359.061, subdivision 1, is amended to read:

Subdivision 1. **Resident notaries.** The commission of every notary commissioned under section 359.01, together with: (1) a signature that matches the first, middle, and last name as listed on the notary's commission and shown on the notarial stamp, and (2) a sample signature in the style in which the notary will actually execute notarial acts, shall be recorded in the office of the ~~court administrator of the district court~~ local registrar of the notary's county of residence or in the county

department to which duties relating to notaries public have been assigned under section 485.27, in a record kept for that purpose.

Sec. 4. Minnesota Statutes 2010, section 359.061, subdivision 2, is amended to read:

Subd. 2. **Nonresident notaries.** The commission of a nonresident notary must be recorded in the Minnesota county the notary designates pursuant to section 359.01, subdivision 2, clause (3), ~~in the office of the court administrator of the district court of that county or~~ in the county department to which duties relating to notaries public have been assigned under section 485.27.

Sec. 5. Minnesota Statutes 2010, section 484.68, subdivision 3, is amended to read:

Subd. 3. **Duties.** The district administrator shall:

(1) assist the chief judge in the performance of administrative duties;

(2) manage the administrative affairs of the courts of the judicial district;

(3) supervise the court administrators and other support personnel, ~~except court reporters,~~ who serve in the courts of the judicial district and court reporters as agreed upon with the collective bargaining representative. Court reporters who serve in the courts of the judicial district and are appointed by individual judges shall remain under the supervision of the judge who appointed them and serve at their pleasure;

(4) comply with the requests of the state court administrator for statistical or other information relating to the courts of the judicial district;

(5) with the approval of the chief judge, determine the needs of the judges of the district for office equipment necessary for the effective administration of justice and develop a plan to make the equipment available to the judges of the district; the plan must be submitted to the state court administrator for approval and determination of eligibility for state funding under section 480.15, subdivision 12; and

(6) perform any additional duties that are assigned by law or by the rules of court.

Sec. 6. Minnesota Statutes 2010, section 514.69, is amended to read:

514.69 FILE WITH COURT ADMINISTRATOR OF THE DISTRICT COURT COUNTY.

Subdivision 1. **Perfection of hospital's lien.** In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the ~~court administrator of the district court~~ county office assigned this duty by the county board pursuant to section 485.27 of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by certified mail, to each person, firm, or corporation so claimed to be liable for such damages to the address

so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

Subd. 2. **Perfection of public assistance lien.** In the case of public assistance liens filed under section 256.015 or 256B.042, the state agency may perfect its lien by filing its verified statement in the office of the ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 in the county of financial responsibility for the public assistance paid. The ~~court administrator~~ county office shall record the lien in the same manner as provided in section 514.70.

Sec. 7. Minnesota Statutes 2010, section 514.70, is amended to read:

514.70 COURT ADMINISTRATOR COUNTY TO PROVIDE RECORD.

The ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which the ~~court administrator~~ county office shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. The ~~court administrator~~ county office shall be paid \$5 as a fee for such filing and \$5 as a fee for filing each lien satisfaction.

Sec. 8. Minnesota Statutes 2010, section 518B.01, subdivision 8, is amended to read:

Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by certified mail. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or

information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Sec. 9. Minnesota Statutes 2010, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** (a) The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office. After the file in the proceeding has been closed, only the following enumerated documents need to be retained:

~~Enumerated original documents:~~

~~(a) (1)~~ in estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents. When an estate is deemed closed as provided in ~~clause (d) paragraph (b)~~, the enumerated documents shall include all claims of creditors;

~~(b) (2)~~ in guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents; and

~~(c) (3)~~ in mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

~~(d) (b)~~ Except for the enumerated documents described in this subdivision, the court administrator may destroy all other ~~original~~ documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Sec. 10. Minnesota Statutes 2010, section 525.091, subdivision 3, is amended to read:

Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic, microfilmed,

digitally imaged, electronic, or similarly reproduced record is of the same force and effect as the original and may be used as the original document or book of record in all proceedings.

ARTICLE 2

MINNESOTA COMMON INTEREST OWNERSHIP ACT

Section 1. Minnesota Statutes 2010, section 515B.1-102, is amended to read:

515B.1-102 APPLICABILITY.

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Requirements); 515B.1-107 (Eminent Domain); 515B.1-108 (This Chapter Prevails; Supplemental Law); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-110 (Vacation of Abutting Publicly Dedicated Property); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(c) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision, Combination, or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board of Directors, Officers, and Declarant Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance of, or Creation of Security Interests in, Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Replacement Reserves); 515B.3-115 (c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994. All other

sections referenced in this section apply only with respect to events and circumstances occurring after July 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of condominiums created before August 1, 1999. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums created before August 1, 1999, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994, or to planned communities that were created on or after June 1, 1994, and before August 1, 2006, and that consist of more than two but fewer than 13 units; except by election pursuant to subsection (d), and except that sections 515B.1-116, subsections (a), (c), (d), and (e), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created, unless they are exempt under subsection (e).

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall be adopted in conformity with the procedures and requirements specified by those instruments and by this chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, or any planned community that was created on or after June 1, 1994, and prior to August 1, 2006, and that consists of more than two but fewer than 13 units, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and a new or amended CIC plat where required, and by approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat or registered land survey recorded pursuant to chapter 505, 508, or 508A, or the part of the plat or registered land survey upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall comply with section 515B.2-118(a)(3) and (c); except that the unanimous consent of the unit owners shall not be required for (i) a clarification of the unit boundary description if the clarified boundary description is substantially consistent with the preexisting CIC plat, or (ii) changes from common elements to limited common elements that occur by operation of section 515B.2-109(c) and (d).

(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master

association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) a planned community which consists of two units, which utilizes a CIC plat complying with section 515B.2-110(d)(1) and (2), which is not subject to any rights to subdivide or convert units or to add additional real estate, and which is not subject to a master association;

(2) a common interest community that consists solely of platted lots or other separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, with or without common property, where no association or master association has an obligation to maintain any building containing a dwelling or any agricultural building located or to be located on such platted lots or parcels; except that section 515B.4-101(e) shall apply to the sale of such platted lots or parcels of real estate if the common interest community is or will be subject to a master declaration;

(3) a cooperative where, at the time of creation of the cooperative, the unit owners' interests in the dwellings as described in the declaration consist solely of proprietary leases having an unexpired term of fewer than 20 years, including renewal options;

(4) planned communities utilizing a CIC plat complying with section 515B.2-110(d)(1) and (2) and cooperatives, which are limited by the declaration to nonresidential uses alone or in combination with residential rental uses in which individual dwellings do not constitute units or other separate parcels of real estate; or

(5) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.

(f) Section 515B.4-101(e) applies to any platted lot or other parcel of real estate that is subject to a master declaration and is not subject to or is exempt from this chapter.

(g) Section 515B.1-106 shall apply to all common interest communities.

(h) ~~The amendments in Laws 2010, chapter 267, to the following Sections apply only to common interest communities created on or after August 1, 2010: section 515B.1-103(33) and sections 515B.1-103(33a), 515B.2-110, 515B.3-105, 515B.3-115, 515B.3-116, 515B.4-102, and 515B.4-115- apply only to common interest communities created before August 1, 2010. Sections 515B.1-103(33b), 515B.2-1101, 515B.3-1051, 515B.3-1151, 515B.4-1021, and 515B.4-1151 apply only to common interest communities created on or after August 1, 2010.~~

(i) ~~Section 515B.3-114, as amended by Laws 2010, chapter 267, applies to common interest communities only for the association's fiscal years commencing on or after before January 1, 2012. Section 515B.3-1141 applies to common interest communities only for the association's fiscal years commencing on or after January 1, 2012.~~

(j) Section 515B.3-104, ~~as amended by Laws 2010, chapter 267, is effective August 1, 2010, and applies to transfers of special declarant rights that are effective on or after that date~~ applies only to transfers of special declarant rights that are effective before August 1, 2010. Section 515B.3-1041, subsections (a) through (i), apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Section 515B.3-1041, subsections (j) and (k), apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

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

Sec. 2. Minnesota Statutes 2010, section 515B.1-103, is amended to read:

515B.1-103 DEFINITIONS.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" or "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on, one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate which satisfies the definition of a common interest community is a common interest community whether or not it is subject to this chapter. Real estate subject to a master declaration, regardless of when the master declaration was recorded, shall not collectively constitute a separate common interest community unless so stated in the master declaration.

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied for residential use wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled to a proprietary lease by virtue of the member's ownership interest in the association.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or a supplemental declaration or amendment to a declaration adding additional real estate, except secured parties, a spouse holding only an inchoate interest, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; or

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred.

(16) "Declaration" means any instrument, however denominated, that creates a common interest

community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-109(c) or (d) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity created on or after June 1, 1994, that directly or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners' associations described in section 515B.2-121(b)(iv). A person (i) hired by an association to perform maintenance, repair, accounting, bookkeeping or management services, or (ii) granted authority under an instrument recorded primarily for the purpose of creating rights or obligations with respect to utilities, access, drainage, or recreational amenities, is not, solely by reason of that relationship, a master association.

(22) "Master declaration" means a written instrument, however named, (i) recorded on or after June 1, 1994, and (ii) complying with section 515B.2-121, subsection (e).

(23) "Master developer" means a person who is designated in the master declaration as a master developer or, in the absence of such a designation, the owner or owners of the real estate subject to the master declaration at the time the master declaration is recorded, except (i) secured parties and (ii) a spouse holding only an inchoate interest. A master developer is not a declarant unless the master declaration states that the real estate subject to the master declaration collectively is or collectively will be a separate common interest community.

(24) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

(25) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(26) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(27) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(28) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years,

including renewal options, or (ii) a security interest.

(29) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

(30) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient use such as hotels or motels.

(31) "Secured party" means the person owning a security interest as defined in paragraph (32).

(32) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, in a cooperative, a lender's interest in a member's ownership interest in the association, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

(33a) This definition of special declarant rights applies only to common interest communities created before August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to:

(i) complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the CIC is located;

(ii) add additional real estate to a common interest community;

(iii) subdivide or combine units, or convert units into common elements, limited common elements, or units;

(iv) maintain sales offices, management offices, signs advertising the common interest community, and models;

(v) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate;

(vi) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners;

(vii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or

(viii) appoint or remove any officer or director of the association, or the master association where applicable, during any period of declarant control.

~~(33)~~ (33b) This definition of special declarant rights applies only to common interest communities created on or after August 1, 2010. "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant and expressly identified in the declaration as special

declarant rights. Such special declarant rights may include but are not limited to the following:

(i) to complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the common interest community is located, and to have and use easements for itself and its employees, agents, and contractors through the common elements for such purposes;

(ii) to add additional real estate to a common interest community;

(iii) to subdivide or combine units, or convert units into common elements, limited common elements and/or units, pursuant to section 515B.2-112;

(iv) to maintain and use sales offices, management offices, signs advertising the common interest community, and models, and to have and use easements for itself and its employees, agents, and invitees through the common elements for such purposes;

(v) to appoint or remove any officer or director of the association during any period of declarant control;

(vi) to utilize an alternate common expense plan as provided in section 515B.3-115(a)(2);

(vii) to grant common element licenses as provided in section 515B.2-109(e); or

(viii) to review, and approve or disapprove, the exterior design, materials, size, site location, and other exterior features of buildings and other structures, landscaping and other exterior improvements, located within the common interest community, and any modifications or alterations thereto.

Special declarant rights shall not be reserved or utilized for the purpose of evading any limitation or obligation imposed on declarants by this chapter.

(34) "Time share" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with a fee title interest in the common interest community or a specified portion thereof.

(35) "Unit" means a portion of a common interest community the boundaries of which are described in the common interest community's declaration and which is intended for separate ownership, or separate occupancy pursuant to a proprietary lease.

(36) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

(37) "Unit owner" means a declarant or other person who owns a unit, a lessee under a proprietary lease, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

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

Sec. 3. Minnesota Statutes 2010, section 515B.1-116, is amended to read:

515B.1-116 RECORDING.

(a) A declaration, bylaws, a supplemental declaration, any amendment to a declaration, supplemental declaration, or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit or other tract affected. The county recorder shall not enter the declaration in the tract index for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111. The registrar of titles shall file the declaration in accordance with section 508.351 or 508A.351. The registrar of titles shall not file the declaration upon certificates of title for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Except as provided in section 515B.2-109, 515B.2-112, 515B.2-114, or 515B.2-124, if a recorded document relating to a common interest community or a master association purports to require a certain vote or signatures approving any restatement or amendment of the document by a certain number or percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded, an affidavit of the president or secretary of the association stating that the required vote or signatures have been obtained shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration or amended declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat; provided, that if the declaration, amendment, or restatement changes the boundaries of an existing tax parcel, then the recording officer shall require a certification as to the payment of current and delinquent taxes on any tax parcel the boundaries of which are changed. ~~In order for an instrument to be accepted and recorded under the preceding sentence, the instrument must not create or change unit or common area boundaries.~~

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

Sec. 4. Minnesota Statutes 2010, section 515B.2-109, is amended to read:

515B.2-109 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

(a) Except as limited by the declaration or this chapter, common elements other than limited common elements may be used in common by all unit owners. Limited common elements are designated for the exclusive use of the unit owners of the unit or units to which the limited common elements are allocated, subject to subsection (b) and the rights of the association as set forth in the declaration, the bylaws or this chapter.

(b) Except for the limited common elements described in subsections (c) and (d), the declaration shall specify to which unit or units each limited common element is allocated.

(c) Unless otherwise provided in the declaration, if any chute, flue, duct, wire, pipe, conduit, bearing wall, bearing column, or other fixture or improvement: (i) serves one or more but fewer than all units and is located wholly or partially outside the unit boundaries, it is a limited common element allocated solely to the unit or units served; (ii) serves all units or any portion of the common elements, it is a part of the common elements; or (iii) serves only the unit and is located wholly within the unit boundaries, it is a part of the unit.

(d) Unless otherwise provided in the declaration, improvements such as shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, perimeter doors and windows, and their frames, constructed as part of the original construction to serve a single unit or units, and authorized replacements and modifications thereof, if located wholly or partially outside the unit boundaries, are limited common elements allocated solely to the unit or units served.

(e) If the declaration so provides, and subject to any different licensing provisions in a declaration recorded before August 1, 2010, the declarant may grant to a unit owner an exclusive license for the use of a common element originally designed and constructed to serve as a garage stall, storage locker, or other similar common element space, in which case the common element license shall be deemed to be appurtenant to the unit owner's unit, subject to transfer if so provided by the declaration. The declarant shall, at the time the license is granted, provide to the ~~association~~ unit owner a common element license evidenced by a separate instrument signed by the declarant, ~~that and provide a copy of the instrument to the association.~~ The instrument shall, at a minimum, ~~identifies~~ identify the licensed common element, the unit identifier of the unit to which it is appurtenant, and ~~a reference to~~ the section of the declaration governing common element licenses. If the declaration so provides, the declarant may require the onetime payment to the declarant of a consideration for the grant of a license.

(1) A common element license may be held only by a unit owner, and the purported transfer of a license to a person other than a unit owner shall be void. Except as provided in the declaration or this subsection, no interest in the common element license may be held or transferred separate from the unit, ~~and the purported transfer of any interest in the license other than to another unit owner shall be void.~~

(2) The right of any declarant to grant a common element license shall terminate at the earlier of (i) the conveyance of all units to persons other than a declarant or (ii) ten years after the recording of the declaration.

(3) The document granting the common element license shall not be recorded. The association shall maintain records of all common element licenses including originals or copies of the common element licenses and transfers of common element licenses authorized by the declaration.

(4) A common element license granted pursuant to this subsection shall not be subject to the approval requirements set forth in section 515B.3-102(a)(9).

(f) An allocation of limited common elements may be changed by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made and the association. The amendment shall be approved by the board of directors of the association as to form, and compliance with the declaration and this chapter. The association shall establish fair and reasonable procedures and time frames for the submission and processing of the reallocations, and shall maintain records thereof. If approved, the association shall cause the amendment to be recorded promptly. The amendment shall be effective when recorded. The association may require the unit owners requesting the reallocation to pay all fees and costs for reviewing, preparing and recording the amendment and any amended CIC plat.

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

Sec. 5. Minnesota Statutes 2010, section 515B.2-110, is amended to read:

515B.2-110 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).

~~(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.~~

~~(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).~~

~~(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.~~

~~(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units, shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier and location within the cooperative property.~~

~~(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor~~

or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d)(1), or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing roadways and material structural improvements that are part of the common elements;

(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios, shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate."

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section

515B.1-106-

~~(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.~~

~~(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.~~

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat that does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying each building, and showing the perimeter walls of each unit created or changed by the declaration or any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsection (c), clauses (8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions, and legally sufficient description of the land included therein;

(2) the dimensions and location of all existing material structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate"; and

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate shall also show the location and dimensions of the remaining portion.

(f) If, pursuant to section 515B.2-112, a declarant subdivides or converts any unit into two or more units, common elements, or limited common elements, or combines two or more units, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements, or limited common elements thus created.

(g) A CIC plat that complies with subsection (c) is not subject to chapter 505.

(h) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 6. [515B.2-1101] COMMON INTEREST COMMUNITY PLAT (CIC PLAT).

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d), clause (1), or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat that does not comply with subsection (c) shall consist of all or part of a subdivision plat or registered land survey complying with subsection (d), or any combination thereof. The CIC subdivision plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration, or any amendment or supplemental declaration creating, converting, or subdividing units shall include an exhibit containing a dimensioned, scale drawing showing (i) the boundaries of the land constituting the cooperative property, (ii) the location and dimensions of the front, rear, and side boundaries of each unit, and (iii) the unit's unit identifier and its location within the cooperative property.

(b) The CIC plat or supplemental or amended CIC plat for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate shall contain certifications by a licensed professional land surveyor and licensed professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsection (c), clauses (8), (9), and (10), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared by a land surveyor. Certification by the land surveyor or architect

does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, a planned community not utilizing a subdivision plat or registered land survey under subsection (d), clause (1), or a cooperative in which the unit owners' interests are characterized as real estate shall show:

(1) the number of the common interest community, and the boundaries, dimensions, and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing roadways and material structural improvements that are part of the common elements;

(3) the intended location and dimensions of all roadways and material structural improvements that may be constructed by the declarant within the common elements after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the common interest community burdening any portion of the land;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-109, subsections (c) and (d), only such material limited common elements as porches, balconies, decks, and patios shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier; and

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate."

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the applicable subdivision requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the

remaining portion.

(f) A CIC plat which complies with subsection (c) is not subject to chapter 505.

(g) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 7. Minnesota Statutes 2010, section 515B.2-121, is amended to read:

515B.2-121 MASTER ASSOCIATIONS.

(a) A master association formed after June 1, 1994, shall be organized as a Minnesota profit, nonprofit or cooperative corporation. A master association shall be incorporated prior to the delegation to it of any powers under this chapter.

(b) The members of the master association shall be any combination of (i) unit owners, (ii) associations, (iii) master associations, or (iv) owners of real estate or property owners' associations not subject to this chapter but only in combination with at least one other category of member. An association or its members may be members of an entity created before June 1, 1994, which performs functions similar to those performed by a master association regardless of whether the entity is subject to this chapter.

(c) A master association shall be governed by a master board. Except as expressly prohibited by the master declaration, the master association's articles of incorporation or bylaws, or other provisions of this chapter, the master board may act in all instances on behalf of the master association. The directors of a master association shall be elected or, if a nonprofit corporation, elected or appointed, in a manner consistent with the requirements of the statute under which the master association is formed and of the master association's articles of incorporation and bylaws, and subject to the following:

(1) The master declaration may provide for a period of master developer control of the master association during which a master developer or a person designated by the master developer may appoint and remove the officers and directors of the master association. The period of master developer control begins on the date of the recording of the master declaration and terminates upon the earliest of the following events:

(i) the voluntary surrender of the right to appoint directors;

(ii) the date ten years after the date the master declaration is recorded, unless extended by an amendment to the master declaration approved in writing by the master developer, and by 67 percent of the votes of members other than the master developer;

(iii) the termination date, if any, in the master declaration; or

(iv) the date when at least 75 percent of the total units and other parcels of real estate referred to in subsection (e)(1)(vii) have been conveyed to persons other than a master developer, master association, declarant, or association.

(2) Upon the termination of the period of master developer control, the master board shall cause a meeting of the members of the master association to be called and held within 60 days after said termination, at which time the directors shall be elected by all members, including the master

developer if a member. If the master board fails or refuses to call a meeting of the unit owners required to be called by this subsection, then the members other than the master developer and its affiliates, if they are members, may cause the meeting to be called pursuant to the applicable provisions of the statute under which the master association was created. If the master developer or its affiliates are members, they shall be deemed to be present at the meeting for purposes of establishing a quorum regardless of their failure to attend the meeting. The master board shall thereafter be subject to the following:

(i) unless otherwise approved by a vote of members other than the master developer or an affiliate of the master developer, a majority of the directors shall be members, or a natural person designated by a member that is not a natural person, other than the master developer or an affiliate of the master developer;

(ii) subject to the requirements of subsection (c)(2)(i), the articles of incorporation or bylaws may authorize the master developer or a person designated by the master developer to appoint one director, who need not be a member. The articles of incorporation or bylaws shall not be amended to change or terminate the authorization to appoint one director without the written consent of the master developer or other person possessing the power to appoint; and

(iii) subject to the requirements of subsection (c)(2)(i), the articles of incorporation or bylaws may authorize special classes of directors and director voting rights, as follows: (A) classes of directors, (B) the appointment or election of directors in certain classes by certain classes of members, or (C) class voting by classes of directors on issues affecting only a certain class or classes of members, units, or other parcels of real estate, or to otherwise protect the legitimate interests of such class or classes. No person may utilize such special classes or class voting for the purpose of evading any limitation imposed by this chapter on master developers or declarants.

(d) Subject to subsection (c)(1), the officers of a master association shall be elected, appointed, or designated in a manner consistent with the statute under which the master association is formed and consistent with the master association articles of incorporation and bylaws.

(e) The creation and authority of a master association shall be governed by the following requirements:

(1) A master declaration shall be recorded in connection with the creation of a master association. The master declaration shall be executed by the owners of the real estate subjected to the master declaration and by the master developer if not an owner. The master declaration shall contain, at a minimum:

(i) the name of the master association;

(ii) a legally sufficient description of the real estate which is subject to the master declaration, identifying any interest in the real estate which will be owned by the master association, and a legally sufficient description of any other real estate which may be subjected to the master declaration pursuant to subsection (f);

(iii) a statement as to whether the real estate subject to, and which may be subjected to, the master declaration collectively is or collectively will be a separate common interest community;

(iv) a description of the members of the master association;

(v) a description of the master association's powers. To the extent described in the master declaration, a master association has the powers with respect to the master association's members and the property subject to the master declaration that section 515B.3-102 grants to an association with respect to the association's members and the property subject to the declaration. A master association also has the powers delegated to it by an association pursuant to subsection (e)(2) or by a property owners' association not subject to the chapter; provided (A) that the master declaration identifies the powers and authorizes the delegation either expressly or by a grant of authority to the master board of the association or property owners' association and (B) that the master association board has not refused the delegation pursuant to subsection (e)(4). The provisions of the declarations of the common interest communities, or the provisions of recorded instruments governing other property subject to the master declaration, that delegate powers to the master association shall be consistent with the provisions of the master declaration that govern the delegation of the powers;

(vi) a description of the formulas governing the allocation of assessments and member voting rights, including any special classes or class voting referred to in subsection (c);

(vii) a statement, based upon the master developer's good faith estimate, of the total number of units and other parcels of real estate intended for ownership by persons other than a master developer, master association, declarant, or association that are (A) subject to the master declaration as initially recorded and (B) intended to be created by the addition of real estate or by the subdivision of units or other parcels of real estate; and

(viii) the requirements for amendment of the master declaration, other than an amendment under subsection (f).

(2) The declaration of a common interest community located on property subject to a master declaration may:

(i) delegate any of the powers described in section 515B.3-102 to the master association; provided, that a delegation of the powers described in section 515B.3-102(a)(2) is effective only if expressly stated in the declaration; and

(ii) authorize the ~~master~~ board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to the master association.

(3) With respect to any other property subject to a master association, there need not be an instrument other than the master declaration recorded against the property to empower the master association to exercise powers with respect to the property.

(4) If a declaration or other recorded instrument authorizes the master board or the board of a property owners' association to delegate powers to a master association, the master board may refuse any delegation of powers that does not comply with (i) this chapter, (ii) the declaration or other recorded instrument, or (iii) the organizational documents of the master association.

(5) The failure of a declaration, a master board, or an owner of property subject to a master association to properly delegate some or all of the powers to the master association does not affect the authority of the master association to exercise those and other powers with respect to other common interest communities or owners of properties that are subject to the master association.

(6) Any interest in the real estate subject to a master declaration that subsection (e)(1)(ii) or

(f) indicates will be owned by the master association shall be conveyed to the master association immediately after the recording of the master declaration or amendment to the master declaration, as applicable.

(f) If the master declaration so provides, other real estate may be subjected to the master declaration. The other real estate shall be subjected to the master declaration by an amendment executed (i) by the master developer and (ii) by the owner of the other real estate. The amendment shall identify any ownership interest in the other real estate that will be owned by the master association.

(g) Sections 515B.3-103(a), (b), and (g), 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association. But the rights of voting, notice, and other rights enumerated in those sections apply to persons who elect or appoint the directors of a master board, whether or not those persons are otherwise unit owners within the meaning of this chapter.

(h) If so provided in the master declaration, a master association may levy assessments for common expenses of the master association against its members and the property subject to the master declaration, and have and foreclose liens securing the assessments. The assessment liens shall have the same priority against secured parties, shall include the same fees and charges, and may be foreclosed in the same manner, as assessment liens under section 515B.3-116. The master association's lien shall have priority as against the lien of an association or property owners' association subject to the master association, regardless of when the lien arose or was perfected.

(1) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. If the members include associations or property owners' associations, then the master assessments may be allocated among and levied against the associations or property owners' associations, or allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owners' association. If so provided in the master declaration, master assessments levied against a member association or property owners' association are allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owners' association. If applicable and appropriate, the formulas and principles described in section 515B.2-108, subsections (b), (c), (d), and (e), shall be used in making the allocations. The assessment formulas and procedures described in the declarations of any common interest communities or any instruments governing other real estate subject to the master association shall not conflict with the formulas and procedures described in the master declaration.

(2) Subject to subsection (i), the master declaration may exempt from liability for all or a portion of master association assessments any person authorized by subsection (c)(1) to appoint the members of the master board, or any other person, and exempt any unit or other parcel of real estate owned by the person from a lien for such assessments, until the building containing the unit, or located within the boundaries of the unit or other parcel of real estate, is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in a jurisdiction that issues that certificate.

(i) A master association shall not be used, directly or indirectly, to avoid or nullify any warranties or other obligations for which a declarant of a common interest community subject to the master association is responsible, or to otherwise avoid the requirements of this chapter.

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

Sec. 8. Minnesota Statutes 2010, section 515B.2-124, is amended to read:

515B.2-124 SEVERANCE OF COMMON INTEREST COMMUNITY.

(a) Unless the declaration provides otherwise, a part of a common interest community containing one or more units, with or without common elements, may be severed from the common interest community, subject to the requirements of this section. Subject to any additional requirements contained in the declaration, the severance shall be approved in a written severance agreement complying with this section, executed by:

(1) unit owners entitled to cast at least 67 percent of the votes in the association, which approval shall include the approval of unit owners entitled to cast a majority of the votes allocated to units in the remaining common interest community and the approval of unit owners entitled to cast a majority of the votes allocated to units in the part of the common interest community being severed;

(2) declarant until the earlier of five years after the recording of the declaration or the time at which declarant no longer owns an unsold unit; and

(3) in the case of a cooperative, all holders of mortgages or contracts for deed on the entire real estate constituting the cooperative.

(b) The declaration may specify a smaller percentage for unit owner approval only if all of the units are restricted to nonresidential use.

(c) The severance agreement shall specify a severance date by which the severance of the common interest community shall be accomplished, after which the severance agreement is void. The severance agreement shall be deemed to grant to the association a power of attorney coupled with an interest to effect the severance of the common interest community on behalf of the unit owners and the holders of all other interests in the units, including without limitations the power to execute the amendment to the declaration, any instruments of conveyance, and all related instruments.

(d) The severance agreement shall:

(1) Approve an amendment to the declaration complying with this chapter, in substantially the same form to be recorded, and an amendment to the CIC plat if required. The declaration amendment shall, at a minimum, (i) legally describe the real estate constituting the remaining common interest community and the real estate being severed, (ii) restate the number of units in the remaining common interest community, (iii) reallocate the interests of the unit owners in the remaining common interest community among the remaining units in accordance with the allocation formula set forth in the declaration, and (iv) recite any easements to which the severed portion of the common interest community remains subject.

(2) Approve an amendment to the articles of incorporation and bylaws of the remaining common interest community, if necessary.

(3) Authorize the association to execute and record the amended declaration, articles of incorporation or bylaws on behalf of the unit owners and all other persons holding an interest in the remaining common interest community, and to take other actions necessary to accomplish the

severance of the common interest community.

(4) Allocate the assets and liabilities of the association between the association and (i) a new association formed pursuant to subsection (g), or (ii) the owners of the units being severed, subject to a lien against their interest in the severed real estate or their share in the assets of the association in favor of any person that held a security interest in their unit.

(5) If the units that are being severed from the common interest community will not be included in a new common interest community that is (i) formed simultaneously with the severance of the common interest community, and (ii) includes all of the units and substantially all of the common elements being severed, then the agreement shall contain the written consent of holders of first mortgages on all units that are being severed, and shall describe in detail the proposed disposition of all real estate to be severed and all assets of the association allocated to the severed units, and the distribution of the proceeds of the disposition, if any, consistent with subsection (i).

(e) The severance agreement or a memorandum of it shall be recorded in every county in which a part of the common interest community is located. The recording of the severance agreement or memorandum of it shall, from the date of recording, constitute notice to all persons subsequently acquiring an interest in the common interest community that the common interest community is being severed, and that those persons acquire their interests subject to the terms and conditions contained in the severance agreement and the amendment to the declaration.

(f) The amendment to the declaration of the remaining common interest community shall be recorded on or before the severance date or the severance agreement and the amendment to the declaration are void as of the day after the severance date. The recording of the amendment to the declaration shall complete the severance of the common interest community and release the severed part of the common interest community from the declaration without further action by any person.

(g) If the unit owners whose units that are being severed from the common interest community intend to form will be included in a new common interest community, then said unit owners shall, by entitled to cast at least 80 percent of the votes allocated by the existing declaration to said these units, shall approve a new declaration, articles of incorporation and bylaws to govern the new common interest community no later than 60 days before the effective date of the severance agreement. However, the new declaration shall not create, increase, or extend special declarant rights, increase the number of units, change unit boundaries, change the formula for allocations of interests, change the use of a unit from residential to nonresidential or conversely, or change the form of common interest community, unless agreed to in writing by all owners whose units are being severed. The new declaration shall be recorded simultaneously with the amendment to the existing declaration. No later than 30 days after the date of the severance agreement, The articles of incorporation creating the association intended to govern the new common interest community shall be filed with the secretary of state and promptly thereafter the unit owners whose units are being severed shall elect a board of directors to act on behalf of the new association before the recording of the new declaration. The new association shall have a power of attorney coupled with an interest to execute and record the new declaration, any instruments of conveyance, and all related instruments on behalf of the unit owners whose units are being severed from the common interest community, but shall not thereby acquire any rights or obligations of a declarant. The board of directors of the new association shall cooperate with the board of directors of the existing association to complete the severance. The existing association shall retain all authority to act on behalf of the common interest community until the amendment to the existing declaration and the new declaration are recorded.

(h) The legal descriptions of the real estate constituting (i) the remaining common interest community, and (ii) the severed portion of the common interest community shall, at the time of recording of the amendment to the declaration referred to in subsection (e), be as follows:

(1) In a planned community using a CIC plat that complies with section 515B.2-110, subsection (d), the lot and block descriptions contained in the CIC plat, and any amendments to it, with respect to (i) the remaining common interest community, and (ii) the severed portion of the common interest community.

(2) In a condominium, or cooperative or planned community using a CIC plat that complies with section 515B.2-110, subsection (c), (i) the CIC plat description relating to the remaining common interest community, and (ii) the part of the underlying legal description of the real estate in the declaration creating the common interest community, and any amendments to it, relating to the severed part of the common interest community.

(3) The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal descriptions required by this subsection as of the date of recording of the amendment to the declaration. In the case of registered property, the registrar of titles shall cancel the existing certificates of title for the severed part of the common interest community and issue certificates of title for the property using the legal descriptions required by this subsection.

(i) In a condominium or planned community, if the severed part of the common interest community is not to be reconstituted as a new common interest community following severance, title to all the real estate in the severed part of the common interest community vests in the unit owners of the units being severed, upon severance, as provided in the severance agreement.

(j) No common interest community shall be severed in such a manner as to materially impair access, utility services, communication services, or other essential services with respect to either the remaining common interest community or the severed part of the common interest community.

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

Sec. 9. Minnesota Statutes 2010, section 515B.3-102, is amended to read:

515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.

(a) Except as provided in subsections (b) and (c), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant or amend easements for public utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by a vote of unit owners other than declarant or its affiliates, grant or amend other easements, leases, and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose interest and late charges for late payment of assessments and, after notice and an opportunity to be heard before the board or a committee appointed by it, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the

association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215.

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

Sec. 10. Minnesota Statutes 2010, section 515B.3-104, is amended to read:

515B.3-104 SPECIAL DECLARANT RIGHTS; TRANSFER OF SPECIAL DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND TRANSFEREE, AND TERMINATION.

~~(a) Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.~~

~~(1) A transfer shall be recorded in compliance with applicable law, and is not effective (i) unless recorded and (ii) unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded.~~

~~(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).~~

~~(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.~~

~~(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited land sale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right~~

~~that relates to the transferor's ownership interest in the units or additional real estate transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.~~

~~(c) If a declarant is an individual rather than a legal entity, and the individual dies, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.~~

~~(d) A transferor's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant and arising on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4 112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d)(2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).~~

~~(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferee.~~

~~(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:~~

~~(1) Except as set forth in subsection (e)(3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4 112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.~~

~~(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.~~

~~(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4 101(b) or 515B.4 102(b), and section 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 112, 515B.4 113, 515B.4 117, or 515B.4 118, to any purchaser from or through the transferor.~~

~~(f) For purposes of this section, a declarant's obligations under section 515B.3 111(a) arise when the tort or contract violation occurs; a declarant's obligations to a purchaser under section 515B.4 112 arise when the declarant makes an express warranty to the purchaser; and a declarant's obligations to a purchaser under sections 515B.4 113 and 515B.4 118(a), arise when the declarant conveys a unit to the purchaser.~~

~~(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1 103(33)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4 101(b) and 515B.4 102(b), and sections 515B.4 109, 515B.4 110, 515B.4 111, 515B.4 113, 515B.4 117, and 515B.4 118, and for any express warranties under section 515B.4 112 that the transferee makes to purchasers.~~

~~(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent retransfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1 103(33)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3 115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3 103, 515B.3 111, and 515B.3 120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.~~

~~(i) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1 115; or (ii) the conveyance, whether voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.~~

~~(j) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions. Nothing in this section shall subject any~~

~~transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.~~

(a) A special declarant right created or reserved under this chapter may be voluntarily transferred only by a separate instrument evidencing the transfer recorded in every county in which any part of the common interest community is located. The separate instrument shall be recorded against all units in the common interest community, or in the case of a cooperative, against the real estate owned by the cooperative, or in the case of a condominium on registered land, the instrument must be filed pursuant to section 508.351, subdivision 3, or 508A.351, subdivision 3. The instrument may provide for the conveyance of less than all of the special declarant rights, and is not effective unless executed by the transferor and transferee. A deed in lieu of foreclosure, or other conveyance arising out of a foreclosure or cancellation, shall not be deemed a voluntary transfer within the meaning of this section.

(b) Upon the voluntary transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed on the transferor by this chapter. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights and arising before or after the transfer.

(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

(c) Upon the voluntary transfer of any special declarant right, the liability of a successor declarant is as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or the declaration.

(2) A successor to any special declarant right who is not an affiliate of a declarant is subject to all obligations and liabilities imposed by this chapter or by the declaration, except:

(i) misrepresentations by any previous declarant;

(ii) warranty obligations on improvements made by any previous declarant, or made before the common interest community was created;

(iii) breach of any fiduciary obligation by any previous declarant or the declarant's appointees to the board;

(iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer; and

(v) any liability arising out of a special declarant right which was not transferred as provided in subsection (a).

(d) In case of foreclosure of a mortgage or cancellation of a contract for deed or other security interest (or conveyance in lieu thereof), sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy code or receivership proceedings, of any units or additional real estate, or interest therein, owned by a declarant, a person acquiring title to the property or interests succeeds to all special declarant rights related to the property or interests held by that declarant and acquired by it unless (i) the mortgage instrument or other instrument creating the security interest, (ii) the instrument conveying title, or (iii) a separate instrument signed by the person and recorded within 60 days after the person acquires title to the property or interests, provides for transfer of less than all special declarant rights. The separate instrument need be recorded only against the title to the units or interests other than those being acquired under this subsection, or in the case of a cooperative, against the real estate owned by the cooperative. The declarant shall cease to have or exercise any special declarant rights which are transferred. If the person has limited the transfer of certain special declarant rights as provided in this subsection, then it and its successor's liability shall be limited, as follows:

(1) If the person or its successor limits its rights and liabilities only to maintain models, sales office and signs, and if that party is not an affiliate of a declarant, it is not subject to any liability or obligations as a declarant, except the obligation to provide a disclosure statement and any liability arising from that obligation, and it may not exercise any other special declarant rights.

(2) If the person or its successor is not an affiliate of a declarant, it may declare its intention in a recorded instrument as provided in subsection (a) to acquire all special declarant rights and hold those rights solely for transfer to another person. Thereafter, until the special declarant rights are transferred to a person acquiring title to any unit owned by the successor, or until a separate instrument is recorded permitting exercise of all of those rights, that successor may not exercise any of those rights other than the right to control the board of directors in accordance with the provisions of section 515B.3-103 for the duration of any period of declarant control. So long as any successor may not exercise its special declarant rights under this subsection, it is not subject to any liability or obligation as a declarant other than liability for its acts and omissions under section 515B.3-103.

(e) Any attempted exercise by a purported successor to a special declarant right which is not transferred as provided in this section is void, and any purported successor attempting to exercise that right shall be liable for any damages arising out of its actions.

(f) Nothing in this section shall subject any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter, or the declaration or bylaws.

(g) This section applies only to transfers of special declarant rights that are effective before August 1, 2010.

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

Sec. 11. **[515B.3-1041] SPECIAL DECLARANT RIGHTS; TRANSFER OF SPECIAL**

DECLARANT RIGHTS, LIABILITY OF TRANSFEROR AND TRANSFEREE, AND TERMINATION.

(a) Except as set forth in subsection (b) or (c), a special declarant right, as defined in section 515B.1-103(33b), does not run with title and may only be transferred pursuant to a separate transfer instrument, titled a "Transfer of Special Declarant Rights," that both the transferor and the transferee execute.

(1) A transfer shall be recorded in compliance with applicable law, and is not effective unless the transferee is the owner of record of a unit or additional real estate at the time the transfer is recorded. Transfers recorded on or after the effective date of this section shall be recorded against title to all units in the common interest community.

(2) A transferor may transfer fewer than all of the special declarant rights the transferor holds provided that any special declarant rights not transferred are subject to item (i).

(3) If as a result of a transfer there will be multiple declarants holding special declarant rights, the transfer shall describe the allocation of each special declarant right between or among the transferor and each transferee, including, at a minimum, a description of the units or additional real estate to which the respective special declarant rights apply and the name and address of the owner or owners of record of the respective units or additional real estate at the time the transfer is recorded.

(b) If a declarant's ownership interest in a unit, or in additional real estate that may become subject to the declaration pursuant to the exercise of a special declarant right, is transferred to another person as a result of the foreclosure, termination, or cancellation of a security interest, foreclosure of a judgment lien, tax judgment sale, tax forfeited land sale, sale or transfer under bankruptcy code or receivership proceedings, or other sale or transfer approved by a court, or is transferred by a deed in lieu of foreclosure, then all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate transferred are automatically transferred to the person acquiring title from the declarant, and the transfer is effective as to all special declarant rights, unless or until: (i) the security instrument in the case of the foreclosure, termination, or cancellation of a security interest, (ii) the instrument effecting the involuntary transfer, or (iii) a separate instrument executed by the transferee and recorded in compliance with applicable law within 60 days after the date the transferee acquires title to the declarant's ownership interest, provides for the transfer of fewer than all of the declarant's special declarant rights. From and after the effective date of this section, a separate instrument recorded pursuant to subsection (b), item (iii), shall be recorded against title to all units in the common interest community. For purposes of this subsection, the transferee shall be deemed to acquire title upon the expiration of the owner's period of redemption, or reinstatement in the case of contract for deed. The transferor shall cease to have and shall not exercise any special declarant right that relates to the transferor's ownership interest in the units or additional real estate transferred, whether or not the transferee subsequently disclaims the right, but the transferor retains all reserved special declarant rights that relate to its ownership interest that is not transferred to the transferee.

(c) If a declarant is an individual rather than a legal entity, and the individual dies, than all special declarant rights that are reserved to the declarant in the declaration and that relate to the units or additional real estate owned by the declarant are automatically transferred with the title to said units or additional real estate.

(d) A transferor's liability for the performance of obligations that this chapter imposes upon a

declarant is as follows:

(1) A transferor remains liable under this chapter for all obligations that this chapter imposes upon a declarant that arise on or before the effective date of the transfer, except that a transferor is not liable under section 515B.4-112 for any express warranties that a transferee makes to a purchaser. Except as set forth in subsection (d), clauses (2) and (3), a transferor is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and arising after the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under subsection (e).

(3) If, following a transfer of special declarant rights, the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferor is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or 515B.4-118, to any purchaser from or through the transferee.

(e) Except as provided in subsections (g) and (h), a transferee's liability for the performance of obligations that this chapter imposes upon a declarant is as follows:

(1) Except as set forth in subsection (e), clause (3), a transferee is liable under this chapter for all obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer. A transferee is not liable under this chapter for the performance of any obligations that this chapter imposes upon a declarant and that arise before or on the effective date of the transfer, except that a transferee is liable under section 515B.4-112 for any express warranties the transferee makes to a purchaser before or on the effective date of the transfer.

(2) If a transferor and a transferee are affiliates, the transferor and the transferee are jointly and severally liable under this chapter for the performance of all the obligations that this chapter imposes upon a declarant, whether such obligations arise before, on, or after the effective date of the transfer. Upon a subsequent transfer, a prior transferor remains liable to the extent its transferee remains liable under subsection (d) and is relieved of liability to the same extent that its transferee is relieved of liability under this subsection.

(3) If, following a transfer of special declarant rights under subsection (a) or (b), the transferor retains special declarant rights, the transferor and transferee are jointly and severally liable for the performance of all the obligations that this chapter imposes upon a declarant and that arise after the effective date of the transfer, except that the transferee is not liable under section 515B.4-101(b) or 515B.4-102(b), and section 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-112, 515B.4-113, 515B.4-117, or 515B.4-118, to any purchaser from or through the transferor.

(f) For purposes of this section, a declarant's obligations under section 515B.3-111(a) arise when the tort or contract violation occurs, a declarant's obligations to a purchaser under section 515B.4-112 arise when the declarant makes an express warranty to the purchaser and a declarant's

obligations to a purchaser under sections 515B.4-113 and 515B.4-118(a) arise when the declarant conveys a unit to the purchaser.

(g) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire only the special declarant rights described in section 515B.1-103(33b)(i), (ii), and (iv). In that case, the transferee is liable as a declarant only to purchasers from said transferee and only for the obligations of a declarant under sections 515B.4-101(b) and 515B.4-102(b), and sections 515B.4-109, 515B.4-110, 515B.4-111, 515B.4-113, 515B.4-117, and 515B.4-118, and for any express warranties under section 515B.4-112 that the transferee makes to purchasers.

(h) A transferee who acquires special declarant rights pursuant to subsection (b) and who is not an affiliate of the transferor may record an instrument in compliance with subsection (b) stating that the transferee elects to acquire the special declarant rights solely for subsequent retransfer to another person who acquires title to units or additional real estate from said transferee. In that case, (i) the transferee may not utilize special declarant rights in the sale of units or otherwise sell units, except to a person who also acquires one or more special declarant rights the transferee holds with respect to the units or additional real estate sold; (ii) the transferee may not exercise any special declarant rights other than the rights described in section 515B.1-103(33b)(v); (iii) the transferee is not liable to make up any operating deficit under section 515B.3-115(a)(2); and (iv) the transferee is liable as a declarant only for the obligations of a declarant under sections 515B.3-103, 515B.3-111, and 515B.3-120, as applicable. A transferee who makes the election described in this subsection may subsequently rescind the election in whole or in part by recording an instrument in compliance with applicable law, and upon the recording of such an instrument the transferee's rights and obligations as a declarant shall be as otherwise set forth in this section.

(i) Nothing in this section shall subject any transferee of a special declarant right to any claims against or other obligations of a transferor, other than claims and obligations arising under this chapter, or the declaration or bylaws.

(j) A special declarant right held by a declarant terminates upon the earlier of: (i) that declarant's voluntary surrender of the special declarant right by giving written notice to the unit owners pursuant to section 515B.1-115; or (ii) the conveyance, whether voluntary or involuntary, by that declarant, of all of the units and additional real estate owned by that declarant, unless immediately after the conveyance the special declarant right is transferred to the grantee. All special declarant rights terminate ten years after the date of the first conveyance of a unit to a person other than a declarant unless extended by the vote or written agreement of unit owners entitled to cast at least 67 percent of the votes allocated to units not owned by a declarant.

(k) No person shall exercise special declarant rights unless, at the time of exercise, the person holds title of record to one or more units or additional real estate. Any exercise of a special declarant right in violation of this section shall be void, and the person attempting to exercise the right shall be liable for all damages and costs arising from its actions.

(l) Subsections (a) through (i) apply only to transfers of special declarant rights that are effective on or after August 1, 2010. Subsections (j) and (k) apply only to special declarant rights reserved in a declaration that is first recorded on or after August 1, 2010.

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

Sec. 12. Minnesota Statutes 2010, section 515B.3-105, is amended to read:

515B.3-105 TERMINATION OF CONTRACTS, LEASES, LICENSES.

~~(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of a declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.~~

~~(b) If entered into prior to the termination of the period of master developer control described in section 515B.2-121, subsection (c), paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.~~

~~(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the period of master developer control, as applicable.~~

~~(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a)(iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4-102:~~

~~(1) a lease the termination of which would terminate the common interest community;~~

~~(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);~~

~~(3) an agreement between a declarant, an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities, or other public purpose; or~~

~~(4) subject to the requirements of section 515B.4-110 (a), a lease, easement, covenant, condition, or restriction that (i) is recorded before the recording of the declaration, and (ii) runs in favor of a person other than a declarant or an affiliate of a declarant.~~

(a) If entered into prior to termination of the period of declarant control, (i) any management contract, employment contract, or lease of recreational facilities, or garages or other parking facilities, (ii) any contract, lease, or license binding the association, and to which a declarant or an affiliate of a declarant is a party, or (iii) any contract, lease, or license binding the association or any unit owner other than the declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the unit owners at the time entered into under the circumstances then

prevailing, may be terminated without penalty by the association under the procedures described in this section.

(b) If prior to expiration of the suspension period described in section 515B.2-121, subsection (c), paragraph (3), a contract, lease, or license of a type described in subsection (a) is entered into by a person having authority to appoint the directors of the master association and is binding upon the master association, then the master association, and not any association, may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the suspension period described in section 515B.2-121, subsection (c), paragraph (3), as applicable.

(d) This section does not apply to:

(1) any lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c); or

(3) an agreement between a declarant or an affiliate of a declarant, or a person having authority pursuant to section 515B.2-121, subsection (c), paragraph (3), to appoint the directors of the master association, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, or utilities.

(e) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 13. [515B.3-1051] TERMINATION OF CONTRACTS, LEASES, LICENSES.

(a) If entered into prior to termination of the period of declarant control, (i) any management, employment, maintenance, or operations contract or any lease or license of recreational, parking, or storage facilities, that is binding on the association; (ii) any other contract, lease, or license entered into by the association, a declarant or an affiliate of a declarant that is binding on the association; or (iii) any contract, lease, or license that is binding on the association or all unit owners other than a declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the association or the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association under the procedures described in this section.

(b) If entered into prior to the termination of the period of master developer control described in section 515B.2-121, subsection (c), paragraph (1), a contract, lease, or license of a type described in subsection (a) is entered into by the master developer and is binding upon the master association, then the master association may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given by the association or master association, as applicable, in accordance with section 515B.1-115; provided that notice shall be effective only if given within two years following the termination of the period of declarant control or the period of master developer control, as applicable.

(d) This section does not apply to the following, provided that the rights and obligations created by the referenced instruments are (i) bona fide and not unconscionable as contemplated by subsection (a), item (iii); and (ii) disclosed to the purchaser of the unit in the disclosure statement required by section 515B.4-102:

(1) a lease the termination of which would terminate the common interest community;

(2) in the case of a cooperative, a mortgage or contract for deed encumbering real estate owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c);

(3) an agreement between a declarant or an affiliate of a declarant, or a master developer, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, utilities, or other public purpose;

(4) subject to the requirements of section 515B.4-110(a), a lease, easement, covenant, condition, or restriction that is recorded before the recording of the declaration, to the extent that it benefits a person other than a declarant or an affiliate of a declarant; or

(5) a license granted by a declarant pursuant to section 515B.2-109(e).

(e) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 14. Minnesota Statutes 2010, section 515B.3-114, is amended to read:

515B.3-114 REPLACEMENT RESERVES; SURPLUS FUNDS.

~~(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:~~

~~(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component, provided that portions of replacement reserves need not be segregated for the replacement of specific components.~~

~~(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that have a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-115(e)(1), or approved in compliance with clause (5).~~

~~(3) The association shall keep the replacement reserves in an account or accounts separate from~~

~~the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.~~

~~(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.~~

~~(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval (i) by the board and (ii) by unit owners, other than declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments levied under section 515B.3-115(c), or by assessments levied under section 515B.3-115(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.~~

~~(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.~~

~~(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.~~

(a) The annual budgets of the association shall provide from year to year, on a cumulative basis, for adequate reserve funds to cover the replacement of those parts of the common interest community which the association is obligated to replace. These reserve requirements shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing before January 1, 2012.

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

Sec. 15. [515B.3-1141] REPLACEMENT RESERVES.

(a) The association shall include in its annual budgets replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of those components of the common interest community which the association is obligated to replace by reason of ordinary wear and tear or obsolescence, subject to the following:

(1) The amount annually budgeted for replacement reserves shall be adequate, together with past and future contributions to replacement reserves, to replace the components as determined based upon the estimated remaining useful life of each component; provided that portions of replacement reserves need not be segregated for the replacement of specific components.

(2) Unless otherwise required by the declaration, annual budgets need not include reserves for the replacement of (i) components that a remaining useful life of more than 30 years, or (ii) components whose replacement will be funded by assessments authorized under section 515B.3-1151(e)(1), or approved in compliance with clause (5).

(3) The association shall keep the replacement reserves in an account or accounts separate from the association's operating funds, and shall not use or borrow from the replacement reserves to fund the association's operating expenses, provided that this restriction shall not affect the association's authority to pledge the replacement reserves as security for a loan to the association.

(4) The association shall reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community.

(5) Unless otherwise required by the declaration, after the termination of the period of declarant control, and subject to approval by (i) the board, and (ii) unit owners, other than the declarant or its affiliates, of units to which 51 percent of the votes in the association are allocated, the association need not annually assess for replacement reserves to replace those components whose replacement is planned to be paid for by special assessments, if the declaration authorizes special assessments, or by assessments levied under section 515B.3-1151(e)(2). The approval provided for in the preceding sentence shall be effective for no more than the association's current and three following fiscal years, subject to modification or renewal by the same approval standards.

(6) Unless otherwise required by the declaration, subsection (a) shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

(c) This section applies to common interest communities only for their fiscal years commencing on or after January 1, 2012.

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

Sec. 16. Minnesota Statutes 2010, section 515B.3-115, is amended to read:

515B.3-115 ASSESSMENTS FOR COMMON EXPENSES.

~~(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses expense assessments shall be as follows:~~

(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common operating expenses of the common interest community, including the payment of and shall fund the replacement reserve component of the common expenses for all units in

~~compliance with as required by subsection (b).~~

(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against allocated to their units, except as follows subject to the following:

~~(i) If the declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection, and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant, provided that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii) so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.~~

~~(ii) If the alternate common expense plan may be authorized only by including in the declaration and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of declarant control, to make up any operating deficit incurred by the association during the period of declarant control. The existence and amount, if any, of the operating deficit shall be determined using the accrual basis of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.~~

~~(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternate common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.~~

~~(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.~~

~~(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association,~~

and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.

~~(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.~~

~~(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (e) or by assessments described in subsections (e), (f), and (g).~~

~~(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.~~

~~(b) The replacement reserves required by section 515B.3-114 reserve component of the common expenses shall be paid to the association by each unit owner funded for each unit owned by that unit owner in accordance with the association's projected annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that required by section 515B.4-102(a)(23) provided that the funding of replacement reserves with respect to a unit shall commence no later than the date that the structure and exterior of the building containing the unit, or the structure and exterior of unit or any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are is substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.~~

~~(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual a budget approved at least annually by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g), subject to the requirements of section 515B.3-114(a)(5), with respect to assessments under section 515B.3-115(e)(2).~~

(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 17. [515B.3-1151] ASSESSMENTS FOR COMMON EXPENSES.

(a) The association shall approve an annual budget of common expenses at or prior to the conveyance of the first unit in the common interest community to a purchaser and annually thereafter. The annual budget shall include all customary and necessary operating expenses and

replacement reserves for the common interest community, consistent with this section and section 515B.3-114. For purposes of replacement reserves under subsection (b), until an annual budget has been approved, the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102. The obligation of a unit owner to pay common expenses shall be as follows:

(1) If a common expense assessment has not been levied by the association, the declarant shall pay all common expenses of the common interest community, including the payment of the replacement reserve component of the common expenses for all units in compliance with subsection (b).

(2) If a common expense assessment has been levied by the association, all unit owners, including the declarant, shall pay the assessments levied against their units, except as follows:

(i) The declaration may provide for an alternate common expense plan whereby the declarant's common expense liability, and the corresponding assessment lien against the units owned by the declarant, is limited to: (A) paying when due, in compliance with subsection (b), an amount equal to the full share of the replacement reserves allocated to units owned by the declarant, as set forth in the association's annual budget approved as provided in this subsection; and (B) paying when due all accrued expenses of the common interest community in excess of the aggregate assessments payable with respect to units owned by persons other than a declarant; provided, that the alternate common expense plan shall not affect a declarant's obligation to make up any operating deficit pursuant to item (iv), and shall terminate upon the termination of any period of declarant control unless terminated earlier pursuant to item (iii).

(ii) The alternate common expense plan may be authorized only by including in the declaration and the disclosure statement required by section 515B.4-102 provisions authorizing and disclosing the alternate common expense plan as described in item (i), and including in the disclosure statement either (A) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget contained in the disclosure statement, or (B) a statement describing how the services or amenities may be affected.

(iii) A declarant shall give notice to the association of its intent to utilize the alternate common expense plan and a commencement date after the date the notice is given. The alternate common expense plan shall be valid only for periods after the notice is given. A declarant may terminate its right to utilize the alternative common expense plan prior to the termination of the period of declarant control only by giving notice to the association and the unit owners at least 30 days prior to a selected termination date set forth in the notice.

(iv) If a declarant utilizes an alternate common expense plan, that declarant shall cause to be prepared and delivered to the association, at the declarant's expense, within 90 days after the termination of the period of declarant control, an audited balance sheet and profit and loss statement certified to the association and prepared by an accountant having the qualifications set forth in section 515B.3-121(b). The audit shall be binding on the declarant and the association.

(v) If the audited profit and loss statement shows an accumulated operating deficit, the declarant shall be obligated to make up the deficit within 15 days after delivery of the audit to the association, and the association shall have a claim against the declarant for an amount equal to the deficit until paid. A declarant who does not utilize an alternate common expense plan is not liable to make up any operating deficit. If more than one declarant utilizes an alternate common expense plan, all

declarants who utilize the plan are jointly and severally liable to the association for any operating deficit.

(vi) The existence and amount, if any, of the operating deficit shall be determined using the accrual method of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(vii) Unless approved by a vote of the unit owners other than the declarant and its affiliates, the operating deficit shall not be made up, prior to the election by the unit owners of a board of directors pursuant to section 515B.3-103(d), through the use of a special assessment described in subsection (c) or by assessments described in subsections (e), (f), and (g).

(viii) The use by a declarant of an alternate common expense plan shall not affect the obligations of the declarant or the association as provided in the declaration, the bylaws, or this chapter, or as represented in the disclosure statement required by section 515B.4-102, except as to matters authorized by this chapter.

(b) The replacement reserves required by section 515B.3-114 shall be paid to the association by each unit owner for each unit owned by that unit owner in accordance with the association's annual budget approved pursuant to subsection (a), regardless of whether an annual assessment has been levied or whether the declarant has utilized an alternate common expense plan under subsection (a)(2). Replacement reserves shall be paid with respect to a unit commencing as of the later of (1) the date of creation of the common interest community or (2) the date that the structure and exterior of the building containing the unit, or the structure and exterior of any building located within the unit boundaries, but excluding the interior finishing of the structure itself, are substantially completed. If the association has not approved an annual budget as of the commencement date for the payment of replacement reserves, then the reserves shall be paid based upon the budget contained in the disclosure statement required by section 515B.4-102.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon an annual budget approved by the association. In addition to and not in lieu of annual assessments, an association may, if so provided in the declaration, levy special assessments against all units in the common interest community based upon the same formula required by the declaration for levying annual assessments. Special assessments may be levied only (1) to cover expenditures of an emergency nature, (2) to replenish underfunded replacement reserves, (3) to cover unbudgeted capital expenditures or operating expenses, or (4) to replace certain components of the common interest community described in section 515B.3-114(a), if such alternative method of funding is approved under section 515B.3-114(a)(5). The association may also levy assessments against fewer than all units as provided in subsections (e), (f), and (g). An assessment under section 515B.3-1151(e)(2) for replacement reserves is subject to the requirements of section 515B.3-1141(a)(5).

(d) Except as modified by subsections (a), clauses (1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited

common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorney fees and costs incurred by the association in connection with (i) the collection of assessments, and (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines, and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

(k) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 18. Minnesota Statutes 2010, section 515B.4-102, is amended to read:

515B.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

~~(2) the name and principal address of each the declarant holding any special declarant rights; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);~~

(3) the ~~total~~ number of units which ~~all declarants have~~ the declarant has the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain, ~~and (vii) a description of any declarant licensing rights under section 515B.2-109(e);~~

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that a declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; ~~a description and an explanation of any alternate common expense plan~~ declarant's limited assessment liability under section 515B.3-115(a)(2)(i) 515B.3-115(b); and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that: (i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a); (ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially

complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the unit or other parcel of real estate being purchased is or may association or the purchaser of the unit will be subject to a member of a master declaration at the time of the conveyance from the declarant to the purchaser association, a statement to that effect, and all of the following information with respect to the master association: (i) ~~copies of the following documents (which may be in proposed form if the master declaration has not been recorded):~~ a copy of the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) ~~the name and address of the master developer, and~~ the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject

to the master declaration association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and a description of any the degree and period of control of the master association and rights to appoint master association directors by a master developer declarant or other person pursuant to section 515B.2-121(e); (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly or other periodic common expense assessment payment for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a master developer declarant or other a person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(e)(2) 515B.2-121(f)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-113(b)(2) 515B.4-112(b); (xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) copies a copy of the following documents (which may be in proposed form if the declaration has not been recorded): the declaration and any supplemental declaration, and any amendments thereto (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, or reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; the names of the current members of the association's board of directors; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any (i) contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105 and (ii) any material contracts, leases, or other agreements affecting entered into between the declarant and a governmental entity that affect the common interest community; and

(23) a balance sheet for the association, following the creation of the association, current within 90 days of the date of delivery of the disclosure statement; a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget.

The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for replacement, ~~the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components;~~ (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; (iv) the projected monthly common expense assessment for each type of unit; and (v) ~~a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(e) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a)~~ a footnote or other reference to those components of the common interest community the maintenance, repair, or replacement of which the budget assumes will be funded by assessments under section 515B.3-115(e), rather than by assessments included in the association's annual budget, and a statement referencing section 515B.3-115(e)(1) or (2), as the source of funding. If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 19. [515B.4-1021] DISCLOSURE STATEMENT; GENERAL PROVISIONS.

(a) A disclosure statement shall fully and accurately disclose:

(1) the name and, if available, the number of the common interest community;

(2) the name and principal address of each declarant holding any special declarant rights; a description of the special declarant rights held by each declarant; a description of the units or additional real estate to which the respective special declarant rights apply; and a copy of any recorded transfer of special declarant rights pursuant to section 515B.3-104(a), or any instrument recorded pursuant to section 515B.3-104(b), (g), or (h);

(3) the total number of units which all declarants have the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the

number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community, and the nature of the occupancy, (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or master association will be required to maintain, and (vii) a description of any declarant licensing rights under section 515B.2-109(e);

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; a description of any alternate common expense plan under section 515B.3-115(a)(2)(i); and, if the declaration provides for an alternate common expense plan, either (i) a statement that the alternate common expense plan will have no effect on the level of services or amenities anticipated by the association's budget or disclosed in the disclosure statement, or (ii) a statement describing how the services or amenities may be affected;

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD), or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 to 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that:

(i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106(a);

(ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and

(iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113(b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative:

(i) whether the unit owners will be entitled, for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative;

(ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and

(iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement:

(i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest, and penalties, and stating the years for which taxes are delinquent; and

(ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the unit or other parcel of real estate being purchased is or may be subject to a master declaration at the time of the conveyance from the declarant to the purchaser, a statement to that effect, and all of the following information with respect to the master association:

(i) copies of the following documents (which may be in proposed form if the master declaration has not been recorded): the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto;

(ii) the name and address of the master developer, and the name, address, and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members;

(iii) a description of any nonresidential use permitted on any property subject to the master declaration;

(iv) a statement as to the estimated maximum number of associations, unit owners, or other persons which may become members of the master association, and a description of any period of control of the master association and rights to appoint master association directors by a master developer or other person pursuant to section 515B.2-121(c);

(v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member of the master association;

(vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made;

(vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly or other periodic common expense assessment payment for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment;

(viii) a description of any expenses or services not reflected in the budget, paid for or provided by a master developer or another person executing the master declaration, which may become an expense of the master association in the future;

(ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(e)(2);

(x) identification of any liens, defects, or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members;

(xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-113(b)(2);

(xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association;

(xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and

(xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and, if not substantially completed, who is responsible to complete and pay for the

construction of the unit;

(22) copies of the following documents (which may be in proposed form if the declaration has not been recorded): the declaration and any supplemental declaration, and any amendments thereto (exclusive of the CIC plat); any other recorded covenants, conditions, restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws, and any rules or regulations of the association; the names of the current members of the association's board of directors; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by the purchaser at closing; and a description of any material contracts, leases, or other agreements affecting the common interest community; and

(23) a balance sheet for the association, following the creation of the association, current within 90 days; a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation:

(i) a statement of the amount included in the budget as a reserve for replacement, the components of the common interest community for which the reserves are budgeted, and the amounts of the reserves, if any, that are allocated for the replacement of each of those components;

(ii) a statement of any other reserves;

(iii) the projected common expense for each category of expenditures for the association;

(iv) the projected monthly common expense assessment for each type of unit; and

(v) a statement as to the components of the common interest community whose replacement will be funded by assessments under section 515B.3-115(c) or (e), rather than by replacement reserves as approved pursuant to section 515B.3-114(a). If, based upon the association's then-current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20), is not liable to the buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

(d) This section applies only to common interest communities created on or after August 1, 2010.

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

Sec. 20. Minnesota Statutes 2010, section 515B.4-115, is amended to read:

515B.4-115 STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d), shall be commenced within ~~12~~ six months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation ~~signed by one purchaser of a unit~~ shall be binding on ~~any copurchasers of the unit, and the purchasers' successors and purchaser's assigns.~~ With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a the purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the ~~purchaser's~~ purchasers' lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of ~~any interest in~~ the unit by a the declarant to a bona fide purchaser, ~~of the unit~~ other than an affiliate of a declarant, or the time a the purchaser enters into possession of ~~the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser;~~ and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first ~~interest in~~ a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that ~~was~~ is additional real estate, at the time the first ~~interest in~~ a unit ~~created thereon~~ therein is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created before August 1, 2010.

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

Sec. 21. **[515B.4-1151] STATUTE OF LIMITATIONS FOR WARRANTIES.**

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d) shall be commenced within 12 months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation signed by one purchaser of a unit shall be binding on any copurchasers of the unit, and successor purchasers' successors and assigns. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by

an instrument separate from the purchase agreement signed by a purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of any interest in the unit by a declarant to a bona fide purchaser, other than an affiliate of a declarant, or the time a purchaser enters into possession of the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first interest in a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was additional real estate, at the time the first interest in a unit created thereon is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created on or after August 1, 2010, and before August 1, 2011.

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

Sec. 22. [515B.4-1152] STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d) shall be commenced within 12 months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation signed by one purchaser of a unit shall be binding on any copurchasers of the unit. If an agreement reducing the period of limitations is recorded in compliance with applicable law, the agreement is binding on the purchaser's and copurchaser's successors in title to the unit. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by a purchaser of the unit.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchaser's lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of any interest in the unit by a declarant to a bona fide purchaser, other than an affiliate of a declarant, or the time a purchaser enters into possession of the unit. As to a unit subject to time shares, a cause of action accrues upon the earlier of the conveyance of the unit or the conveyance of the first time share interest in the unit to a purchaser; and

(2) as to each common element, the latest of (i) the time the common element is completed; (ii) the time the first interest in a unit in the common interest community is conveyed to a bona fide purchaser, or, if the common element is located on property that was additional real estate, at the time the first interest in a unit created thereon is conveyed to a bona fide purchaser; or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(e) This section applies only to common interest communities created on or after August 1, 2011.

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; modifying provisions relating to courts and common interest ownership; amending Minnesota Statutes 2010, sections 279.37, subdivision 8; 359.061, subdivisions 1, 2; 484.68, subdivision 3; 514.69; 514.70; 515B.1-102; 515B.1-103; 515B.1-116; 515B.2-109; 515B.2-110; 515B.2-121; 515B.2-124; 515B.3-102; 515B.3-104; 515B.3-105; 515B.3-114; 515B.3-115; 515B.4-102; 515B.4-115; 518B.01, subdivision 8; 525.091, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 5B; 515B."

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

House Conferees: Steve Smith, Ron Shimanski

Senate Conferees: Warren Limmer, John M. Harrington, Scott J. Newman

Senator Limmer moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1023 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. 1023 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kruse	Newman	Senjem
Benson	Gerlach	Langseth	Nienow	Sheran
Berglin	Gimse	Latz	Olson	Sieben
Bonoff	Hall	Lillie	Ortman	Skoe
Brown	Hann	Limmer	Pappas	Sparks
Carlson	Harrington	Lourey	Parry	Stumpf
Chamberlain	Higgins	Magnus	Pederson	Thompson
Cohen	Hoffman	Marty	Pogemiller	Tomassoni
Dahms	Howe	McGuire	Reinert	Torres Ray
Daley	Ingebrigtsen	Metzen	Rest	Wiger
DeKruif	Jungbauer	Michel	Robling	Wolf
Dibble	Kelash	Miller	Rosen	
Fischbach	Koch	Nelson	Saxhaug	

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

MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 232, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 232 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 23, 2011

CONFERENCE COMMITTEE REPORT ON H. F. NO. 232

A bill for an act relating to state government; expanding eligibility for gold star license plates to surviving legal guardians and siblings; regulating certain motor vehicle fees; regulating the Department of Veterans Affairs and veterans homes; amending Minnesota Statutes 2010, sections 168.1253, subdivision 1; 168.33, subdivision 7; 171.06, subdivision 2; 198.261; 299A.705, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 196.

May 23, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 232 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 232 be further amended as follows:

Page 1, line 14, after "guardian" insert ", child"

Page 1, line 15, after the period, insert "For the purposes of this section, an eligibility relationship may be established by birth or adoption."

Page 5, after line 19, insert:

"Sec. 7. Laws 2008, chapter 363, article 11, section 9, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2008, ~~and expires June 30, 2012.~~"

Amend the title as follows:

Page 1, line 3, after "guardians" insert ", children,"

Page 1, line 4, after the semicolon, insert "making permanent the driver and vehicle services technology account;"

Correct the title numbers accordingly

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

House Conferees: John Kriesel, Larry Howes, Paul Marquart

Senate Conferees: Bill G. Ingebrigtsen, David H. Senjem, Dan Sparks

Senator Ingebrigtsen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 232 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. 232 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 63 and nays 1, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kruse	Newman	Senjem
Benson	Gerlach	Langseth	Nienow	Sheran
Berglin	Gimse	Latz	Olson	Sieben
Bonoff	Hall	Lillie	Ortman	Skoe
Brown	Hann	Limmer	Pappas	Sparks
Carlson	Harrington	Lourey	Parry	Stumpf
Chamberlain	Higgins	Magnus	Pederson	Thompson
Cohen	Hoffman	Marty	Pogemiller	Tomassoni
Dahms	Howe	McGuire	Reinert	Torres Ray
Daley	Ingebrigtsen	Metzen	Rest	Wiger
DeKruif	Jungbauer	Michel	Robling	Wolf
Dibble	Kelash	Miller	Rosen	
Fischbach	Koch	Nelson	Saxhaug	

Those who voted in the negative were:

Vandev eer

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

MEMBERS EXCUSED

Senator Scheid was excused from the Session of today. Senators Bonoff, Daley, DeKruif, Nelson, Olson and Wolf were excused from the Session of today from 2:30 to 2:40 p.m. Senator Koch was excused from the Session of today from 2:30 to 3:15 p.m. Senator Ortman was excused from the Session of today from 2:40 to 3:15 p.m. and from 7:30 to 8:10 p.m. Senator McGuire was excused from the Session of today from 3:00 to 3:25 p.m. Senator Sieben was excused from the Session of today from 7:30 to 8:15 p.m. Senators Goodwin and Kubly were excused from the Session of today at 10:50 p.m.

64TH DAY]

MONDAY, MAY 23, 2011

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ADJOURNMENT

Senator Koch moved that the Senate do now adjourn until 12:00 noon, Tuesday, January 24, 2012. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate

