

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-SEVENTH LEGISLATURE

EIGHTY-THIRD DAY

St. Paul, Minnesota, Thursday, March 8, 2012

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

CALL OF THE SENATE

Senator Senjem 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. Alan Loose.

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

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

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

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 communications were received.

February 7, 2012

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

BOARD OF THE ARTS

Michael Charron, 1630 Gilmore Valley Rd., Winona, in the county of Winona, effective February 13, 2012, for a term expiring on January 4, 2016.

Benjamin Klipfel, 619 Jefferson St., Alexandria, in the county of Douglas, effective February 13, 2012, for a term expiring on January 4, 2016.

Ellen McInnis, 3406 - 46th Ave. N., Robbinsdale, in the county of Hennepin, effective February 13, 2012, for a term expiring on January 4, 2016.

(Referred to the Committee on State Government Innovation and Veterans.)

February 28, 2012

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

MINNESOTA STATE LOTTERY
DIRECTOR

Edwin Van Petten, 2622 Sawgrass Dr., Lawrence, Kansas, in the county of Douglas, effective March 1, 2012.

(Referred to the Committee on State Government Innovation and Veterans.)

Sincerely,
Mark Dayton, Governor

March 5, 2012

The Honorable Michelle L. Fischbach
President of the Senate

Dear Madam President:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F No. 1371.

Sincerely,
Mark Dayton, Governor

March 5, 2012

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2012 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2012	Date Filed 2012
1371		127	3:34 p.m.; March 5	March 5

Sincerely,
Mark Ritchie
Secretary of State

REPORTS OF COMMITTEES

Senator Senjem moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Vandever from the Committee on Local Government and Elections, to which was referred

S.F. No. 2043: A bill for an act relating to elections; modifying certain election administration procedures for individuals who have been convicted of a felony; amending Minnesota Statutes 2010, sections 201.054, subdivision 2, by adding a subdivision; 201.157; 201.275; 204C.14; 241.065, subdivision 2; Minnesota Statutes 2011 Supplement, section 203B.06, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 244.

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

Page 1, line 11, delete "(a)"

Page 1, delete lines 17 to 25

Page 2, delete lines 1 and 2

Page 2, line 31, delete the new language

Page 2, line 32, delete the new language and insert "and, if available," and strike "if available,"

Page 3, delete subdivision 2 and insert:

"Subd. 2. Notice to affected individuals. (a) Between 60 and 65 days prior to a state general

election, the Department of Corrections shall provide to the secretary of state a list of offenders, who, at the time the list is prepared, are serving a felony sentence or are on probation for a felony offense that resulted in the loss of civil rights. The list shall also include former offenders who were discharged from all felony level sentences since the previous list was provided in accordance with this subdivision and who are not serving a felony level sentence at the time the list is prepared. The data must include the name, date of birth, last known residential address that is not a correctional facility, and, if available, correction's state identification number and the driver's license or state identification card number, and if an individual has completed the sentence, the date of discharge.

(b) The secretary of state shall use the data provided in paragraph (a) to mail written notices at least one month prior to a state general election, as follows:

(1) a notice to each individual on probation for a felony offense that would result in the loss of civil rights, informing the individual that registration or voting while on probation for the offense is itself a felony offense and may result in the loss of the individual's probation status; and

(2) a notice to each individual who has completed a term of probation resulting in the loss of civil rights and who has no new felony conviction, that the individual's right to vote has been restored."

Page 5, after line 24, insert:

"EFFECTIVE DATE. This section is effective June 15, 2012."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Amendments adopted. Report adopted.

Senator Rosen from the Committee on Energy, Utilities and Telecommunications, to which was referred

S.F. No. 1906: A bill for an act relating to energy; eliminating the size limitation on hydropower sources that may satisfy the renewable energy standard; amending Minnesota Statutes 2011 Supplement, section 216B.1691, subdivision 1.

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

Page 2, line 3, strike everything after the period

Page 2, strike lines 4 to 7

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

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 1561: A bill for an act relating to transportation; providing contingent appropriation for highway safety rest areas; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 160.

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

Delete everything after the enacting clause and insert:

"Section 1. [160.2751] CONTINGENT APPROPRIATION TO FUND ONGOING

OPERATION AND MAINTENANCE.

Subdivision 1. **Appropriation for rest areas.** If, before July 1 of an odd-numbered year, legislation is not enacted to appropriate money to the commissioner of transportation for state roads operations and maintenance in the next fiscal year, on July 1, an amount equal to the expenditures in the previous fiscal year for operation and maintenance of the state highway rest area system is appropriated from the trunk highway fund to the commissioner of transportation for operation and maintenance of state highway safety rest areas, including costs of Department of Transportation employees needed to carry out these functions. The commissioner of management and budget shall ensure that the commissioner of transportation is able to access money under this appropriation. Any subsequent appropriation to the commissioner of transportation for the purposes stated in this subdivision for a biennium in which this subdivision has been applied shall supersede and replace the funding authorized in this subdivision.

Subd. 2. **Continued operations.** If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money for the next biennium to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions stated in subdivision 1 are appropriated for the next biennium from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section has been applied shall supersede and replace the funding authorized in this section.

Sec. 2. [168D.165] CONTINGENT APPROPRIATION TO FUND DEPARTMENT OF PUBLIC SAFETY PRORATE UNIT AND RELATED COSTS.

Subdivision 1. **Appropriation for prorate unit.** If, before July 1 of an odd-numbered year, legislation is not enacted to appropriate money from the special revenue fund to the commissioner of public safety, an amount sufficient to pay for continuing operations of the prorate unit to administer the international fuel tax agreement and the international registration plan is appropriated from the vehicle services operating account in the special revenue fund to the commissioner of public safety. The commissioner of management and budget shall ensure that the commissioner of public safety is able to access money under this appropriation. Any subsequent appropriation to the commissioner of public safety for the purposes stated in this subdivision for a biennium in which this subdivision has been applied shall supersede and replace the funding authorized in this subdivision.

Subd. 2. **Continued operations.** If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money for the next biennium to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions stated in subdivision 1 are appropriated for the next biennium from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section has been applied shall supersede and replace the funding authorized in this section."

Delete the title and insert:

"A bill for an act relating to transportation; providing contingent appropriation for highway safety rest areas and public safety prorate unit; appropriating money; proposing coding for new law

in Minnesota Statutes, chapters 160; 168D."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 2131: A bill for an act relating to transportation; contracts; authorizing completion of design-build projects approved under pilot program; amending Laws 2009, chapter 36, article 3, sections 28, subdivision 2, by adding a subdivision; 29, subdivisions 2, 4, 7; repealing Laws 2009, chapter 36, article 3, section 28, subdivisions 1, 3, 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 2009, chapter 36, article 3, section 28, is amended to read:

Sec. 28. **DESIGN-BUILD PROJECT SELECTION COUNCIL LOCAL PROJECTS.**

~~Subdivision 1. **Establishment of council.** A Design-Build Project Selection Council is established to select, evaluate, and support county and municipal transportation projects on the state-aid system that are conducive to use of the design-build method of contracting and to report to the legislature.~~

Subd. 1a. **Selection authority.** The commissioner of transportation or the commissioner's designee from the Department of Transportation State Aid for Local Transportation Division shall select, evaluate, and support county and municipal transportation projects on the state-aid system that are conducive to use of the design-build method of contracting.

Subd. 2. **Duties of council commissioner.** In order to accomplish these purposes, the council commissioner shall:

- (1) review applications for participation received by the commissioner from counties and cities;
- (2) select projects for participation in the pilot program a maximum of 15 projects on the state-aid system, no more than ten of which may be on the county state-aid highway system, and no more than ten of which may be on the municipal state-aid street system each calendar year;
- (3) determine that the use of design-build in the selected projects would serve the public interest, after considering, at a minimum:
 - (i) the extent to which the municipality can adequately define the project requirements in a proposed scope of the design and construction desired;
 - (ii) the time constraints for delivery of the project;
 - (iii) the capability of potential contractors with the design-build method of project delivery;
 - (iv) the suitability of the project for use of the design-build method of project delivery with respect to time, schedule, costs, and quality factors;
 - (v) the capability of the municipality to manage the project, including the employment of

experienced personnel or outside consultants; and

(vi) the original character of the product or the services; and

(4) periodically review and evaluate the use of design-build in the selected projects; and

~~(5) assist the commissioner in preparing a report to the legislature at the conclusion of the pilot program.~~

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

~~(1) two contractors, at least one of whom represents a small contracting firm, selected by the Associated General Contractors, Minnesota chapter;~~

~~(2) two project designers selected by the American Council of Engineering Companies, Minnesota chapter;~~

~~(3) one representative of a metropolitan area county selected by the Association of Minnesota Counties;~~

~~(4) one representative of a greater Minnesota county selected by the Association of Minnesota Counties;~~

~~(5) one representative of a metropolitan area city selected by the League of Minnesota Cities;~~

~~(6) one representative of a greater Minnesota city selected by the League of Minnesota Cities; and~~

~~(7) the commissioner of transportation or a designee from the Minnesota Department of Transportation Division of State Aid for Local Transportation.~~

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

~~(c) The commissioner or the commissioner's designee shall convene the first meeting of the council within two weeks after the members have been appointed to the council and shall serve as chair of the council.~~

~~Subd. 4. **Report to legislature.** Annually, by January 15, the council shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over transportation budget and policy, and to the legislature as provided under Minnesota Statutes, section 15.059. The report must summarize the design-build pilot program selection process, including the number of applications considered; the proposal process for each project that was selected; the contracting process for each project that was completed; and project costs. The report must evaluate the process and results applying the performance-based measures with which the commissioner evaluates trunk highway design-build projects. The report must include any recommendations for future legislation.~~

EFFECTIVE DATE. This section is effective the day following final enactment and expires upon completion of nine design-build projects.

Sec. 2. Laws 2009, chapter 36, article 3, section 28, the effective date, is amended to read:

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

~~on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first.~~

Sec. 3. Laws 2009, chapter 36, article 3, section 29, is amended to read:

Sec. 29. **DESIGN-BUILD CONTRACTING ~~PILOT~~ PROGRAM.**

Subdivision 1. **Definitions.** The following terms have the meanings given:

- (1) "commissioner" means the commissioner of transportation;
- (2) "municipality" means a county or statutory or home rule charter city;
- (3) "design-build contract" means a single contract between a municipality and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for the transportation project;
- (4) "design-build firm" means a proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation, or any legal entity;
- (5) "design professional" means a person who holds a license under Minnesota Statutes, chapter 326B, that is required to be registered under Minnesota law;
- (6) "design-build transportation project" means the procurement of both the design and construction of a transportation project in a single contract with a company or companies capable of providing the necessary engineering services and construction;
- (7) "design-builder" means the design-build firm that proposes to design and build a transportation project governed by the procedures of this section;
- (8) "request for proposals" or "RFP" means the document by which the municipality solicits proposals from qualified design-build firms to design and construct the transportation project;
- (9) "request for qualifications" or "RFQ" means a document to qualify potential design-build firms; and
- (10) "responsive proposal" means a technical proposal of which no major component (i) contradicts the goals of the project, (ii) materially violates an RFP requirement so as to give the proposer a competitive advantage, or (iii) places conditions on a proposal inconsistent with the requirements of the RFP.

Subd. 2. **Establishment of ~~pilot~~ the program.** (a) The commissioner of transportation shall conduct a design-build contracting ~~pilot~~ program to select local transportation projects for participation in the program, to conduct information sessions for engineers and contractors, to support and evaluate the use of the design-build method of contracting by counties and statutory and home rule charter cities in constructing, improving, and maintaining streets and highways on the state-aid system, ~~and to report to the legislature.~~

(b) The commissioner must concur in the RFQ and RFP prior to solicitation.

(c) The selection of design-build projects under the ~~pilot~~ program must be as made by the Design-Build Project Selection Council established commissioner as provided in section 28.

Subd. 3. **Licensing requirements.** (a) Each design-builder shall employ, or have as a partner, member, officer, coventurer, or subcontractor, a person duly licensed and registered to provide the design services required to complete the project and do business in the state, including the provision of sureties of sufficient amount to protect the interests of the awarding municipality.

(b) A design-builder may enter into a contract to provide professional or construction services for a project that the design-builder is not licensed, registered, or qualified to perform, so long as the design-builder provides those services through subcontractors with duly licensed, registered, or otherwise qualified individuals in accordance with Minnesota Statutes, sections 161.3410 to 161.3428.

(c) Nothing in this section authorizing design-build contracts is intended to limit or eliminate the responsibility or liability owed by a professional on a design-build project to the state, municipality, or other third party under existing law.

(d) The design service portion of a design-build contract must be considered a service and not a product.

Subd. 4. **Information session for municipal engineer.** After a project is selected for participation in the design-build contracting ~~pilot~~ program, the commissioner or the commissioner's designee with design-build experience shall conduct an information session for the municipality's engineer for each selected project, in which issues unique to design-build must be discussed, including, but not limited to, writing an RFP, project oversight requirements, assessing risk, and communication with the design-build firm. After participation in the information session, the municipality's engineer is qualified to post the selected project, along with any future design-build project RFP in the ~~pilot~~ program.

Subd. 5. **Technical Review Committee.** During the phase one RFQ and before solicitation, the municipality shall appoint a Technical Review Committee of at least five individuals. The Technical Review Committee must include an individual whose name and qualifications are submitted to the municipality by the Minnesota chapter of the Associated General Contractors, after consultation with other commercial contractor associations in the state. Members of the Technical Review Committee who are not state employees are subject to the Minnesota Government Data Practices Act and Minnesota Statutes, section 16C.06, to the same extent that state agencies are subject to those provisions. A Technical Review Committee member may not participate in the review or discussion of responses to the RFQ or RFP when a design-build firm in which the member has a financial interest has responded to the RFQ or RFP. "Financial interest" includes, but is not limited to, being or serving as an owner, employee, partner, limited liability partner, shareholder, joint venturer, family member, officer, or director of a design-build firm responding to an RFQ or RFP for a specific project, or having any other economic interest in that design-build firm. The members of the Technical Review Committee must be treated as municipal employees in the event of litigation resulting from any action arising out of their service on the committee.

Subd. 6. **Phase one; design-build RFQ.** The municipality shall prepare an RFQ, which must include the following:

(1) the minimum qualifications of design-builders necessary to meet the requirements for acceptance;

(2) a scope of work statement and schedule;

- (3) documents defining the project requirements;
- (4) the form of contract to be awarded;
- (5) the weighted selection criteria for compiling a short list and the number of firms to be included in the short list, which must be at least two but not more than five;
- (6) a description of the request for proposals (RFP) requirements;
- (7) the maximum time allowed for design and construction;
- (8) the municipality's estimated cost of design and construction;
- (9) requirements for construction experience, design experience, financial, personnel, and equipment resources available from potential design-builders for the project and experience in other design-build transportation projects or similar projects, provided that these requirements may not unduly restrict competition; and
- (10) a statement that "past performance" or "experience" or other criteria used in the RFQ evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 7. **Information session for prospective design-build firms.** After a design-build project is advertised, any prospective design-build firm shall attend a design-build information session conducted by the commissioner or the commissioner's designee with design-build experience. The information must include information about design-build contracts, including, but not limited to, communication with partner firms, project oversight requirements, assessing risk, and communication with the municipality's engineer. After participation in the information session, the design-build firm is eligible to bid on the design-build project and any future design-build ~~pilot~~ program projects.

Subd. 8. **Evaluation.** The selection team shall evaluate the design-build qualifications of responding firms and shall compile a short list of no more than five most highly qualified firms in accordance with qualifications criteria described in the RFQ. If only one design-build firm responds to the RFQ or remains on the short list, the municipality may readvertise or cancel the project as the municipality deems necessary.

Subd. 9. **Phase two; design-build RFP.** The municipality shall prepare an RFP, which must include:

- (1) the scope of work, including (i) performance and technical requirements, (ii) conceptual design, (iii) specifications consistent with state standards and specifications, and (iv) functional and operational elements for the delivery of the completed project, all of which must be prepared by a registered or licensed professional engineer;
- (2) copies of the contract documents that the successful proposer will be expected to sign;
- (3) the maximum time allowable for design and construction;
- (4) the road authority's estimated cost of design and construction;
- (5) the requirement that a submitted proposal be segmented into two parts, a technical proposal and a price proposal;

(6) the requirement that each proposal be in a separately sealed, clearly identified package and include the date and time of the submittal deadline;

(7) the requirement that the technical proposal include a critical path method, bar schedule of the work to be performed, or similar schematic; preliminary design plans and specifications; technical reports; calculations; permit requirements; applicable development fees; and other data requested in the RFP;

(8) the requirement that the price proposal contain all design, construction, engineering, inspection, and construction costs of the proposed project;

(9) the requirement that surety be submitted equal to the total amount of the proposal;

(10) a description of the qualifications required of the design-builder and the selection criteria, including the weight of each criterion and subcriterion;

(11) the date, time, and location of the public opening of the sealed price proposals;

(12) the amount of, and eligibility for, a stipulated fee;

(13) other information relevant to the project; and

(14) a statement that "past performance," "experience," or other criteria used in the RFP evaluation process does not include the exercise or assertion of a person's legal rights.

Subd. 10. **Design-build award; computation; announcement.** A design-build contract shall be awarded as follows:

(a) The Technical Review Committee shall score the technical proposals of the proposers selected under subdivision 8 using the selection criteria in the RFP. The Technical Review Committee shall then submit a technical proposal score for each design-builder to the municipality. The Technical Review Committee shall reject any nonresponsive proposal, including those unable to provide sufficient surety to guarantee project completion. The municipality shall review the technical proposal scores.

(b) The commissioner or the commissioner's designee shall review the technical proposal scores. The commissioner shall submit the final technical proposal scores to the municipality.

(c) The municipality shall announce the technical proposal score for each design-builder and shall publicly open the sealed price proposals and shall divide each design-builder's price by the technical score that the commissioner has given to it to obtain an adjusted score. The design-builder selected must be that responsive and responsible design-builder whose adjusted score is the lowest.

(d) If a time factor is included with the selection criteria in the RFP package, the municipality may use a value of the time factor established by the municipality as a criterion in the RFP.

(e) Unless all proposals are rejected, the municipality shall award the contract to the responsive and responsible design-builder with the lowest adjusted score. The municipality shall reserve the right to reject all proposals.

(f) The municipality shall award a stipulated fee not less than two-tenths of one percent of the municipality's estimated cost of design and construction to each short-listed, responsible

proposer who provides a responsive but unsuccessful proposal. If the municipality does not award a contract, all short-listed proposers must receive the stipulated fee. If the municipality cancels the contract before reviewing the technical proposals, the municipality shall award each design-builder on the short list a stipulated fee of not less than two-tenths of one percent of the municipality's estimated cost of design and construction. The municipality shall pay the stipulated fee to each proposer within 90 days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the municipality may use any ideas or information contained in the proposals in connection with any contract awarded for the project or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subdivision, an unsuccessful short-list proposer may elect to waive the stipulated fee. If an unsuccessful short-list proposer elects to waive the stipulated fee, the municipality may not use ideas and information contained in that proposer's proposal. Upon the request of the municipality, a proposer who waived a stipulated fee may withdraw the waiver, in which case the municipality shall pay the stipulated fee to the proposer and thereafter may use ideas and information in the proposer's proposal.

(g) The municipality shall not limit the ability of design-builders that have submitted proposals to protest a contemplated or actual award by the commissioner by, among other things, unreasonably restricting the time to protest; restricting the right to seek judicial review of the commissioner's actions; attempting to change the judicial standard of review; or requiring the protestor to pay attorney fees for an unsuccessful, nonfrivolous protest. Unless all design-builders that have submitted proposals agree to execution of a contract for the project without a waiting period beforehand, the municipality shall wait at least seven days after both the award of the project and public disclosure of the Technical Review Committee's scoring data and the successful proposal before executing a contract for the project.

Subd. 11. **Low-bid design-build process.** (a) The municipality may also use low-bid, design-build procedures to award a design-build contract where the scope of the work can be clearly defined.

(b) Low-bid design-build projects may require an RFQ and short-listing, and must require an RFP.

(c) Submitted proposals under this subdivision must include separately a technical proposal and a price proposal. The low-bid, design-build procedures must follow a two-step process for review of the responses to the RFP as follows:

(1) the first step is the review of the technical proposal by the Technical Review Committee as provided in subdivision 5. The Technical Review Committee must open the technical proposal first and must determine if it complies with the requirements of the RFP and is responsive. The Technical Review Committee may not perform any ranking or scoring of the technical proposals; and

(2) the second step is the determination of the low bidder based on the price proposal. The municipality may not open the price proposal until the review of the technical proposal is complete.

(d) The contract award under low-bid, design-build procedures must be made to the proposer whose sealed bid is responsive to the technical requirements as determined by the Technical Review Committee and that is also the lowest bid.

(e) A stipulated fee may be paid for unsuccessful bids on low-bid, design-build projects only

when the municipality has required an RFQ and short-listed the most highly qualified responsive bidders.

EFFECTIVE DATE. This section is effective the day following final enactment and expires upon completion of nine design-build projects.

Sec. 4. Laws 2009, chapter 36, article 3, section 29, the effective date, is amended to read:

~~**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on October 1, 2012, or upon completion of nine design-build projects under this pilot program, whichever occurs first."~~

Delete the title and insert:

"A bill for an act relating to transportation; contracts; authorizing completion of design-build projects approved by commissioner of transportation; amending Laws 2009, chapter 36, article 3, sections 28; 29."

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

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 1259: A bill for an act relating to motor vehicles; allowing vehicles bearing special veterans' plates to park free of charge in public parking facilities; proposing coding for new law in Minnesota Statutes, chapter 168.

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

Page 1, line 10, delete "publicly owned" and insert "state-owned"

Amend the title as follows:

Page 1, line 3, delete "public" and insert "state-owned"

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1830: A bill for an act relating to environment; modifying certain reporting and assessment requirements; modifying waste management provisions; clarifying certain environmental review; eliminating certain fees; modifying toxic pollution prevention requirements; modifying certain standards for stationary sources; extending prohibition on new open air swine basins; modifying acid deposition control requirements; modifying sewage sludge management; amending Minnesota Statutes 2010, sections 103A.43; 103H.175, subdivision 3; 115.06, subdivision 4; 115.42; 115A.15, subdivision 5; 115A.411; 115A.551, subdivisions 2a, 4; 115A.557, subdivisions 3, 4; 115A.93, subdivisions 1, 3; 115D.08; 115D.10; 116.011; 116.0714; 116.10; 116C.833, subdivision 2; 216C.055; 216H.07, subdivision 3; 473.149, subdivision 6; 473.846; Minnesota Statutes 2011 Supplement, sections 115A.1320, subdivision 1; 116D.04, subdivision 2a; repealing Minnesota Statutes 2010, sections 115.447; 115A.07, subdivision 2; 115A.15, subdivision

5; 115A.965, subdivision 7; 216H.07, subdivision 4; Minnesota Rules, parts 7002.0025, subpart 2a; 7011.7030; 7021.0010, subpart 3; 7021.0050, subparts 1, 2, 3; 7041.0500, subparts 5, 6, 7.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 16A.065, is amended to read:

16A.065 PREPAY SOFTWARE, SUBSCRIPTIONS, UNITED STATES DOCUMENTS.

Notwithstanding section 16A.41, subdivision 1, the commissioner may allow an agency to make advance deposits or payments for software or software maintenance services for state-owned or leased electronic data processing equipment, for sole source maintenance agreements where it is not cost-effective to pay in arrears, for exhibit booth space or boat slip rental when required by the renter to guarantee the availability of space, for short-term cash flow advances under executed grants or contracts associated with land acquisitions, for registration fees where advance payment is required or advance payment discount is provided, and for newspaper, magazine, and other subscription fees customarily paid for in advance. The commissioner may also allow advance deposits by any department with the Library of Congress and federal Supervisor of Documents for items to be purchased from those federal agencies.

Sec. 2. Minnesota Statutes 2010, section 84.027, subdivision 15, is amended to read:

Subd. 15. **Electronic transactions.** (a) The commissioner may receive an application for, sell, and issue any license, stamp, permit, pass, sticker, gift card, safety training certification, registration, or transfer under the jurisdiction of the commissioner by electronic means, including by telephone. Notwithstanding section 97A.472, electronic and telephone transactions may be made outside of the state. The commissioner may:

(1) provide for the electronic transfer of funds generated by electronic transactions, including by telephone;

(2) assign an identification number to an applicant who purchases a hunting or fishing license or recreational vehicle registration by electronic means, to serve as temporary authorization to engage in the activity requiring a license or registration until the license or registration is received or expires;

(3) charge and permit agents to charge a fee of individuals who make electronic transactions and transactions by telephone or Internet, including issuing fees and an additional transaction fee not to exceed \$3.50;

(4) charge and permit agents to charge a convenience fee not to exceed three percent of the cost of the license to individuals who use electronic bank cards for payment. An electronic licensing system agent charging a fee of individuals making an electronic bank card transaction in person must post a sign informing individuals of the fee. The sign must be near the point of payment, clearly visible, include the amount of the fee, and state: "License agents are allowed by state law to charge a fee not to exceed three percent of the cost of state licenses to persons who use electronic bank cards for payment. The fee is not required by state law.";

(5) establish, by written order, an electronic licensing system commission to be paid by revenues generated from all sales made through the electronic licensing system. The commissioner shall

establish the commission in a manner that neither significantly overrecovers nor underrecovers costs involved in providing the electronic licensing system; and

(6) adopt rules to administer the provisions of this subdivision.

(b) The fees established under paragraph (a), clauses (3) and (4), and the commission established under paragraph (a), clause (5), are not subject to the rulemaking procedures of chapter 14 and section 14.386 does not apply.

(c) Money received from fees and commissions collected under this subdivision, including interest earned, is annually appropriated from the game and fish fund and the natural resources fund to the commissioner for the cost of electronic licensing.

(d) Game and fish licenses under chapters 97A, 97B, and 97C shall be available by electronic transaction, regardless of whether all or any part of the biennial appropriation law for the department has been enacted. If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions for the purpose of this paragraph are appropriated from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section is applicable supersedes and replaces the funding authorized in this paragraph. This paragraph may be cited as the "Freedom to Hunt and Fish Act of 2012."

Sec. 3. Minnesota Statutes 2010, section 84.67, is amended to read:

84.67 FORESTS FOR THE FUTURE REVOLVING ACCOUNT.

A forests for the future revolving account is created in the natural resources fund. Money in the account is appropriated to the commissioner of natural resources for the acquisition of forest lands that meet the eligibility criteria in section 84.66, subdivision 4. The commissioner shall sell the lands acquired under this section, subject to an easement as provided in section 84.66. Money received from the sale of forest lands acquired under this section and interest earned on the account shall be deposited into the account. ~~The commissioner must file a report to the house of representatives Ways and Means and the senate Finance Committees and the environment and natural resources finance committees or divisions of the senate and house of representatives by October 1 of each year indicating all purchases of forest land using money from this account and sales of forest land for which revenue is deposited into this account.~~

Sec. 4. **[84.76] APPRENTICE RIDER VALIDATION.**

Subdivision 1. **Definition.** For the purpose of this section, "accompanied by" means within a distance of another person that permits uninterrupted visual contact and verbal communication.

Subd. 2. **Apprentice rider requirements.** Notwithstanding sections 84.793, 84.862, 84.925, and 84.9256, a person who is age 12 or over and who does not possess a required safety certificate may participate in up to two trail-riding events sponsored by the commissioner in state parks, state trails, state recreation areas, and state forests that are designed to involve apprentice riders. The person must be accompanied by an adult with a valid safety certificate. All vehicles must be properly registered for use in Minnesota.

Sec. 5. Minnesota Statutes 2010, section 84.91, subdivision 1, is amended to read:

Subdivision 1. **Acts prohibited.** (a) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance or other substance to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it while operating a snowmobile or all-terrain vehicle, or who refuses to comply with a lawful request to submit to testing under sections 169A.50 to 169A.53 or an ordinance in conformity with it, shall be prohibited from operating ~~the~~ a snowmobile or all-terrain vehicle for a period of one year. The commissioner shall notify the person of the time period during which the person is prohibited from operating a snowmobile or all-terrain vehicle.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and chapters 169 and 169A relating to snowmobiles and all-terrain vehicles.

(f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either of them, is guilty of a misdemeanor. A person who operates a snowmobile or all-terrain vehicle during the time period the person is prohibited from operating a vehicle under paragraph (c) is guilty of a misdemeanor.

Sec. 6. Minnesota Statutes 2011 Supplement, section 84D.01, subdivision 15a, is amended to read:

Subd. 15a. **Service provider.** "Service provider" means an individual who or entity that installs or removes water-related equipment or structures from waters of the state for hire or as a service provided as a benefit of membership in a yacht club, boat club, marina, or similar organization. Service provider does not include a person working under the supervision of an individual with a valid service provider permit issued under section 84D.108.

Sec. 7. Minnesota Statutes 2010, section 84D.05, subdivision 1, is amended to read:

Subdivision 1. **Prohibited activities.** A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited invasive species, except:

- (1) under a permit issued by the commissioner under section 84D.11;
- (2) in the case of purple loosestrife, as provided by sections 18.75 to 18.88;
- (3) under a restricted species permit issued under section 17.457;
- (4) when being transported to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
- (5) when being transported for disposal as part of a harvest or control activity when specifically authorized under a permit issued by the commissioner according to section 103G.615, when being transported for disposal as specified under a commercial fishing license issued by the commissioner according to section 97A.418, 97C.801, 97C.811, 97C.825, 97C.831, or 97C.835, or when being transported as specified by the commissioner;
- (6) when the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
- (7) in the form of herbaria or other preserved specimens;
- (8) when being removed from watercraft and equipment, or caught while angling, and immediately returned to the water from which they came; or
- (9) as the commissioner may otherwise prescribe by rule.

Sec. 8. Minnesota Statutes 2011 Supplement, section 84D.09, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** Unless otherwise prohibited by law, a person may transport aquatic macrophytes:

- (1) that are duckweeds in the family Lemnaceae;
- (2) for disposal as part of a harvest or control activity ~~conducted~~ when specifically authorized under an aquatic plant management permit pursuant to section 103G.615, under permit pursuant to section 84D.11, or as specified by the commissioner;
- (3) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided that the aquatic macrophytes are emergent and cut above the waterline;
- (4) when legally purchased or traded by or from commercial or hobbyist sources for aquarium, wetland or lakeshore restoration, or ornamental purposes;
- (5) when harvested for personal or commercial use if in a motor vehicle;
- (6) to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying a species or reporting the presence of a species;
- (7) when transporting commercial aquatic plant harvesting or control equipment to a suitable location for purposes of cleaning any remaining aquatic macrophytes;
- (8) that are wild rice harvested under section 84.091;
- (9) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on

watercraft or decoys used for waterfowl hunting during the waterfowl season; or

(10) when removing water-related equipment from waters of the state for purposes of cleaning off aquatic macrophytes before leaving a water access site.

Sec. 9. Minnesota Statutes 2011 Supplement, section 84D.10, subdivision 1, is amended to read:

Subdivision 1. **Launching prohibited.** A person may not place or attempt to place into waters of the state ~~a watercraft, a trailer, or~~ water-related equipment, including aquatic plant harvesting or control equipment that has aquatic macrophytes, zebra mussels, or prohibited invasive species attached except as provided in this section.

Sec. 10. Minnesota Statutes 2011 Supplement, section 84D.10, subdivision 4, is amended to read:

Subd. 4. **Persons transporting water-related equipment.** (a) When leaving waters of the state a person must drain water-related equipment holding water and live wells and bilges by removing the drain plug before transporting the water-related equipment off the water access site or riparian property.

(b) Drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting water-related equipment.

(c) Emergency response vehicles and equipment may be transported on a public road with the drain plug or other similar device replaced only after all water has been drained from the equipment upon leaving the water body.

(d) Portable bait containers used by licensed aquatic farms, portable bait containers when fishing through the ice except on waters designated infested for viral hemorrhagic septicemia, and marine sanitary systems are exempt from this subdivision.

(e) A person must not dispose of bait in waters of the state.

(f) A boat lift, dock, swim raft, or associated equipment that has been removed from waters of the state infested with zebra mussels may not be placed in another water body until a minimum of 21 days have passed.

Sec. 11. Minnesota Statutes 2011 Supplement, section 84D.105, subdivision 2, is amended to read:

Subd. 2. **Inspector authority.** (a) The commissioner shall train and authorize individuals to inspect water-related equipment for aquatic macrophytes, aquatic invasive species, and water. The commissioner may enter into a delegation agreement with a tribal or local government where inspection authority as provided under paragraphs (b), (g), and (h) is delegated to tribal and local governments that assume all legal, financial, and administrative responsibilities for inspection programs on some or all public waters within their jurisdiction.

(b) Inspectors may visually and tactilely inspect watercraft and water-related equipment to determine whether aquatic invasive species, aquatic macrophytes, or water is present. If a person transporting watercraft or water-related equipment refuses to take required corrective actions or fails to comply with an order under section 84D.10, subdivision 3, an inspector who is not a licensed peace officer shall refer the violation to a conservation officer or other licensed peace officer.

(c) In addition to paragraph (b), a conservation officer or other licensed peace officer may inspect any watercraft or water-related equipment that is stopped at a water access site, any other public location in the state, or a private location where the watercraft or water-related equipment is in plain view, if the officer determines there is reason to believe that aquatic invasive species, aquatic macrophytes, or water is present on the watercraft or water-related equipment.

(d) Conservation officers or other licensed peace officers may utilize check stations in locations, or in proximity to locations, where watercraft or other water-related equipment is placed into or removed from waters of the state. Any check stations shall be operated in a manner that minimizes delays to vehicles, equipment, and their occupants.

(e) Conservation officers or other licensed peace officers may order water-related equipment to be removed from a water body if the commissioner determines such action is needed to implement aquatic invasive species control measures.

(f) The commissioner may require mandatory inspections of water-related equipment before a person places or removes water-related equipment into or out of a water body. Inspection stations may be located at or near public water accesses or in locations that allow for servicing multiple water bodies. The commissioner shall ensure that inspection stations:

- (1) have adequate staffing to minimize delays to vehicles and their occupants;
- (2) allow for reasonable travel times between public accesses and inspection stations if inspection is required before placing water-related equipment into a water body;
- (3) are located so as not to create traffic delays or public safety issues;
- (4) have decontamination equipment available to bring water-related equipment into compliance; and
- (5) do not reduce the capacity or hours of operation of public water accesses.

(g) The commissioner may authorize tribal and local governments that enter into a delegation agreement with the commissioner to conduct mandatory inspections of water-related equipment at specified locations within a defined area before a person places or removes water-related equipment into or out of a water body. Tribal and local governments that are authorized to conduct inspections under this paragraph must:

- (1) assume all legal, financial, and administrative responsibilities for implementing the mandatory inspections, alone or in agreement with other tribal or local governments;
- (2) employ inspectors that have been trained and authorized by the commissioner;
- (3) conduct inspections and decontamination measures in accordance with guidelines approved by the commissioner;
- (4) have decontamination equipment available at inspection stations or identify alternative decontamination equipment locations within a reasonable distance of the inspection station that can bring water-related equipment into compliance;
- (5) provide for inspection station locations that do not create traffic delays or public safety issues;
and

(6) submit a plan approved by the commissioner according to paragraph (h).

(h) Plans required under paragraph (g) must address:

(1) no reduction in capacity or hours of operation of public accesses and fees that do not discourage or limit use;

(2) reasonable travel times between public accesses and inspection stations;

(3) adequate staffing to minimize wait times and provide adequate hours of operation at inspection stations and public accesses;

(4) adequate enforcement capacity;

(5) measures to address inspections of water-related equipment at public water accesses for commercial entities and private riparian land owners; and

(6) other elements as required by the commissioner to ensure statewide consistency, appropriate inspection and decontamination protocols, and protection of the state's resources, public safety, and access to public waters.

(i) A government unit authorized to conduct inspections under this subdivision must submit an annual report to the commissioner summarizing the results and issues related to implementing the inspection program.

(j) The commissioner may waive the plan requirement in paragraph (g) for inspection programs where authorized inspectors are placed directly at one or more water access sites, with no requirement for a person to travel from the water access for inspection or decontamination, and no local ordinance or other regulation requiring a mandatory inspection before placing watercraft or water-related equipment into a water body or after watercraft or water-related equipment are removed from a water body.

Sec. 12. Minnesota Statutes 2011 Supplement, section 84D.13, subdivision 5, is amended to read:

Subd. 5. **Civil penalties.** (a) A civil citation issued under this section must impose the following penalty amounts:

(1) for transporting aquatic macrophytes in violation of section 84D.09, ~~\$50~~ \$100;

(2) for placing or attempting to place into waters of the state water-related equipment that has aquatic macrophytes attached, ~~\$100~~ \$200;

(3) for unlawfully possessing or transporting a prohibited invasive species other than an aquatic macrophyte, ~~\$250~~ \$500;

(4) for placing or attempting to place into waters of the state water-related equipment that has prohibited invasive species attached when the waters are not designated by the commissioner as being infested with that invasive species, ~~\$500 for the first offense and \$1,000 for each subsequent offense~~;

(5) for intentionally damaging, moving, removing, or sinking a buoy marking, as prescribed by rule, Eurasian water milfoil, \$100;

(6) for failing to have drain plugs or similar devices removed or opened while transporting water-related equipment or for failing to remove plugs, open valves, and drain water from water-related equipment, other than marine sanitary systems, before leaving waters of the state, \$50 \$100; and

(7) for transporting infested water off riparian property without a permit as required by rule, \$200.

(b) A civil citation that is issued to a person who has one or more prior convictions or final orders for violations of this chapter is subject to twice the penalty amounts listed in paragraph (a).

Sec. 13. Minnesota Statutes 2010, section 85.018, subdivision 2, is amended to read:

Subd. 2. **Authority of local government.** (a) A local government unit that receives state grants-in-aid for any trail, with the concurrence of the commissioner, and the landowner or land lessee, may:

(1) designate the trail for use by snowmobiles or for nonmotorized use from December 1 to April 1 of any year; and

(2) issue any permit required under subdivisions 3 to 5.

(b) A local government unit that receives state grants-in-aid under section 84.794, subdivision 2, 84.803, subdivision 2, or 84.927, subdivision 2, for any trail, with the concurrence of the commissioner, and landowner or land lessee, may:

(1) designate the trail specifically for use at various times of the year by all-terrain or off-road vehicles or off-highway motorcycles, for nonmotorized use such as ski touring, snowshoeing, and hiking, and for multiple use, ~~but not for motorized and nonmotorized use at the same time~~; and

(2) issue any permit required under subdivisions 3 to 5.

(c) A local unit of government that receives state grants-in-aid for any trail, with the concurrence of the commissioner and landowner or land lessee, may designate certain trails for joint use by snowmobiles, off-highway motorcycles, all-terrain and off-road vehicles.

Sec. 14. Minnesota Statutes 2010, section 85.055, subdivision 2, is amended to read:

Subd. 2. **Fee deposit and appropriation; continued operation.** (a) The fees collected under this section shall be deposited in the natural resources fund and credited to the state parks account. Money in the account, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, is available for appropriation to the commissioner to operate and maintain the state park system.

(b) State parks and recreation areas shall remain open for camping and other recreational activities, regardless of whether all or any part of the biennial appropriation law for the state parks and recreation areas has been enacted. The amount necessary for operations of state parks and recreation areas when the biennial appropriation law has not been enacted is appropriated from the state parks account in the natural resources fund. If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions for the purpose of this paragraph are appropriated from the general fund

to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this paragraph has been applied supersedes and replaces the funding authorized in this paragraph.

Sec. 15. Minnesota Statutes 2010, section 85.20, subdivision 1, is amended to read:

Subdivision 1. **Violation of rules.** (a) Any person who, within the limits of any state park, state monument, state recreation area, state wayside, or area of state land reserved from sale, as provided by Laws 1923, chapter 430 outdoor recreation unit established in chapter 86A, shall willfully cut, injure, or destroy any live tree, shrub, timber, evergreen, or ornamental plant of any kind, or who shall willfully injure, remove, destroy, deface, or mutilate any guideboard, guidepost, furniture, fixture, improvement, monument, tablet, or other property of the state of any kind, or who shall willfully violate, or fail to comply with, any rule of the commissioner adopted and promulgated in accordance with the provisions of Laws 1923, chapter 430, shall be according to section 86A.06, is guilty of a petty misdemeanor.

(b) Violations under paragraph (a) adopted for wildlife management areas described in section 86A.05, subdivision 8, are misdemeanors, consistent with game and fish law penalties defined in section 97A.301, subdivision 1, clause (6).

(c) If a different penalty is provided in another section of law for the violation and the person is charged under that section of law, the penalty specified for the violation will control over the penalty specified in paragraphs (a) and (b). Violations relating to the taking of wild animals are subject to the penalties as specified in the game and fish laws described in section 97A.011.

Sec. 16. Minnesota Statutes 2010, section 85.46, subdivision 1, is amended to read:

Subdivision 1. **Pass in possession.** (a) Except as provided in paragraph (b), while riding, leading, or driving a horse on lands administered by the commissioner, except forest roads and forest roads rights-of-way, a person 16 years of age or over shall carry in immediate possession a valid horse pass. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835. A person who violates any provision of this subdivision is guilty of a petty misdemeanor.

(b) A valid horse pass is not required under this section for a person riding, leading, or driving a horse on property that is owned by the person or the person's spouse, child, parent, or guardian.

Sec. 17. Minnesota Statutes 2010, section 85A.04, subdivision 1, is amended to read:

Subdivision 1. **Deposit; continued operation.** (a) All receipts from parking and admission to the Minnesota Zoological Garden shall be deposited in the state treasury and credited to an account in the special revenue fund, and are annually appropriated to the board for operations and maintenance.

(b) The Minnesota Zoological Garden shall remain open, regardless of whether all or any part of the biennial appropriation law for the zoo has been enacted. Appropriations under this section shall be used for operations of the zoo when the biennial appropriation law has not been enacted. If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions for the purpose of this paragraph are appropriated from the general fund to the commissioner of management and budget.

As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this paragraph has been applied supersedes and replaces the funding authorized in this paragraph.

Sec. 18. **[86B.13] AQUATIC INVASIVE SPECIES PREVENTION PROGRAM.**

Subdivision 1. **Establishment.** The commissioner shall establish a statewide course in preventing the spread of aquatic invasive species. The commissioner must develop an educational course and testing program that address identification of aquatic invasive species and best practices to prevent the spread of aquatic invasive species when moving water-related equipment, as defined under section 84D.01, subdivision 18a.

Subd. 2. **Aquatic invasive species trailer decal.** The commissioner shall issue an aquatic invasive species trailer decal for each trailer owned by a person that satisfactorily completes the required course of instruction.

Subd. 3. **Contracting for services.** The commissioner may contract for services to provide training and testing services under this section.

Subd. 4. **Aquatic invasive species trailer decal display required.** (a) A person may not transport watercraft or water-related equipment, as defined under section 84D.01, subdivision 18a, with a trailer unless the person has an aquatic invasive species trailer decal issued under this section. Temporary authorizations valid for seven days can be requested by persons that have not completed the required course of instruction.

(b) Aquatic invasive species trailer decals are valid for three years.

(c) The aquatic invasive species trailer decal must be adhered to the side of the trailer frame tongue near the hitch in a manner that it is readily visible and does not interfere with the display of any registration requirements under section 169.79.

(d) Aquatic invasive species trailer decals are not transferable.

EFFECTIVE DATE. This section is effective July 1, 2015.

Sec. 19. Minnesota Statutes 2010, section 86B.331, subdivision 1, is amended to read:

Subdivision 1. Acts prohibited. (a) An owner or other person having charge or control of a motorboat may not authorize or allow an individual the person knows or has reason to believe is under the influence of alcohol or a controlled or other substance to operate the motorboat in operation on the waters of this state.

(b) An owner or other person having charge or control of a motorboat may not knowingly authorize or allow a person, who by reason of a physical or mental disability is incapable of operating the motorboat, to operate the motorboat in operation on the waters of this state.

(c) A person who operates or is in physical control of a motorboat on the waters of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it while operating a motorboat, shall be prohibited from operating ~~the~~ a motorboat on the waters of this state for a period of 90 days between May 1 and October 31, extending over two consecutive years if necessary. If the

person operating the motorboat refuses to comply with a lawful demand to submit to testing under sections 169A.50 to 169A.53 or an ordinance in conformity with it, the person shall be prohibited from operating ~~the~~ a motorboat for a period of one year. The commissioner shall notify the person of the period during which the person is prohibited from operating a motorboat.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and chapters 169 and 169A relating to motorboats.

(f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(g) For purposes of this subdivision, a motorboat "in operation" does not include a motorboat that is anchored, beached, or securely fastened to a dock or other permanent mooring, or a motorboat that is being rowed or propelled by other than mechanical means.

Sec. 20. Minnesota Statutes 2010, section 97A.421, subdivision 4a, is amended to read:

Subd. 4a. **Suspension for failure to appear in court or pay a fine or surcharge.** When a court reports to the commissioner that a person: (1) has failed to appear in court ~~under the summons issued~~ in response to a notice to appear or fails to comply with other orders of the court regarding the appearance or proceedings for a violation of the game and fish laws; or (2) has been convicted of violating a provision of the game and fish laws, has been sentenced to the payment of a fine or had a surcharge levied against them, and refused or failed to comply with that sentence or to pay the fine or surcharge, the commissioner shall suspend the game and fish license and permit privileges of the person until notified by the court that the person has appeared in court under clause (1) or that any fine or surcharge due the court has been paid under clause (2).

Sec. 21. Minnesota Statutes 2011 Supplement, 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; (1) unless the bait has been processed to inactivate viral hemorrhagic septicemia in a manner prescribed by rules adopted by the commissioner; or (2) except as provided in paragraph (c). For purposes of this paragraph, "bait" includes fish, aquatic worms, amphibians, invertebrates, and insects used for 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.

Sec. 22. Minnesota Statutes 2010, section 103A.43, is amended to read:

103A.43 WATER ASSESSMENTS AND REPORTS.

(a) The Environmental Quality Board shall consolidate the assessments required in paragraphs (b) and (c) with the policy report in section 103A.204 and submit a single report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture and the Legislative-Citizen Commission on Minnesota Resources by September 15, 2010, and every five years thereafter.

(b) The Pollution Control Agency and the Department of Agriculture shall provide ~~a biennial~~ an assessment and analysis of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water. The assessment and analysis must include an analysis of relevant monitoring data.

(c) The Department of Natural Resources shall provide an assessment and analysis of the quantity of surface and ground water in the state and the availability of water to meet the state's needs.

Sec. 23. Minnesota Statutes 2010, section 103B.101, subdivision 2, is amended to read:

Subd. 2. **Voting members.** (a) The members are:

- (1) three county commissioners;
- (2) three soil and water conservation district supervisors;
- (3) three watershed district or watershed management organization representatives;
- (4) three citizens who are not employed by, or the appointed or elected officials of, a state governmental office, board, or agency;
- (5) one township officer;

(6) two elected city officials, one of whom must be from a city located in the metropolitan area, as defined under section 473.121, subdivision 2;

(7) the commissioner of agriculture;

(8) the commissioner of health;

(9) the commissioner of natural resources;

(10) the commissioner of the Pollution Control Agency; and

(11) the director of the University of Minnesota Extension Service.

(b) Members in paragraph (a), clauses (1) to (6), must be distributed across the state with at least four members but not more than six members from the metropolitan area, as defined by section 473.121, subdivision 2; ~~and one from each of the current soil and water conservation administrative regions.~~

(c) Members in paragraph (a), clauses (1) to (6), are appointed by the governor. In making the appointments, the governor may consider persons recommended by the Association of Minnesota Counties, the Minnesota Association of Townships, the League of Minnesota Cities, the Minnesota Association of Soil and Water Conservation Districts, and the Minnesota Association of Watershed Districts. The list submitted by an association must contain at least three nominees for each position to be filled.

(d) The membership terms, compensation, removal of members and filling of vacancies on the board for members in paragraph (a), clauses (1) to (6), are as provided in section 15.0575.

Sec. 24. Minnesota Statutes 2010, section 103B.101, subdivision 7, is amended to read:

Subd. 7. **Hearings, orders, and rulemaking.** The board may hold public hearings and adopt rules and orders necessary to execute its duties.

Sec. 25. Minnesota Statutes 2010, section 103B.101, is amended by adding a subdivision to read:

Subd. 8a. **Bylaws and conflict of interest.** The board shall adopt bylaws that include provisions to prevent or address conflict of interest.

Sec. 26. Minnesota Statutes 2010, section 103B.101, subdivision 10, is amended to read:

Subd. 10. **Committee for dispute resolution.** A committee of the board is established to hear and resolve disputes, appeals, and interventions under sections 103A.301 to 103A.341; 103B.101; 103B.231; 103B.345; 103D.535; 103D.537; and 103G.2242, subdivision 9. ~~The committee consists of two of the three citizen members; one county commissioner member; one soil and water conservation district supervisor member; and one watershed district or watershed management organization representative member.~~ The committee is appointed by the board chair. The board shall adopt bylaws governing committee membership and duties.

Sec. 27. Minnesota Statutes 2010, section 103B.101, is amended by adding a subdivision to read:

Subd. 14. **Local water management coordination.** (a) The board may adopt resolutions, policies, or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to chapter 103B,

103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan. The board may also develop criteria for incorporating or coordinating the elements of metropolitan county groundwater plans in accordance with section 103B.255. The board shall, to the extent practicable, incorporate a watershed approach when adopting the resolutions, policies, or orders, and shall establish a suggested watershed boundary framework for development, approval, adoption, and coordination of plans.

(b) The board shall work with local government stakeholders and others to foster mutual understanding and develop recommendations for local water management and related state water management policy and programs. The board may convene informal working groups or work teams to develop information, education, and recommendations. Local government units may develop and carry out TMDL implementation plans, or their equivalent, as provided in chapter 114D, as part of the local water management plans and responsibilities under chapters 103B, 103C, and 103D.

Sec. 28. Minnesota Statutes 2010, section 103B.101, is amended by adding a subdivision to read:

Subd. 15. **Local water management boundary and plan determinations and appeals.** (a) Local government units may either submit a request for a plan boundary determination as part of a plan approval request or apply separately for a plan boundary determination from the board before requesting plan approval. Local government units must provide written documentation of the rationale and justification for the proposed boundary. The board may request additional information needed to make a plan boundary determination.

(b) Local government units may appeal a board decision to deny approval of a plan or the establishment of a plan boundary. An appeal of a board decision may be taken to the state Court of Appeals and must be considered an appeal from a contested case decision for purposes of judicial review under sections 14.63 to 14.69. Local government units may request the board's dispute resolution committee or executive director to hear and make recommendations to resolve boundary and plan implementation disputes.

Sec. 29. Minnesota Statutes 2010, section 103B.311, subdivision 4, is amended to read:

Subd. 4. **Water plan requirements.** (a) A local water management plan must:

- (1) cover the entire area within a county;
- (2) address water problems in the context of watershed units and groundwater systems;
- (3) be based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management;
- (4) be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
- (5) the local water management plan must specify the period covered by the local water management plan and must extend at least five years but no more than ten years from the date the board approves the local water management plan. Local water management plans that contain revision dates inconsistent with this section must comply with that date, provided it is not more than ten years beyond the date of board approval. ~~A two-year extension of the revision date of a local water management plan may be granted by the board, provided no projects are ordered or~~

~~commenced during the period of the extension.~~

(b) Existing water and related land resources plans, including plans related to agricultural land preservation programs developed pursuant to chapter 40A, must be fully utilized in preparing the local water management plan. Duplication of the existing plans is not required.

Sec. 30. Minnesota Statutes 2010, section 103B.3363, is amended by adding a subdivision to read:

Subd. 6. **Comprehensive watershed management plan.** "Comprehensive watershed management plan" means a plan to manage the water and related natural resources of a watershed that consists of the plans listed in subdivision 3 or a separate plan that has been approved as a substitute by the board and adopted by local units of government for the same or additional purposes. The comprehensive watershed management plan shall be consistent with the goals of section 103A.212 and may address the goals in sections 103A.201 to 103A.211, and chapter 114D.

Sec. 31. **103B.3367] WATER PLAN EXTENSIONS.**

The board may grant extensions with or without conditions of the revision date of a comprehensive local water management plan or a comprehensive watershed management plan.

Sec. 32. Minnesota Statutes 2010, section 103B.3369, is amended to read:

103B.3369 LOCAL WATER RESOURCES RESTORATION, PROTECTION, AND MANAGEMENT PROGRAM.

Subdivision 1. **Assistance priorities.** State agencies may give priority to local government unit requests that are part of or responsive to a comprehensive plan, local water management plan, watershed management plan, or comprehensive watershed management plan, developed or amended, approved and adopted, according to chapter 103B, 103C, 103D, or 114D, when administering programs for water-related financial and technical assistance.

Subd. 2. **Establishment.** A local water resources restoration, protection, and management program is established. The board may provide financial assistance to local units of government for activities that restore, protect, or manage water and related land quality. The activities include planning, zoning, official controls, best management practices, capital projects, and other activities to implement a comprehensive plan, local water management plans plan, or watershed management plan, developed or amended, adopted and approved, according to chapter 103B, 103C, or 103D.

Subd. 4. **Contracts.** A local unit of government may contract to implement programs. An explanation of the program responsibilities proposed to be contracted must accompany grant requests. A local unit of government that contracts is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Subd. 5. **Financial assistance.** A base grant may be awarded to a county that provides a match utilizing a water implementation tax or other local source. A water implementation tax that a county intends to use as a match to the base grant must be levied at a rate determined by the board. ~~The minimum amount of the water implementation tax shall be a tax rate times the adjusted net tax capacity of the county for the preceding year. The rate shall be the rate, rounded to the nearest .001 of a percent, that, when applied to the adjusted net tax capacity for all counties, raises the amount~~

~~of \$1,500,000. The base grant will be in an amount equal to \$37,500 less the amount raised by the local match. If the amount necessary to implement the local water plan for the county is less than \$37,500, the amount of the base grant shall be the amount that, when added to the match amount, equals the amount required to implement the plan. For counties where the tax rate generates an amount equal to or greater than \$18,750, the base grant shall be in an amount equal to \$18,750. The board may award performance-based grants to local units of government that are responsible for implementing elements of applicable portions of watershed management plans, comprehensive plans, local water management plans, or comprehensive watershed management plans, developed or amended, adopted and approved, according to chapter 103B, 103C, or 103D. Upon request by a local government unit, the board may also award performance-based grants to local units of government to carry out TMDL implementation plans as provided in chapter 114D, if the TMDL implementation plan has been incorporated into the local water management plan according to the procedures for approving comprehensive plans, watershed management plans, local water management plans, or comprehensive watershed management plans under chapter 103B, 103C, or 103D, or if the TMDL implementation plan has undergone a public review process. Notwithstanding section 16A.41, the board may award performance-based grants on an advanced basis.~~

Subd. 6. **Limitations Conditions.** (a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.

(b) ~~Grants may be provided to develop or revise, amend, or implement, local water management plans may not be awarded for a time longer than two years, comprehensive plans, watershed management plans, or comprehensive watershed management plans, approved and adopted, according to chapter 103B, 103C, 103D, or 114D.~~

(c) A local unit of government may not request or be awarded grants for project implementation unless a comprehensive plan, local water management water plan has been adopted, watershed management plan, or comprehensive watershed management plan has been developed or amended, adopted and approved, according to chapter 103B, 103C, or 103D.

Subd. 7. **Performance criteria.** The board shall develop and utilize performance-based criteria for local water resources restoration, protection, and management programs and projects. The criteria may include, but are not limited to, science-based assessments, organizational capacity, priority resource issues, community outreach and support, partnership potential, potential for multiple benefits, and program and project delivery efficiency and effectiveness.

Sec. 33. Minnesota Statutes 2010, section 103B.355, is amended to read:

103B.355 APPLICATION.

Sections 103B.301 to 103B.335 and 103B.341 to 103B.355 do not apply in areas subject to the requirements of sections 103B.201 to 103B.255 under section 103B.231, subdivision 1, and in areas covered by an agreement under section 103B.231, subdivision 2, except as otherwise provided in section 103B.311, subdivision 4, clause (4).

Sec. 34. Minnesota Statutes 2011 Supplement, section 103G.222, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2243, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. For project-specific wetland replacement completed prior to wetland impacts authorized or conducted under a permit to mine within the Great Lakes and Rainy River watershed basins, those basins shall be considered a single watershed for purposes of determining wetland replacement ratios. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242. Public value must be determined in accordance with section 103B.3355 or a comprehensive wetland protection and management plan established under section 103G.2243. Sections 103G.221 to 103G.2372 also apply to excavation in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

(b) Replacement must be guided by the following principles in descending order of priority:

- (1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
- (2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
- (3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
- (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity;
- (5) compensating for the impact by restoring a wetland; and
- (6) compensating for the impact by replacing or providing substitute wetland resources or environments.

For a project involving the draining or filling of wetlands in an amount not exceeding 10,000 square feet more than the applicable amount in section 103G.2241, subdivision 9, paragraph (a), the local government unit may make an on-site sequencing determination without a written alternatives analysis from the applicant.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that ~~a deed restriction is placed on the altered wetland prohibiting~~ it is not converted to a nonagricultural use for at least ten years.

(d) If a wetland is replaced under paragraph (c), or drained under section 103G.2241, subdivision 2, ~~paragraphs paragraph (b) and or (e),~~ the local government unit may require a deed restriction that prohibits nonagricultural use for at least ten years ~~unless the drained wetland is replaced as provided under this section.~~ The local government unit may require the deed restriction if it determines the wetland area drained is at risk of conversion to a nonagricultural use within ten years based on the zoning classification, proximity to a municipality or full service road, or other criteria as determined by the local government unit.

(e) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected and ponds that are created primarily to fulfill storm water management, and water quality treatment requirements may not be used to satisfy replacement requirements under this chapter unless the design includes pretreatment of runoff and the pond is functioning as a wetland.

(f) Except as provided in paragraph (g), for a wetland or public waters wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland or public waters wetland located on agricultural land or in a greater than 80 percent area, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in a greater than 80 percent area, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

(j) The Technical Evaluation Panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the Technical Evaluation Panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

(l) For projects involving draining or filling of wetlands associated with a new public transportation project, and for projects expanded solely for additional traffic capacity, public transportation authorities may purchase credits from the board at the cost to the board to establish credits. Proceeds from the sale of credits provided under this paragraph are appropriated to the board for the purposes of this paragraph. For the purposes of this paragraph, "transportation project" does not include an airport project.

(m) A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This paragraph only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling or draining associated with the project and consider

mitigating important site-specific wetland functions on site;

(2) except as provided in clause (3), submit project-specific reports to the board, the Technical Evaluation Panel, the commissioner of natural resources, and members of the public requesting a copy at least 30 days prior to construction that indicate the location, amount, and type of wetlands to be filled or drained by the project or, alternatively, convene an annual meeting of the parties required to receive notice to review projects to be commenced during the upcoming year; and

(3) for minor and emergency maintenance work impacting less than 10,000 square feet, submit project-specific reports, within 30 days of commencing the activity, to the board that indicate the location, amount, and type of wetlands that have been filled or drained.

Those required to receive notice of public transportation projects may appeal minimization, delineation, and on-site mitigation decisions made by the public transportation authority to the board according to the provisions of section 103G.2242, subdivision 9. The Technical Evaluation Panel shall review minimization and delineation decisions made by the public transportation authority and provide recommendations regarding on-site mitigation if requested to do so by the local government unit, a contiguous landowner, or a member of the Technical Evaluation Panel.

Except for state public transportation projects, for which the state Department of Transportation is responsible, the board must replace the wetlands, and wetland areas of public waters if authorized by the commissioner or a delegated authority, drained or filled by public transportation projects on existing roads.

Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this paragraph. This paragraph does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

(n) If a landowner seeks approval of a replacement plan after the proposed project has already affected the wetland, the local government unit may require the landowner to replace the affected wetland at a ratio not to exceed twice the replacement ratio otherwise required.

(o) A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

(p) One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board under paragraph (o) or provide a reason why the petition is denied.

Sec. 35. Minnesota Statutes 2010, section 103G.2241, subdivision 1, is amended to read:

Subdivision 1. **Agricultural activities.** A replacement plan for wetlands is not required for:

(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grass or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;

(2) activities in a type 1 wetland on agricultural pasture land that remains in the same use, except for bottomland hardwood type 1 wetlands, and activities in a type 2 or type 6 wetland that is less than two acres in size and located on agricultural pasture land that remains in the same use;

(3) activities in a wetland conducted as part of normal farming practices. For purposes of this clause, "normal farming practices" means farming, silvicultural, grazing, and ranching activities such as plowing, seeding, cultivating, and harvesting for the production of feed, food, and fiber products, but does not include activities that result in the draining of wetlands;

(4) soil and water conservation practices approved by the soil and water conservation district, after review by the Technical Evaluation Panel;

(5) aquaculture activities including pond excavation and construction and maintenance of associated access roads and dikes authorized under, and conducted in accordance with, a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, but not including construction or expansion of buildings;

(6) wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344; or

(7) agricultural activities on agricultural land that is subject to federal farm program restrictions ~~that meet minimum state standards under this chapter and sections 103A.202 and 103B.3355 and that have been approved by the Board of Water and Soil Resources, the commissioners of natural resources and agriculture, and the Pollution Control Agency~~ under United States Code, title 16, section 3821.

Sec. 36. Minnesota Statutes 2010, section 103G.2241, subdivision 9, is amended to read:

Subd. 9. **De minimis.** (a) Except as provided in paragraphs ~~(b)~~ (d), (e), (f), (g), and ~~(e)~~ (h), a replacement plan for wetlands is not required for draining or filling the following amounts of wetlands as part of a project outside of the shoreland wetland protection zone:

(1) 10,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, ~~outside of the shoreland wetland protection zone~~ in a greater than 80 percent area;

(2) 5,000 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, ~~outside of the shoreland wetland protection zone~~ in a 50 to 80 percent area, ~~except within the 11-county metropolitan area~~;

(3) 2,000 square feet of type 1, 2, ~~or~~ 6, or 7 wetland, ~~outside of the shoreland wetland protection zone~~ excluding white cedar and tamarack wetlands, in a less than 50 percent area, ~~except within the~~

~~11-county metropolitan area; or~~

~~(4) 400 200 square feet of type 3, 4, 5, or 8 wetland or white cedar and tamarack wetland types not listed in clauses (1) to (3) outside of the building setback zone of the shoreland wetland protection zones in all counties;~~

(b) Except as provided in paragraphs (d), (e), (f), (g), and (h), a replacement plan for wetlands is not required for draining or filling the following amounts of wetlands as part of a project within the shoreland wetland protection zone beyond the shoreland building setback zone:

~~(5) (1) 400 square feet of type 1, 2, 6, or 7 wetland types listed in clauses (1) to (3), beyond the building setback zone, as defined in the local shoreland management ordinance, but within the shoreland wetland protection zone; or~~

(2) 100 square feet of type 3, 4, 5, or 8 wetland or white cedar and tamarack wetland.

In a greater than 80 percent area, the local government unit may increase the de minimis amount allowed under this paragraph up to 1,000 square feet if the wetland is isolated and is determined to have no direct surficial connection to the public water.

(c) Except as provided in paragraphs (d), (e), (f), (g), and (h), a replacement plan for wetlands is not required for draining or filling up to 100 square feet of wetland as part of a project within the shoreland building setback zone, as defined in the local shoreland management ordinance.

~~To the extent that a local shoreland management ordinance is more restrictive than this provision, the local shoreland ordinance applies;~~

~~(6) up to 20 square feet of wetland, regardless of type or location;~~

~~(7) 2,500 square feet of type 1, 2, 6, or 7 wetland, excluding white cedar and tamarack wetlands, outside of the shoreland wetland protection zone in a 50 to 80 percent area within the 11-county metropolitan area; or~~

~~(8) 1,000 square feet of type 1, 2, or 6 wetland, outside of the shoreland wetland protection zone in a less than 50 percent area within the 11-county metropolitan area.~~

~~For purposes of this paragraph, the 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.~~

~~(b) (d) The amounts listed in paragraph paragraphs (a), clauses (1) to (8), (b), and (c) may not be combined on a project.~~

~~(e) (e) This exemption no longer applies to a landowner's portion of a wetland when the cumulative area drained or filled of the landowner's portion since January 1, 1992, is the greatest of:~~

~~(1) the applicable area listed in paragraph (a), (b), or (c), if the landowner owns the entire wetland;~~

~~(2) five percent of the landowner's portion of the wetland; or~~

~~(3) 400 square feet.~~

~~(d)~~ (f) This exemption may not be combined with another exemption in this section on a project.

~~(e)~~ (g) Property may not be divided to increase the amounts listed in paragraph (a).

(h) If a local ordinance or similar local control is more restrictive than this subdivision, the local standard applies.

Sec. 37. Minnesota Statutes 2010, section 103G.2241, subdivision 11, is amended to read:

Subd. 11. **Exemption conditions.** (a) A person conducting an activity in a wetland under an exemption in subdivisions 1 to 10 shall ensure that:

(1) appropriate erosion control measures are taken to prevent sedimentation of the water;

(2) the activity does not block fish passage in a watercourse; and

(3) the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under chapter 103H. Evidence documenting compliance shall be provided when requested by the local government unit, technical evaluation panel, or enforcement authority.

(b) An activity is exempt if it qualifies for any one of the exemptions, even though it may be indicated as not exempt under another exemption.

(c) Persons proposing to conduct an exempt activity are encouraged to contact the local government unit or the local government unit's designee for advice on minimizing wetland impacts.

(d) The board shall develop rules that address the application and implementation of exemptions and that provide for estimates and reporting of exempt wetland impacts, including those in section 103G.2241, subdivisions 2, 6, and 9.

Sec. 38. Minnesota Statutes 2010, section 103G.2242, subdivision 3, is amended to read:

Subd. 3. **Replacement completion.** Replacement of wetland values must be completed prior to or concurrent with the actual draining or filling of a wetland, ~~or unless an irrevocable bank letter of credit or other security acceptable to the local government unit must be or the board is given to the local government unit or the board to guarantee the successful completion of the replacement.~~ The board may establish, sponsor, or administer a wetland banking program, which may include provisions allowing monetary payment to the wetland bank for impacts to wetlands on agricultural land, for impacts that occur in greater than 80 percent areas, and for public road projects. The board shall coordinate the establishment and operation of a wetland bank with the United States Army Corps of Engineers, the Natural Resources Conservation Service of the United States Department of Agriculture, and the commissioners of natural resources, agriculture, and the Pollution Control Agency.

Sec. 39. [103G.2375] ASSUMPTION OF SECTION 404 OF FEDERAL CLEAN WATER ACT.

Notwithstanding any other law to the contrary, the Board of Water and Soil Resources, in consultation with the commissioners of natural resources, agriculture, and the Pollution Control Agency, may adopt or amend rules establishing a program for regulating the discharge of dredged and fill material into the waters of the state as necessary to obtain approval from the United States

Environmental Protection Agency to administer, in whole or part, the permitting and wetland banking programs under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344. The rules may not be more restrictive than the program under section 404 or state law.

Sec. 40. Minnesota Statutes 2010, section 103G.282, subdivision 1, is amended to read:

Subdivision 1. **Monitoring equipment.** The commissioner may require the installation and maintenance of monitoring equipment to evaluate water resource impacts from permitted appropriations and proposed projects that require a permit. Monitoring for water resources that supply more than one appropriator must be designed to minimize costs to individual appropriators. The commissioner shall not require an individual appropriator to drill additional wells for the purpose of monitoring and evaluating the water resource impacts as a condition of receiving the permit.

Sec. 41. Minnesota Statutes 2010, section 103G.282, subdivision 3, is amended to read:

Subd. 3. **Reports and costs.** (a) Records of water measurements under subdivision 2 must be kept for each installation. The measurements must be reported annually to the commissioner on or before February 15 of the following year in a format or on forms prescribed by the commissioner.

(b) The owner or person in charge of an installation for appropriating or using waters of the state or a proposal that requires a permit is responsible for all costs related to establishing and maintaining monitoring equipment installations and to measuring and reporting data. Monitoring costs for water resources that supply more than one appropriator may be distributed among all users within a monitoring area determined by the commissioner and assessed based on volumes of water appropriated and proximity to resources of concern.

Sec. 42. Minnesota Statutes 2010, section 103H.175, subdivision 3, is amended to read:

Subd. 3. **Report.** ~~In each even-numbered year~~ Every five years, the Pollution Control Agency, in cooperation with other agencies participating in the monitoring of water resources, shall provide a draft report on the status of groundwater monitoring to the Environmental Quality Board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture as part of the report in section 103A.204.

Sec. 43. Minnesota Statutes 2010, section 115.01, is amended by adding a subdivision to read:

Subd. 2a. **Concrete washout.** "Concrete washout" means untreated wash water used in concrete mixer and concrete pump rinse-out operations.

Sec. 44. Minnesota Statutes 2010, section 115.06, subdivision 4, is amended to read:

Subd. 4. **Citizen monitoring of water quality.** (a) The agency may encourage citizen monitoring of ambient water quality for public waters by:

- (1) providing technical assistance to citizen and local group water quality monitoring efforts;
- (2) integrating citizen monitoring data into water quality assessments and agency programs, provided that the data adheres to agency quality assurance and quality control protocols; and
- (3) seeking public and private funds to:

- (i) collaboratively develop clear guidelines for water quality monitoring procedures and data management practices for specific data and information uses;
 - (ii) distribute the guidelines to citizens, local governments, and other interested parties;
 - (iii) improve and expand water quality monitoring activities carried out by the agency; and
 - (iv) continue to improve electronic and Web access to water quality data and information about public waters that have been either fully or partially assessed.
- (b) This subdivision does not authorize a citizen to enter onto private property for any purpose.
- (c) By January 15 of each odd-numbered year, 2017, and every fourth year thereafter, the commissioner shall report to the senate and house of representatives committees with jurisdiction over environmental policy and finance on activities under this section.

Sec. 45. Minnesota Statutes 2010, section 115.42, is amended to read:

115.42 POLICY; LONG-RANGE PLAN; PURPOSE.

It is the policy of the state to provide for the prevention, control, and abatement of pollution of all waters of the state, so far as feasible and practical, in furtherance of conservation of such waters and protection of the public health and in furtherance of the development of the economic welfare of the state. The agency shall prepare a long-range plan and program for the effectuation of said policy, ~~and shall make a report of progress thereon to the legislature by November 15 of each even-numbered year, with recommendations for action in furtherance of such program during the ensuing biennium.~~ It is the purpose of sections 115.41 to 115.53 to safeguard the waters of the state from pollution by: (a) preventing any new pollution; and (b) abating pollution existing when sections 115.41 to 115.53 become effective, under a program consistent with the declaration of policy above stated.

Sec. 46. Minnesota Statutes 2011 Supplement, section 115A.1320, subdivision 1, is amended to read:

Subdivision 1. **Duties of the agency.** (a) The agency shall administer sections 115A.1310 to 115A.1330.

(b) The agency shall establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the agency under section 115A.1312; and

(2) making the statements and certifications easily available to manufacturers, retailers, and members of the public.

(c) The agency shall annually review the value of the following variables that are part of the formula used to calculate a manufacturer's annual registration fee under section 115A.1314, subdivision 1:

(1) the proportion of sales of video display devices sold to households that manufacturers are required to recycle;

(2) the estimated per-pound price of recycling covered electronic devices sold to households;

(3) the base registration fee; and

(4) the multiplier established for the weight of covered electronic devices collected in section 115A.1314, subdivision 1, paragraph (d). If the agency determines that any of these values must be changed in order to improve the efficiency or effectiveness of the activities regulated under sections 115A.1312 to 115A.1330, the agency shall submit recommended changes and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.

(d) By January 15 each year, beginning in 2008, the agency shall calculate estimated sales of video display devices sold to households by each manufacturer during the preceding program year, based on national sales data, and forward the estimates to the department.

~~(e) On or before December 1, 2010, and each year thereafter,~~ The agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1312 to 115A.1330. The report must be done in conjunction with the report required under section 115D.10.

(f) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.

(g) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.

(h) The agency shall facilitate communication between counties, collection and recycling centers, and manufacturers to ensure that manufacturers are aware of video display devices available for recycling.

(i) The agency shall develop a form retailers must use to report information to manufacturers under section 115A.1318 and post it on the agency's Web site.

(j) The agency shall post on its Web site the contact information provided by each manufacturer under section 115A.1318, paragraph (e).

Sec. 47. Minnesota Statutes 2010, section 115A.15, subdivision 5, is amended to read:

Subd. 5. **Reports.** ~~(a)~~ By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance summarizing past activities and proposed goals of the program for the following biennium. The report shall include at least:

- (1) a summary list of product and commodity purchases that contain recycled materials;
- (2) the results of any performance tests conducted on recycled products and agencies' experience with recycled products used;
- (3) a list of all organizations participating in and using the cooperative purchasing program; and
- (4) a list of products and commodities purchased for their recyclability and of recycled products reviewed for purchase.

~~(b) By July 1 of each even-numbered year, the commissioner of the Pollution Control Agency and the commissioner of commerce through the State Energy Office shall submit recommendations to the commissioner regarding the operation of the program.~~

Sec. 48. Minnesota Statutes 2010, section 115A.411, is amended to read:

115A.411 SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.

Subdivision 1. **Authority; purpose.** The commissioner shall prepare and adopt a report on solid waste management policy and activities under this chapter. The report must be submitted by the commissioner to the senate and house of representatives committees having jurisdiction over environment and natural resources ~~and environment and natural resources finance~~ by December ~~1 of each odd-numbered year~~ 31, 2015, and every four years thereafter and shall include reports required under sections ~~115A.55, subdivision 4, paragraph (b);~~ 115A.551, subdivision 4; 115A.557, subdivision 4; 473.149, subdivision 6; 473.846; and 473.848, subdivision 4.

Subd. 2. **Contents.** (a) The report ~~must~~ may also include:

- (1) a summary of the current status of solid waste management, including the amount of solid waste generated and reduced, the manner in which it is collected, processed, and disposed, the extent of separation, recycling, reuse, and recovery of solid waste, and the facilities available or under development to manage the waste;
- (2) an evaluation of the extent and effectiveness of implementation ~~and~~ of section 115A.02, including an assessment of progress in accomplishing state policies, goals, and objectives, including those listed in paragraph (b);
- (3) identification of issues requiring further research, study, and action, the appropriate scope of the research, study, or action, the state agency or political subdivision that should implement the research, study, or action, and a schedule for completion of the activity; and
- (4) recommendations for establishing or modifying state solid waste management policies, authorities, responsibilities, and programs.

(b) Beginning in 1997, and every sixth year thereafter, the report shall be expanded to include the metropolitan area solid waste policy plan required in section 473.149, subdivision 1, and strategies for the agency to advance the goals of this chapter, to manage waste as a resource, to further reduce the need for expenditures on resource recovery and disposal facilities, and to further reduce long-term environmental and financial liabilities. The expanded report must include strategies for:

- (1) achieving the maximum feasible reduction in waste generation;

(2) encouraging manufacturers to design products that eliminate or reduce the adverse environmental impacts of resource extraction, manufacturing, use, and waste processing and disposal;

(3) educating businesses, public entities, and other consumers about the need to consider the potential environmental and financial impacts of purchasing products that may create a liability or that may be expensive to recycle or manage as waste, due to the presence of toxic or hazardous components;

(4) eliminating or reducing toxic or hazardous components in compost from municipal solid waste composting facilities, in ash from municipal solid waste incinerators, and in leachate and air emissions from municipal solid waste landfills, in order to reduce the potential liability of waste generators, facility owners and operators, and taxpayers;

(5) encouraging the source separation of materials to the extent practicable, so that the materials are most appropriately managed and to ensure that resources that can be reused or recycled are not disposed of or destroyed; and

(6) maximizing the efficiency of the waste management system by managing waste and recyclables close to the point of generation, taking into account the characteristics of the resources to be recovered from the waste and the type and capacity of local facilities.

Sec. 49. Minnesota Statutes 2010, section 115A.551, subdivision 2a, is amended to read:

Subd. 2a. **Supplementary recycling goals.** (a) By December 31, 1996, each county will have as a goal to recycle the following amounts:

(1) for a county outside of the metropolitan area, 35 percent by weight of total solid waste generation;

(2) for a metropolitan county, 50 percent by weight of total solid waste generation.

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal.

~~(b) For a county that, by January 1, 1995, is implementing a solid waste reduction program that is approved by the commissioner, the commissioner shall apply up to three percentage points toward achievement of the recycling goals in this subdivision. In addition, the commissioner shall apply demonstrated waste reduction that exceeds three percent reduction toward achievement of the goals in this subdivision.~~

~~(c) No more than five percentage points may be applied toward achievement of the recycling goals in this subdivision for management of yard waste. The five percentage points must be applied as provided in this paragraph. The commissioner shall apply three percentage points for a county in which residents, by January 1, 1996, are provided with:~~

~~(1) an ongoing comprehensive education program under which they are informed about how to manage yard waste and are notified of the prohibition in section 115A.931; and~~

~~(2) the opportunity to drop off yard waste at specified sites or participate in curbside yard waste~~

~~collection.~~

~~The commissioner shall apply up to an additional two percentage points toward achievement of the recycling goals in this subdivision for additional activities approved by the commissioner that are likely to reduce the amount of yard waste generated and to increase the on-site composting of yard waste.~~

Sec. 50. Minnesota Statutes 2010, section 115A.551, subdivision 4, is amended to read:

Subd. 4. **Interim monitoring.** The commissioner shall monitor the progress of each county toward meeting the recycling goals in subdivisions 2 and 2a. The commissioner shall report to the senate and house of representatives committees having jurisdiction over environment and natural resources ~~and environment and natural resources finance on the progress of the counties by July 1 of each odd-numbered year~~ as part of the report required under section 115A.411. If the commissioner finds that a county is not progressing toward the goals in subdivisions 2 and 2a, the commissioner shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

~~The progress report shall be included in the report required under section 115A.411.~~

Sec. 51. Minnesota Statutes 2010, section 115A.557, subdivision 4, is amended to read:

Subd. 4. **Report.** ~~By July 1 of each odd-numbered year,~~ The commissioner shall report on how the money was spent and the resulting statewide improvements in solid waste management to the senate and house of representatives committees having jurisdiction over ways and means, finance, environment and natural resources, and environment and natural resources finance. The report shall be included in the report required under section 115A.411.

Sec. 52. Minnesota Statutes 2010, section 115D.08, is amended to read:

115D.08 PROGRESS REPORTS.

Subdivision 1. **Requirement to submit progress report.** (a) All persons required to prepare a toxic pollution prevention plan under section 115D.07 shall submit an annual progress report to the commissioner of public safety that may be drafted in a manner that does not disclose proprietary information. Progress reports are due on ~~October~~ July 1 of each year. The first progress reports are due in 1992.

(b) At a minimum, each progress report must include:

(1) a summary of each objective established in the plan, including the base year for any objective stated in numeric terms, and the schedule for meeting each objective;

(2) a summary of progress made during the past year, if any, toward meeting each objective established in the plan including the quantity of each toxic pollutant eliminated or reduced;

(3) a statement of the methods through which elimination or reduction has been achieved;

(4) if necessary, an explanation of the reasons objectives were not achieved during the previous year, including identification of any technological, economic, or other impediments the facility faced in its efforts to achieve its objectives; and

(5) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting that a plan meeting the requirements of section 115D.07 has been prepared and also attesting to the accuracy of the information in the progress report.

Subd. 2. **Review of progress reports.** (a) The commissioner of public safety shall review all progress reports to determine if they meet the requirements of subdivision 1. If the commissioner of public safety determines that a progress report does not meet the requirements, the commissioner of public safety shall notify the facility in writing and shall identify specific deficiencies and specify a reasonable time period of not less than 90 days for the facility to modify the progress report.

(b) The commissioner of public safety shall be given access to a facility plan required under section 115D.07 if the commissioner of public safety determines that the progress report for that facility does not meet the requirements of subdivision 1. Twenty-five or more persons living within ten miles of the facility may submit a petition to the commissioner of public safety that identifies specific deficiencies in the progress report and requests the commissioner of public safety to review the facility plan. Within 30 days after receipt of the petition, the commissioner of public safety shall respond in writing. If the commissioner of public safety agrees that the progress report does not meet requirements of subdivision 1, the commissioner of public safety shall be given access to the facility plan.

(c) After reviewing the plan and the progress report with any modifications submitted, the commissioner of public safety shall state in writing whether the progress report meets the requirements of subdivision 1. If the commissioner of public safety determines that a modified progress report still does not meet the requirements of subdivision 1, the commissioner of public safety shall schedule a public meeting. The meeting shall be held in the county where the facility is located. The meeting is not subject to the requirements of chapter 14.

(d) The facility shall be given the opportunity to amend the progress report within a period of not less than 30 days after the public meeting.

(e) If the commissioner of public safety determines that a modified progress report still does not meet the requirements of subdivision 1, action may be taken under section 115.071 to obtain compliance with sections 115D.01 to 115D.12.

Sec. 53. Minnesota Statutes 2010, section 116.011, is amended to read:

116.011 ANNUAL POLLUTION REPORT.

A goal of the Pollution Control Agency is to reduce the amount of pollution that is emitted in the state. By April 1 of each even-numbered year, the Pollution Control Agency shall report the best estimate of the agency of the total volume of water and air pollution that was emitted in the state in the previous two calendar ~~year~~ years for which data are available. The agency shall report its findings for both water and air pollution:

(1) in gross amounts, including the percentage increase or decrease over the ~~previous~~ previously reported two calendar year years; and

(2) in a manner which will demonstrate the magnitude of the various sources of water and air pollution.

Sec. 54. Minnesota Statutes 2010, section 116.06, subdivision 22, is amended to read:

Subd. 22. **Solid waste.** "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Sec. 55. Minnesota Statutes 2010, section 116.0714, is amended to read:

116.0714 NEW OPEN AIR SWINE BASINS.

The commissioner of the Pollution Control Agency or a county board shall not approve any permits for the construction of new open air swine basins, except that existing facilities may use one basin of less than 1,000,000 gallons as part of a permitted waste treatment program for resolving pollution problems or to allow conversion of an existing basin of less than 1,000,000 gallons to a different animal type, provided all standards are met. This section expires June 30, ~~2012~~ 2017.

Sec. 56. Minnesota Statutes 2010, section 116.10, is amended to read:

116.10 POLICY; LONG-RANGE PLAN; PURPOSE.

Consistent with the policy announced herein and the purposes of Laws 1963, chapter 874, the Pollution Control Agency shall, ~~before November 15 of each even-numbered year,~~ prepare a long-range plan and program for the effectuation of said policy, ~~and shall make a report also of progress on abatement and control of air and land pollution during each biennium to the legislature with recommendations for action in furtherance of the air and land pollution and waste programs.~~

Sec. 57. Minnesota Statutes 2010, section 116C.833, subdivision 2, is amended to read:

Subd. 2. **Biennial Quadrennial report.** In addition to other duties specified in sections 116C.833 to 116C.843, the commissioner shall report by January 31, ~~1997~~ 2013, and ~~biennially every four years~~ thereafter, to the governor and the legislature concerning the activities of the Interstate Commission. The report shall include any recommendations the commissioner deems necessary to assure the protection of the interest of the state in the proper functioning of the compact. The commissioner also shall report to the governor and the legislature any time there is a change in the status of a host state or other party states in the compact.

Sec. 58. Minnesota Statutes 2011 Supplement, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse

environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant or biobutanol facility project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 100 individuals who reside or own property in the state, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

- (i) an animal feedlot facility with a capacity of less than 1,000 animal units; or
 - (ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;
- (2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and
- (3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.
- (e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.
- (f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.
- (g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.
- (h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.
- (i) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by

the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement.

Sec. 59. Minnesota Statutes 2010, section 216C.055, is amended to read:

216C.055 KEY ROLE OF SOLAR AND BIOMASS RESOURCES IN PRODUCING THERMAL ENERGY.

The ~~annual~~ biennial legislative proposals required to be submitted by the commissioners of commerce and the Pollution Control Agency under section 216H.07, subdivision 4 3, must include proposals regarding the use of solar energy and the combustion of grasses, agricultural wastes, trees, and other vegetation to produce thermal energy for heating commercial, industrial, and residential buildings and for industrial processes if the commissioners determine that such policies are appropriate to achieve the state's greenhouse gas emissions-reduction goals. No legal claim against any person is allowed under this section. This section does not apply to the combustion of municipal solid waste or refuse-derived fuel to produce thermal energy. For purposes of this section, removal of woody biomass from publicly owned forests must be consistent with the principles of sustainable forest management.

Sec. 60. Minnesota Statutes 2010, section 216H.07, subdivision 3, is amended to read:

Subd. 3. **Biennial ~~reduction progress~~ report.** (a) By January 15 of each odd-numbered year, the commissioners of commerce and the Pollution Control Agency shall jointly report to the chairs and ranking minority members of the legislative committees with primary policy jurisdiction over energy and environmental issues to provide:

(1) the most recent and best available evidence identifying the level of reductions already achieved and the level necessary to achieve the reductions timetable in section 216H.02; and

(2) proposed legislation the commissioners determine appropriate to achieve the reductions in section 216H.02. The proposed legislation must be based on the principles in subdivision 5. If the commissioners determine no legislation is appropriate, they shall report that determination to the chairs along with an explanation of the determination.

(b) The report must be in easily understood nontechnical terms.

Sec. 61. Minnesota Statutes 2010, section 473.149, subdivision 6, is amended to read:

Subd. 6. **Report to legislature.** The commissioner shall report on abatement to the senate and house of representatives committees having jurisdiction over ways and means, finance, environment and natural resources ~~committees of the senate and house of representatives, the Finance Division of the senate Committee on Environment and Natural Resources, and the house of representatives Committee on Environment and Natural Resources~~ Finance by July 1 of each odd-numbered year ~~policy, and environment and natural resources finance.~~ The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the plan. The report must recommend any legislation that may be required to implement the plan. The report shall

be included in the report required by section 115A.411. If in any year the commissioner reports that the objectives of the abatement plan have not been met, the commissioner shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

Sec. 62. Minnesota Statutes 2010, section 473.846, is amended to read:

473.846 ~~REPORT~~ REPORTS TO LEGISLATURE.

The agency shall submit to the senate ~~Finance Committee, the and~~ house of representatives ~~Ways and Means Committee, and the Environment and Natural Resources Committees of the senate and house of representatives, the Finance Division of the senate Committee on Environment and Natural Resources, and the house of representatives Committee on~~ committees having jurisdiction over environment and natural resources ~~finance~~ separate reports describing the activities for which money for landfill abatement has been spent under sections 473.844 and 473.845. ~~The agency shall report by November 1 of each year on expenditures during its previous fiscal year. The commissioner shall report on expenditures during the previous calendar year and must incorporate its report~~ The report for section 473.844 expenditures shall be included in the report required by section 115A.411, ~~due July 1 of each odd-numbered year.~~ By December 31 each year, the commissioner shall submit the report for section 473.845 on contingency action trust fund activities. In both reports, the commissioner shall make recommendations ~~to the Environment and Natural Resources Committees of the senate and house of representatives, the Finance Division of the senate Committee on Environment and Natural Resources, and the house of representatives Committee on Environment and Natural Resources~~ Finance on the future management and use of the metropolitan landfill abatement account.

Sec. 63. Laws 2007, chapter 57, article 1, section 4, subdivision 2, as amended by Laws 2009, chapter 37, article 1, section 60, is amended to read:

Subd. 2. Land and Mineral Resources Management	11,747,000	11,272,000
Appropriations by Fund		
General	6,633,000	6,230,000
Natural Resources	3,551,000	3,447,000
Game and Fish	1,363,000	1,395,000
Permanent School	200,000	200,000

\$475,000 the first year and \$475,000 the second year are for iron ore cooperative research. Of this amount, \$200,000 each year is from the minerals management account in

the natural resources fund and \$275,000 each year is from the general fund. \$237,500 the first year and \$237,500 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$86,000 the first year and \$86,000 the second year are for minerals cooperative environmental research, of which \$43,000 the first year and \$43,000 the second year are available only as matched by \$1 of nonstate money for each \$1 of state money. The match may be cash or in-kind.

\$2,800,000 the first year and \$2,696,000 the second year are from the minerals management account in the natural resources fund for use as provided in Minnesota Statutes, section 93.2236, paragraph (c).

\$200,000 the first year and \$200,000 the second year are from the state forest suspense account in the permanent school fund to accelerate land exchanges, land sales, and commercial leasing of school trust lands and to identify, evaluate, and lease construction aggregate located on school trust lands. This appropriation is to be used for securing maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

\$15,000 the first year is for a report by February 1, 2008, to the house and senate committees with jurisdiction over environment and natural resources on proposed minimum legal and conservation standards that could be applied to conservation easements acquired with public money.

\$1,201,000 the first year and \$701,000 the second year are to support the land records management system. Of this amount, \$326,000 the first year and \$326,000 the second year are from the game and fish fund and \$375,000 the first year and \$375,000 the

second year are from the natural resources fund. The unexpended balances are available until June 30, 2011. ~~The commissioner must report to the legislative chairs on environmental finance on the outcomes of the land records management support.~~

\$500,000 the first year and \$500,000 the second year are for land asset management. This is a onetime appropriation.

Sec. 64. Laws 2010, chapter 361, article 4, section 73, as amended by Laws 2011, chapter 107, section 98, is amended to read:

Sec. 73. SUBSURFACE SEWAGE TREATMENT SYSTEMS ORDINANCE ADOPTION DELAY.

(a) Notwithstanding Minnesota Statutes, section 115.55, subdivision 2, a county may adopt an ordinance by February 4, 2014, to comply with the February 4, 2008, revisions to subsurface sewage treatment system rules. Until a county adopts the February 4, 2008, revisions to the subsurface sewage treatment rules, including final rule amendments, no provision of the February 4, 2008, revisions to the subsurface sewage treatment rules, including final amendments, shall be effective within the county. Prior to county adoption, a city or town may begin exercising its authority to adopt and enforce its subsurface sewage treatment system ordinances. By April 4, 2011, the Pollution Control Agency shall adopt the final rule amendments to the February 4, 2008, subsurface sewage treatment system rules. A county must continue to enforce its current ordinance until a new one has been adopted.

(b) By January 15, 2011, the agency, after consultation with the Board of Water and Soil Resources and the Association of Minnesota Counties, shall report to the chairs and ranking minority members of the senate and house of representatives environment and natural resources policy and finance committees and divisions on:

- (1) the technical changes in the rules for subsurface sewage treatment systems that were adopted on February 4, 2008;
- (2) the progress in local adoption of ordinances to comply with the rules; and
- (3) the progress in protecting the state's water resources from pollution due to subsurface sewage treatment systems.

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

Sec. 65. Laws 2010, chapter 362, section 2, subdivision 7, is amended to read:

Subd. 7. Renewable Energy	-0-	3,364,000
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(a) Algae for Fuels Pilot Project

\$900,000 is from the trust fund to the Board of Regents of the University of Minnesota

to demonstrate an innovative microalgae production system utilizing and treating sanitary wastewater to produce biofuels from algae. This appropriation is available until June 30, 2013, by which time the project must be completed and final products delivered.

(b) Sustainable Biofuels

\$221,000 is from the trust fund to the Board of Regents of the University of Minnesota to determine how fertilization and irrigation impact yields of grass monoculture and high diversity prairie biofuel crops, their storage of soil carbon, and susceptibility to invasion by exotic species. This appropriation is available until June 30, 2013, by which time the project must be completed and final products delivered.

(c) Linking Habitat Restoration to Bioenergy and Local Economies

\$600,000 is from the trust fund to the commissioner of natural resources to restore high quality native habitats and expand market opportunities for ~~utilizing postharvest restoration as a~~ using the woody by-product material for bioenergy ~~source~~ or other products. The commissioner may provide grants or otherwise transfer some or all of this money to other public or private entities to accomplish these purposes. The commissioner may sell the material from public or private property to any viable market, provided that all of the proceeds are spent to further the purposes of this appropriation. This appropriation is available until June 30, 2013, by which time the project must be completed and final products delivered.

(d) Demonstrating Sustainable Energy Practices at Residential Environmental Learning Centers (RELCs)

\$1,500,000 is from the trust fund to the commissioner of natural resources

for agreements as follows: \$206,000 with Audubon Center of the North Woods; \$212,000 with Deep Portage Learning Center; \$350,000 with Eagle Bluff Environmental Learning Center; \$258,000 with Laurentian Environmental Learning Center; \$240,000 with Long Lake Conservation Center; and \$234,000 with Wolf Ridge Environmental Learning Center to implement renewable energy, energy efficiency, and energy conservation practices at the facilities. Efforts will include dissemination of related energy education.

Sec. 66. Laws 2011, First Special Session chapter 6, article 3, section 8, subdivision 3, is amended to read:

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, except the following is permitted: hunting, fishing, and trapping of protected species during designated seasons and dogs under control for hunting purposes during regular hunting seasons. La Salle Lake State Recreation Area shall be administered as a satellite unit of Itasca State Park.

Sec. 67. **ENVIRONMENT AND NATURAL RESOURCES TRUST FUND; APPROPRIATION EXTENSION.**

(a) The availability of the appropriation is extended to June 30, 2013, for:

(1) Laws 2009, chapter 143, section 2, subdivision 5, paragraph (c), cooperative habitat research in deep lakes; and

(2) Laws 2009, chapter 143, section 2, subdivision 6, paragraph (d), controlling the movement of invasive fish species.

(b) The availability of the appropriation is extended to June 30, 2014, for Laws 2009, chapter 143, section 2, subdivision 4, paragraph (c), metropolitan regional park system acquisition.

(c) The availability of the appropriation is extended to June 30, 2015, for Laws 2011, First Special Session chapter 2, article 3, section 2, subdivision 9, paragraph (a), Minnesota Conservation Apprenticeship Academy.

Sec. 68. **FOREST RESOURCES COUNCIL STUDY.**

By January 15, 2013, the Forest Resources Council shall submit a report to the environment and natural resources policy and finance committees and the tax committees of the house of representatives and senate on the status of private forest land management and the policy of the state to promote healthy and robust forests. The study shall evaluate existing and potential financial incentives for private forest land management and include recommendations for state policies that will ensure that private forest lands are sustainable and continue to contribute to Minnesota's economic vitality as well as provide access to the public to hunting and fishing resources.

Sec. 69. **METROPOLITAN WASTE DISPOSAL RESTRICTIONS REPORT.**

By January 15, 2013, the commissioner of the Pollution Control Agency shall report to the chairs and ranking minority members of the environmental policy and finance committees on:

(1) an enforcement plan that describes details of how the agency will implement enforcement of Minnesota Statutes, section 473.848;

(2) the increased Pollution Control Agency staffing and resources required to carry out an enforcement plan;

(3) the disruption to existing county solid waste programs, including lost revenue, reduced staffing and resources available for recycling, waste reduction, and other solid waste programs;

(4) the effect on third parties, including utilities and renewable energy generation facilities;

(5) an estimate of the overall increase in solid waste system costs, including rate increases for waste collection services for residents and commercial-industrial businesses;

(6) the economic impact on the waste industry, both from a hauling and disposal perspective;

(7) an estimate of the landfill capacity preserved;

(8) an estimate of the pollution reduction from decreased landfilling;

(9) the effect on the solid waste management hierarchy and energy policy;

(10) the effect on wastesheds and hauling routes; and

(11) any comments from interested and affected parties included in the body of the report.

Sec. 70. **REPEALER.**

(a) Minnesota Statutes 2010, sections 84.946, subdivision 3; 86A.12, subdivision 5; 89.06; 90.042; 97A.4742, subdivision 4; 103G.705, subdivision 1; 115.447; 115A.07, subdivision 2; 115A.15, subdivision 5; 115A.965, subdivision 7; and 216H.07, subdivision 4, are repealed.

(b) Minnesota Rules, parts 7002.0025, subpart 2a; 7011.7030; 7021.0010, subpart 3; 7021.0050, subparts 1, 2, and 3; and 7041.0500, subparts 5, 6, and 7, are repealed."

Delete the title and insert:

"A bill for an act relating to natural resources; authorizing certain agency prepayments; requiring certain continued operation in absence of biennial appropriations; providing for apprentice riders; modifying aquatic invasive species provisions; modifying local government trail authority; modifying enforcement provisions; modifying certain bait provisions; modifying prior appropriations; eliminating certain reporting, plan, and meeting requirements; eliminating loan program; modifying certain reporting and assessment requirements; modifying Board of Water and Soil Resources provisions; modifying water appropriation monitoring requirements; modifying subsurface sewage treatment systems ordinance delay; modifying local water management; modifying Wetland Conservation Act; modifying waste management provisions; clarifying certain environmental review; eliminating certain fees; modifying toxic pollution prevention requirements; modifying certain standards for stationary sources; extending prohibition on new open air swine

basins; modifying acid deposition control requirements; modifying sewage sludge management; requiring reports; providing civil penalties; appropriating money; amending Minnesota Statutes 2010, sections 16A.065; 84.027, subdivision 15; 84.67; 84.91, subdivision 1; 84D.05, subdivision 1; 85.018, subdivision 2; 85.055, subdivision 2; 85.20, subdivision 1; 85.46, subdivision 1; 85A.04, subdivision 1; 86B.331, subdivision 1; 97A.421, subdivision 4a; 103A.43; 103B.101, subdivisions 2, 7, 10, by adding subdivisions; 103B.311, subdivision 4; 103B.3363, by adding a subdivision; 103B.3369; 103B.355; 103G.2241, subdivisions 1, 9, 11; 103G.2242, subdivision 3; 103G.282, subdivisions 1, 3; 103H.175, subdivision 3; 115.01, by adding a subdivision; 115.06, subdivision 4; 115.42; 115A.15, subdivision 5; 115A.411; 115A.551, subdivisions 2a, 4; 115A.557, subdivision 4; 115D.08; 116.011; 116.06, subdivision 22; 116.0714; 116.10; 116C.833, subdivision 2; 216C.055; 216H.07, subdivision 3; 473.149, subdivision 6; 473.846; Minnesota Statutes 2011 Supplement, sections 84D.01, subdivision 15a; 84D.09, subdivision 2; 84D.10, subdivisions 1, 4; 84D.105, subdivision 2; 84D.13, subdivision 5; 97C.341; 103G.222, subdivision 1; 115A.1320, subdivision 1; 116D.04, subdivision 2a; Laws 2007, chapter 57, article 1, section 4, subdivision 2, as amended; Laws 2010, chapter 361, article 4, section 73, as amended; Laws 2010, chapter 362, section 2, subdivision 7; Laws 2011, First Special Session chapter 6, article 3, section 8, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 84; 86B; 103B; 103G; repealing Minnesota Statutes 2010, sections 84.946, subdivision 3; 86A.12, subdivision 5; 89.06; 90.042; 97A.4742, subdivision 4; 103G.705, subdivision 1; 115.447; 115A.07, subdivision 2; 115A.15, subdivision 5; 115A.965, subdivision 7; 216H.07, subdivision 4; Minnesota Rules, parts 7002.0025, subpart 2a; 7011.7030; 7021.0010, subpart 3; 7021.0050, subparts 1, 2, 3; 7041.0500, subparts 5, 6, 7."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred

S.F. No. 1642: A bill for an act relating to the military; beyond the yellow ribbon program; civil immunity; proposing coding for new law in Minnesota Statutes, chapter 192.

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

Delete everything after the enacting clause and insert:

"Section 1. [192.535] CIVIL IMMUNITY; BEYOND THE YELLOW RIBBON PROGRAM.

Subdivision 1. **Definitions.** As used in this section:

(1) "program" means the beyond the yellow ribbon program; and

(2) "services" means any voluntary assistance provided through the program related to the service member's or service member's family's home maintenance, transportation, physical or emotional health, personal finances, or other similar matters.

Subd. 2. **Civil immunity.** (a) A person who, while participating in any capacity in the program, provides services to an active or reserve service member or to an immediate family member of the service member before, during, or after the service member's mobilization or deployment for

a contingency operation ordered by a proper military authority is not liable for damages resulting from the acts or omissions by that person in providing the services, unless the act or omission is willful and wanton or reckless.

(b) A recipient of services provided by a person participating in any capacity in the program is not liable for damages incurred by the person in the course of providing the services, unless the damage is the result of a willful and wanton or reckless act or omission of the recipient.

Subd. 3. **Exception.** This section does not apply to a person who provides services to an active or reserve service member or to an immediate family member of the service member during the course of the person's regular employment and for which the person receives compensation.

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

Delete the title and insert:

"A bill for an act relating to military; providing civil immunity for damages resulting from certain acts performed while participating in the beyond the yellow ribbon program; proposing coding for new law in Minnesota Statutes, chapter 192."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Amendments adopted. Report adopted.

Senator Parry from the Committee on State Government Innovation and Veterans, to which was re-referred

S.F. No. 1544: A bill for an act relating to local governments; authorizing counties, cities, towns, and other public corporations to convey lands to congressionally chartered veterans service organizations for less than market value; amending Minnesota Statutes 2010, section 465.035.

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

Page 1, line 19, delete everything after the period

Page 1, delete line 20

Page 1, line 21, delete everything before "For" and insert "Any property conveyed under this subdivision is subject to the following conditions: (1) that the veterans service organization agrees to notify the conveying entity if the property ceases to be used for a public purpose or if the organization wishes to sell or otherwise convey the property; and (2) that the organization agrees to convey the property to the conveying entity upon request of the conveying entity."

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

Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred

H.F. No. 1903: A bill for an act relating to veterans; honor guard stipends; amending Minnesota Statutes 2010, section 197.231.

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

Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred

S.F. No. 1856: A bill for an act relating to lawful gambling; allowing licensed organizations to contribute net profits from lawful gambling to 501(c)(19) organizations; amending Minnesota Statutes 2010, section 349.12, subdivision 25, by adding a subdivision.

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

Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred

S.F. No. 1643: A bill for an act relating to veterans; modifying eligibility for a tax credit for past military service; amending Minnesota Statutes 2010, section 290.0677, subdivision 2.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes. Report adopted.

Senator Parry from the Committee on State Government Innovation and Veterans, to which was referred

S.F. No. 1975: A bill for an act relating to state government; allowing operations on an ongoing basis for the Racing Commission and State Lottery; amending Minnesota Statutes 2010, sections 240.155, subdivision 1; 240.30, subdivision 9; 349A.10, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 240.15, subdivision 6, is amended to read:

Subd. 6. Disposition of proceeds; account. The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, according to this subdivision. All money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. Taxes received under this section and fines collected under section 240.22 must be paid to the commissioner of management and budget for deposit in the general fund. All revenues from licenses and other fees imposed by the commission must be deposited in the state treasury and credited to a racing and card playing regulation account in the special revenue fund. Receipts in this account are available for the operations of the commission up to the amount authorized in biennial appropriations from the legislature. If a fiscal biennium ends without the enactment of an appropriation to the commission for the following biennium, receipts in this account are annually appropriated to the commission for the operations of the commission up to the amount authorized in the second year of the most recently enacted biennial appropriation, until a biennial appropriation is enacted.

Sec. 2. Minnesota Statutes 2010, section 240.155, subdivision 1, is amended to read:

Subdivision 1. **Reimbursement account credit.** Money received by the commission as reimbursement for the costs of services provided by veterinarians, stewards, and medical testing of horses, and fees received by the commission in the form of fees for regulatory services must be deposited in the state treasury and credited to a racing reimbursement account in the special revenue fund, except as provided under subdivision 2. Receipts are appropriated, within the meaning of Article XI, section 1, of the Minnesota Constitution, to the commission to pay the costs of providing the services and all other costs necessary to allow the commission to fulfill its regulatory oversight duties required by chapter 240 and commission rule. If the major appropriation bills needed to finance state government are not enacted by the beginning of a fiscal biennium, the commission shall continue operations as required by chapter 240 and commission rule.

Sec. 3. [240.156] APPROPRIATION FOR FUNCTIONS SUPPORTING THE ONGOING OPERATION OF THE RACING COMMISSION.

If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money for the next biennium to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions associated with operation of the Racing Commission under chapter 240 are appropriated for the next biennium from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section has been applied shall supersede and replace the funding authorized in this section.

Sec. 4. Minnesota Statutes 2010, section 240.30, subdivision 9, is amended to read:

Subd. 9. **Reimbursement to commission.** The commission shall require that the licensee reimburse it for the commission's actual costs, including personnel costs, of regulating the card club. Amounts received under this subdivision must be deposited as provided in section 240.155, subdivision 1, and are appropriated to the commission.

Sec. 5. Minnesota Statutes 2010, section 349.151, subdivision 4, is amended to read:

Subd. 4. **Powers and duties.** (a) The board has the following powers and duties:

- (1) to regulate lawful gambling to ensure it is conducted in the public interest;
- (2) to issue licenses to organizations and gambling managers, and to issue licenses and renewals to distributors, distributor salespersons, manufacturers, and linked bingo game providers;
- (3) to collect and deposit fees due under this chapter;
- (4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and linked bingo game providers to insure compliance with all applicable laws and rules;
- (5) to make rules authorized by this chapter;
- (6) to register gambling equipment and issue registration stamps;
- (7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(9) to report annually to the governor and legislature a financial summary for each licensed organization identifying the gross receipts, prizes paid, allowable expenses, lawful purpose expenditures including charitable contributions and all taxes and fees as per section 349.12, subdivision 25, paragraph (a), clauses (8) and (18), and the percentage of annual gross profit used for lawful purposes;

(10) to impose civil penalties of not more than \$1,000 per violation on organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers for violating or failing to comply with any provision of this chapter, chapter 297E, or any rule or order of the board;

(11) to issue premises permits to organizations licensed to conduct lawful gambling;

(12) to delegate to the director the authority to issue or deny license and premises permit applications and renewals under criteria established by the board;

(13) to delegate to the director the authority to approve or deny fund loss requests, contribution of gambling funds to another licensed organization, and property expenditure requests under criteria established by the board;

(14) to suspend or revoke licenses and premises permits of organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, or gambling managers as provided in this chapter;

(15) to approve or deny requests from licensees for:

(i) waivers from fee requirements as provided in section 349.16, subdivision 6; and

(ii) variances from Gambling Control Board rules under section 14.055; and

(16) to register employees of organizations licensed to conduct lawful gambling;

(17) to require fingerprints from persons determined by board rule to be subject to fingerprinting;

(18) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

(19) to order organizations, distributors, distributor salespersons, manufacturers, linked bingo game providers, and gambling managers to take corrective actions; and

(20) to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, distributor salesperson, manufacturer, linked bingo game provider, or gambling manager a civil penalty of not more than \$1,000 per violation for a failure to comply with any provision of this chapter, chapter 297E, or any rule adopted or order issued by the board. Any organization, distributor, distributor salesperson, gambling manager, linked bingo game provider, or manufacturer assessed a civil penalty under this paragraph may request a hearing before the board.

Appeals of citations imposing a civil penalty are not subject to the provisions of the Administrative Procedure Act.

(c) All penalties received by the board must be deposited in the general fund.

(d) All fees imposed by the board under sections 349.16 to 349.167 must be deposited in the state treasury and credited to a lawful gambling regulation account in the special revenue fund. Receipts in this account are available for the operations of the board up to the amount authorized in biennial appropriations from the legislature. If a fiscal biennium ends without the enactment of an appropriation to the board for the following biennium, receipts in this account are annually appropriated to the board for the operations of the board up to the amount authorized in the second year of the most recently enacted biennial appropriation, until a biennial appropriation is enacted.

Sec. 6. Minnesota Statutes 2010, section 349.151, is amended by adding a subdivision to read:

Subd. 14. **Appropriation for functions supporting the ongoing operation of the Gambling Control Board.** If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money for the next biennium to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions associated with operation of the Gambling Control Board under chapter 349 are appropriated for the next biennium from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section has been applied shall supersede and replace the funding authorized in this section.

Sec. 7. Minnesota Statutes 2010, section 349A.10, is amended by adding a subdivision to read:

Subd. 8. **Ongoing operations.** The Minnesota Lottery shall conduct ongoing operations, and all funds available to the lottery under chapter 349A are appropriated to the lottery on a permanent and ongoing basis.

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

Sec. 8. Minnesota Statutes 2010, section 349A.10, is amended by adding a subdivision to read:

Subd. 9. **Appropriation for functions supporting the ongoing operations of the State Lottery.** If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money for the next biennium to the commissioner of management and budget for central accounting, procurement, payroll, and human resources functions, amounts necessary to operate those functions associated with operation of the State Lottery under chapter 349A are appropriated for the next biennium from the general fund to the commissioner of management and budget. As necessary, the commissioner may transfer a portion of this appropriation to other state agencies to support carrying out these functions. Any subsequent appropriation to the commissioner of management and budget for a biennium in which this section has been applied shall supersede and replace the funding authorized in this section."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money to the Racing Commission, the Gambling Control Board, and the State Lottery for operations on an ongoing basis; appropriating

money to management and budget for functions that support ongoing operations of the Racing Commission, the Gambling Control Board and the State Lottery; amending Minnesota Statutes 2010, sections 240.15, subdivision 6; 240.155, subdivision 1; 240.30, subdivision 9; 349.151, subdivision 4, by adding a subdivision; 349A.10, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 240."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was re-referred

S.F. No. 230: A bill for an act relating to health occupations; providing for a Nurse Licensure Compact; providing for appointments; proposing coding for new law in Minnesota Statutes, chapter 148.

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

Page 10, line 10, delete "2011" and insert "2012"

Page 10, after line 33, insert:

"Sec. 6. APPROPRIATION.

\$149,000 in fiscal year 2013 is appropriated from the state government special revenue fund to the Board of Nursing for the purposes of this act. The base level funding is \$6,000 each year."

Page 11, line 3, delete "2012" and insert "2013"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, before the semicolon, insert "; appropriating money"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1876: A bill for an act relating to health; licensing emergency medical personnel; amending Minnesota Statutes 2010, sections 144E.001, subdivisions 1b, 3a, 4a, 4b, 5c, 5d, 5e, 6, 11, 14, by adding subdivisions; 144E.01, subdivision 1; 144E.101, subdivisions 2, 6, 7, 9, 10, 12; 144E.103; 144E.127, subdivision 2; 144E.265, subdivision 2; 144E.27, subdivisions 1, 2, 3, 5, by adding a subdivision; 144E.275, subdivision 3; 144E.28, subdivisions 1, 5, 7; 144E.283; 144E.285; 144E.286, subdivision 3; 144E.29; 144E.30, subdivision 3; 144E.305, subdivision 2; 144E.31; 144E.32, subdivision 2; 144E.35, subdivision 1; 144E.52; Minnesota Statutes 2011 Supplement, sections 144E.001, subdivision 5f; 144E.28, subdivision 9; repealing Minnesota Rules, parts 4690.0100, subparts 16, 17; 4690.1400.

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

Page 25, after line 30, insert:

"Sec. 45. Minnesota Statutes 2010, section 144E.41, is amended to read:

144E.41 PROGRAM ELIGIBILITY; QUALIFIED AMBULANCE SERVICE PERSONNEL.

(a) Persons eligible to participate in the Cooper/Sams volunteer ambulance program are qualified ambulance service personnel.

(b) Qualified ambulance service personnel are ambulance attendants, ambulance drivers, and ambulance service medical directors or medical advisors who meet the following requirements:

(1) employment of the person by or provision by the person of service to an ambulance service that is licensed as such by the state of Minnesota and that provides ambulance services that are generally available to the public and are free of unfair discriminatory practices under chapter 363A;

(2) performance by the person during the 12 months ending as of the immediately previous June 30 of all or a predominant portion of the person's services in the state of Minnesota or on behalf of Minnesota residents, ~~as verified by August 1 annually in an affidavit from the chief administrative officer of the ambulance service;~~

(3) current certification of the person during the 12 months ending as of the immediately previous June 30 by the board as an ambulance attendant, ambulance driver, or ambulance service medical director or medical advisor under section 144E.265 or 144E.28, and supporting rules, and current active ambulance service employment or service provision status of the person, ~~as verified by August 1 annually in an affidavit from the chief administrative officer of the ambulance service;~~ and

(4) conformance by the person with the definition of the phrase "volunteer ambulance attendant" under section 144E.001, subdivision 15, except that for the salary limit specified in that provision there must be substituted, for purposes of this section only, a limit of \$6,000 for calendar year 2004, and \$6,000 multiplied by the cumulative percentage increase in the national Consumer Price Index, all items, for urban wage earners and clerical workers, as published by the federal Department of Labor, Bureau of Labor Statistics, since December 31, 2004, and for an ambulance service medical director, conformance based solely on the person's hourly stipends or salary for service as a medical director.

(c) The term "active ambulance service employment or service provision status" means being in good standing with and on the active roster of the ambulance service making the certification.

(d) For a person who is employed by or provides service to more than one ambulance service concurrently during any period during the 12-month period, credit towards an award under this chapter is limited to one ambulance service during any period. The creditable period is with the ambulance service for which the person undertakes the greatest portion of employment or service hours.

(e) Verification of the person's performance and certification for the 12 months immediately preceding June 30 as required in paragraph (b), clauses (2) and (3), must be reported annually to the board by August 1 in a notarized affidavit from the chief administrative officer of the ambulance service. Affidavits verifying service submitted to the board after August 1 shall not be considered as credited ambulance service for purposes of section 144E.46, unless specifically authorized by law.

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

Page 26, after line 8, insert:

"Sec. 47. COOPER/SAMS VOLUNTEER AMBULANCE PROGRAM SERVICE CREDIT REPORTING.

(a) The Emergency Medical Services Regulatory Board shall accept verification of service that was performed by qualified ambulance service personnel as described in Minnesota Statutes, section 144E.41, during the 12 months immediately preceding June 30, 2010, in the form of a notarized affidavit from the chief administrative officer of the ambulance service. If a notarized affidavit is submitted to the board by August 1, 2012, verifying service performed during this time period, the board shall add the applicable service credits to the record of potential award accumulations for each qualified ambulance service person according to Minnesota Statutes, section 144E.45.

(b) Notwithstanding Minnesota Statutes, section 144E.46, if a qualified ambulance service person affected by paragraph (a) applied for and received a Cooper/Sams volunteer ambulance award in fiscal year 2011, the board shall pay the person for the added service credits verified according to paragraph (a) as part of the awards paid out in fiscal year 2012. This payment shall be made before any other award amount.

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

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1809: A bill for an act relating to health; removing requirements for implementation of evidence-based strategies as part of hospital community benefit programs and health maintenance organizations collaboration plans; amending Laws 2011, First Special Session chapter 9, article 10, section 4, subdivision 2.

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

Delete everything after the enacting clause and insert:

"Section 1. Laws 2011, First Special Session chapter 9, article 10, section 4, subdivision 2, is amended to read:

Subd. 2. Community and Family Health Promotion

	Appropriations by Fund	
General	45,577,000	46,030,000
State Government		
Special Revenue	1,033,000	1,033,000
Health Care Access	16,719,000	1,719,000

Federal TANF	11,713,000	11,713,000
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TANF Appropriations. (1) \$1,156,000 of the TANF funds is appropriated each year of the biennium to the commissioner for family planning grants under Minnesota Statutes, section 145.925.

(2) \$3,579,000 of the TANF funds is appropriated each year of the biennium to the commissioner for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1.

(3) \$2,000,000 of the TANF funds is appropriated each year of the biennium to the commissioner for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(4) \$4,978,000 of the TANF funds is appropriated each year of the biennium to the commissioner for the family home visiting grant program according to Minnesota Statutes, section 145A.17. \$4,000,000 of the funding must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. \$978,000 of the funding must be distributed to tribal governments based on Minnesota Statutes, section 145A.14, subdivision 2a.

(5) The commissioner may use up to 6.23 percent of the funds appropriated each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

TANF Carryforward. Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is

available for the second year.

Statewide Health Improvement Program.

(a) \$15,000,000 in the biennium ending June 30, 2013, is appropriated from the health care access fund for the statewide health improvement program and is available until expended. Notwithstanding Minnesota Statutes, sections 144.396, and 145.928, the commissioner may use tobacco prevention grant funding and grant funding under Minnesota Statutes, section 145.928, to support the statewide health improvement program. The commissioner may focus the program geographically or on a specific goal of tobacco use reduction or on reducing obesity. By February 15, 2013, the commissioner shall report to the chairs of the health and human services committee on progress toward meeting the goals of the program as outlined in Minnesota Statutes, section 145.986, and estimate the dollar value of the reduced health care costs for both public and private payers.

(b) By February 15, 2012, the commissioner shall develop a plan to implement evidence-based strategies from the statewide health improvement program as part of ~~hospital community benefit programs and health maintenance organizations collaboration plans. The implementation plan shall include an advisory board to determine priority needs for health improvement in reducing obesity and tobacco use in Minnesota and to review and approve hospital community benefit activities reported under Minnesota Statutes, section 144.699, and health maintenance organizations collaboration plans in Minnesota Statutes, section 62Q.075.~~ The commissioner shall consult with ~~hospital and~~ health maintenance organizations in creating and implementing the plan. The plan described in this paragraph shall be implemented by July 1, 2012.

(c) The commissioners of Minnesota management and budget, human services,

and health shall include in each forecast beginning February of 2013 a report that identifies an estimated dollar value of the health care savings in the state health care programs that are directly attributable to the strategies funded from the statewide health improvement program. The report shall include a description of methodologies and assumptions used to calculate the estimate.

Funding Usage. Up to 75 percent of the fiscal year 2012 appropriation for local public health grants may be used to fund calendar year 2011 allocations for this program and up to 75 percent of the fiscal year 2013 appropriation may be used for calendar year 2012 allocations. The fiscal year 2014 base shall be increased by \$5,193,000.

Base Level Adjustment. The general fund base is increased by \$5,188,000 in fiscal year 2014 and decreased by \$5,000 in 2015."

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

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1543: A bill for an act relating to human services; providing medical assistance coverage for community paramedic services; amending Minnesota Statutes 2010, section 256B.0625, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 256B.0625, is amended by adding a subdivision to read:

Subd. 60. **Community paramedic services.** (a) Medical assistance covers services provided by community paramedics who are certified under section 144E.28, subdivision 9, when the services are provided in accordance with this subdivision to an eligible recipient as defined in paragraph (b).

(b) For purposes of this subdivision, an eligible recipient is defined as an individual who has received hospital emergency department services three or more times in a period of four consecutive months in the past 12 months or an individual who has been identified by the individual's primary health care provider for whom community paramedic services identified in paragraph (c) would likely prevent admission to or would allow discharge from a nursing facility; or would likely prevent readmission to a hospital or nursing facility.

(c) Payment for services provided by a community paramedic under this subdivision must be

a part of a care plan ordered by a primary health care provider in consultation with the medical director of an ambulance service and must be billed by an eligible provider enrolled in medical assistance that employs or contracts with the community paramedic. The care plan must ensure that the services provided by a community paramedic are coordinated with other community health providers and local public health agencies and that community paramedic services do not duplicate services already provided to the patient, including home health and waiver services. Community paramedic services shall include health assessment, chronic disease monitoring and education, medication compliance, immunizations and vaccinations, laboratory specimen collection, hospital discharge follow-up care, and minor medical procedures approved by the ambulance medical director.

(d) Services provided by a community paramedic to an eligible recipient who is also receiving care coordination services must be in consultation with the providers of the recipient's care coordination services.

(e) The commissioner shall seek the necessary federal approval to implement this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2012, or upon federal approval, whichever is later."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Olson from the Committee on Education, to which was referred

S.F. No. 388: A bill for an act relating to education; establishing enrollment options for students at low-performing schools; proposing coding for new law in Minnesota Statutes, chapter 124D.

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

Delete everything after the enacting clause and insert:

"Section 1. [124D.031] ENROLLMENT OPTIONS FOR STUDENTS AT LOW-PERFORMING SCHOOLS.

Subdivision 1. **Student enrollment options.** (a) A student who attends a persistently low-performing school for at least one school year and whose family income is equal to or less than 175 percent of the federal poverty level is eligible to enroll in a nonpublic school under this section or a nonresident district school or program under section 124D.03.

(b) For the purposes of this section, "persistently low-performing school" means a school that has student performance levels for at least three consecutive school years immediately preceding the school year a student is enrolling in a nonpublic school under this section or a nonresident district school or program under section 124D.03 in one or more of the following:

(1) the total percentage of students scoring at the "does not meet standards" level for the reading Minnesota Comprehensive Assessments exceeds 25 percent for all grades tested; or

(2) the total percentage of scoring at the "does not meet standards" level for the mathematics Minnesota Comprehensive Assessments exceeds 40 percent for all grades tested.

Subd. 2. **Eligible nonpublic schools.** To be eligible to participate under this section, a nonpublic school must comply with chapter 363A and administer the statewide reading and math tests under section 120B.30 to its students enrolled under this section.

The commissioner shall ensure that the nonpublic school complies with the requirements of this subdivision.

Subd. 3. **Tuition funding for students transferring to nonpublic schools.** If a student transfers to a nonpublic school under this section, and upon receiving proof that the student is enrolled in the nonpublic school, the commissioner shall make quarterly payments to the student's parent or guardian in an amount equal to the lesser of the state average general education revenue per pupil unit, calculated without transportation sparsity revenue or the nonpublic school's operating and debt service cost per pupil that is related to educational programming, as determined by the commissioner. The total amount of the payments must not exceed the tuition and fees charged at the nonpublic school or the amount calculated under this subdivision, whichever is less. The commissioner shall send the check to the nonpublic school and the parent or guardian shall restrictively endorse the check for the nonpublic school's use.

Subd. 4. **Student transportation.** A resident school district is responsible for providing transportation within the district's borders for a student who enrolls in a nonpublic school under this section and shall receive transportation funding equal to the actual costs in the current school year for those transportation services.

Subd. 5. **Funding for student testing.** The state shall pay the nonpublic school costs of administering tests given under section 120B.30.

Subd. 6. **List of nonpublic schools.** The commissioner shall publish a list of participating nonpublic schools.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to the 2012-2013 school year and later.

Sec. 2. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19a, 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, minus any addition that would have been required under clause (21) if the taxpayer had claimed the standard deduction. 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) for taxable years beginning before January 1, 2013, 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, 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, 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;

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

(18) the amount of the deduction under section 170 of the Internal Revenue Code that represents contributions to a qualified foundation under section 290.0682;

(19) 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);

~~(19)~~ (20) to the extent included in the computation of federal taxable income in taxable years beginning after December 31, 2010, the amount of disallowed itemized deductions, but the amount of disallowed itemized deductions plus the addition required under clause (2) 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, and reduced by any addition that would have been required under clause (21) if the taxpayer had claimed the standard deduction:

(i) the amount of disallowed itemized deductions is equal to the lesser of:

(A) three percent of the excess of the taxpayer's federal adjusted gross income over the applicable amount; or

(B) 80 percent of the amount of the itemized deductions otherwise allowable to the taxpayer under the Internal Revenue Code for the taxable year;

(ii) the term "applicable amount" means \$100,000, or \$50,000 in the case of a married individual filing a separate return. Each dollar amount shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof;

(iii) the term "itemized deductions" does not include:

(A) the deduction for medical expenses under section 213 of the Internal Revenue Code;

(B) any deduction for investment interest as defined in section 163(d) of the Internal Revenue Code; and

(C) the deduction under section 165(a) of the Internal Revenue Code for casualty or theft losses described in paragraph (2) or (3) of section 165(c) of the Internal Revenue Code or for losses described in section 165(d) of the Internal Revenue Code;

~~(20)~~ (21) to the extent included in federal taxable income in taxable years beginning after December 31, 2010, the amount of disallowed personal exemptions for taxpayers with federal adjusted gross income over the threshold amount:

(i) the disallowed personal exemption amount is equal to the dollar amount of the personal exemptions claimed by the taxpayer in the computation of federal taxable income multiplied by the applicable percentage;

(ii) "applicable percentage" means two percentage points for each \$2,500 (or fraction thereof) by which the taxpayer's federal adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In no event shall the applicable percentage exceed 100 percent;

(iii) the term "threshold amount" means:

(A) \$150,000 in the case of a joint return or a surviving spouse;

(B) \$125,000 in the case of a head of a household;

(C) \$100,000 in the case of an individual who is not married and who is not a surviving spouse or head of a household; and

(D) \$75,000 in the case of a married individual filing a separate return; and

(iv) the thresholds shall be increased by an amount equal to:

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for

"calendar year 1992" in subparagraph (B) thereof; and

~~(21)~~(22) to the extent deducted in the computation of federal taxable income, for taxable years beginning after December 31, 2010, and before January 1, 2013, the difference between the standard deduction allowed under section 63(c) of the Internal Revenue Code and the standard deduction allowed for 2011 and 2012 under the Internal Revenue Code as amended through December 1, 2010.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 3. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c, is amended to read:

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

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

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

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

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

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

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

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

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

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

(10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of

the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

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

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

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

(14) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

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

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

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

(18) for taxable years beginning before January 1, 2013, the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;

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

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

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

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

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

- (iv) licensing fees; and
- (v) other similar expenses and costs.

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

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

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

- (i) income related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;
- (ii) income from factoring transactions or discounting transactions;
- (iii) royalty, patent, technical, and copyright fees;
- (iv) licensing fees; and
- (v) other similar income.

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

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

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

(23) the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to gains derived from the sale of real or personal property located in the United States;

(24) for taxable years beginning before January 1, 2010, the additional amount allowed as a deduction for donation of computer technology and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; ~~and~~

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

(26) the amount of the deduction under section 170 of the Internal Revenue Code that represents contributions to a qualified foundation under section 290.0682.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 4. Minnesota Statutes 2010, section 290.0674, subdivision 1, is amended to read:

Subdivision 1. **Credit allowed.** An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of the amount paid for education-related expenses for a qualifying child in kindergarten through grade 12. For purposes of this section, "education-related expenses" means:

(1) fees or tuition for instruction by an instructor under section 120A.22, subdivision 10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers Association, and who is not a lineal ancestor or sibling of the dependent for instruction outside the regular school day or school year, including tutoring, driver's education offered as part of school curriculum, regardless of whether it is taken from a public or private entity or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2), and that do not include the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship;

(2) expenses for textbooks, including books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs;

(3) a maximum expense of \$200 per family for personal computer hardware, excluding single purpose processors, and educational software that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2), purchased for use in the taxpayer's home and not used in a trade or business regardless of whether the computer is required by the dependent's school; and

(4) the amount paid to others for tuition and transportation of a qualifying child attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A.

For purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the

Internal Revenue Code.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 5. [290.0682] EQUITY AND OPPORTUNITY IN EDUCATION TAX CREDIT.

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

(b) "Eligible student" means a student who:

(1) is a member of a household whose total annual income during the year, without consideration of the benefits under this program, does not exceed an amount equal to 1.85 times the income standard used to qualify for a reduced-price meal under the National School Lunch Program, as specified in United States Code, title 42, section 1758. Once a student is eligible under this program, the student remains eligible regardless of household income until the student graduates from high school or reaches 21 years of age, whichever occurs first;

(2) was eligible to attend a public school in the preceding semester or is starting school in Minnesota for the first time; and

(3) resides in Minnesota.

(c) "Equity and opportunity in education donation" means a donation to a qualified foundation that makes qualified grants.

(d) "Qualified foundation" means a foundation fulfilling the requirement under subdivision 4.

(e) "Qualified school" means a school operated in Minnesota that is either:

(1) a nonpublic elementary or secondary school in Minnesota wherein a resident may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and that adheres to the provisions of United States Code, title 42, section 1981; or

(2) a high quality preschool.

(f) "Qualified grant" means a grant from a qualified foundation to the parents or guardians of an eligible student for use at a qualified school.

Subd. 2. Credit allowed. (a) An individual or corporate taxpayer is allowed a credit against the tax due under this chapter equal to 100 percent of the amount donated to a qualified foundation during the taxable year.

(b) The maximum aggregate statewide credits must not exceed \$20,000,000 per taxable year.

(c) A taxpayer must provide a copy of the receipt provided by the qualified foundation when claiming the credit for the equity and opportunity in education donation.

Subd. 3. Application for credit certificate. (a) A taxpayer must apply to the commissioner for an equity and opportunity in education tax credit certificate. Tax credit certificates under this section must be made available on a first-come, first-served basis until the maximum aggregate statewide credit amount has been reached. The maximum statewide credit amounts must not exceed

\$20,000,000 per taxable year for donations and commitments to qualified nonpublic schools or preschools.

(b) The commissioner must not issue a tax credit certificate for an amount greater than the limits under subdivision 2.

Subd. 4. **Qualified foundations.** (a) Each qualified foundation that receives equity and opportunity in education donations directly from taxpayers under this section must:

- (1) notify the commissioner of its intent to participate in this program;
- (2) demonstrate to the commissioner that it has been granted an exemption from the federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code;
- (3) provide a receipt or verification on a form approved by the commissioner to taxpayers for donations and commitments made to qualified foundations;
- (4) conduct criminal background checks on all of its employees and board members and exclude from employment or governance any individuals that might reasonably pose a risk to the appropriate use of contributed funds;
- (5) demonstrate its financial accountability by:
 - (i) submitting a financial information report for the organization that complies with uniform financial accounting standards established by the commissioner and conducted by a certified public accountant; and
 - (ii) having the auditor certify that the report is free of material misstatements;
- (6) demonstrate its financial viability, if it is to receive donations of \$150,000 or more during the school year, by filing financial information with the commissioner prior to September 1 of each year that demonstrates the financial viability of the qualified foundation;
- (7) allocate at least 90 percent of annual revenues for tuition grants;
- (8) use amounts received as donations to make qualified grants within two years of the date of receiving the donation; and
- (9) ensure that qualified schools that receive qualified grants or enroll eligible students:
 - (i) comply with all health and safety laws or codes that apply to nonpublic schools;
 - (ii) hold a valid occupancy permit if required by its municipality;
 - (iii) certify that their admissions policy adheres to provisions in United States Code, title 42, section 1981; and
 - (iv) provide academic accountability to parents of students in the program by regularly reporting to the parent on the student's progress.

(b) A qualified foundation that receives equity and opportunity in education donations directly from taxpayers under this program must report to the commissioner by June 1 of each year the following information prepared by a certified public accountant regarding its grants in the previous calendar year:

(1) the total number and total dollar amount of donations from taxpayers received during the previous calendar year; and

(2) the total number and total dollar amount of qualified scholarships or qualified grants awarded during the previous calendar year.

(c) If the commissioner decides to bar a qualified foundation from the program for failure to comply with the requirements in paragraph (a), clauses (1) to (9), the qualified foundation must notify taxpayers who have donated to the qualified foundation in writing within 30 days.

Subd. 5. **Responsibilities of commissioner.** (a) The commissioner must prescribe a standardized format for a receipt to be issued by a qualified foundation to a taxpayer to indicate the value of a donation received.

(b) The commissioner must prescribe a standardized format for qualified foundations to report the information required under subdivision 4.

(c) The commissioner must post on the department's Web site the names and addresses of qualified foundations and regularly update the names and addresses of any qualified foundations that have been barred from participating in the program.

(d) The commissioner may conduct either a financial review or audit of a qualified foundation upon finding evidence of fraud or intentional misreporting.

(e) The commissioner may bar a qualified foundation from participating in the program if the commissioner establishes that the qualified foundation has intentionally and substantially failed to comply with the requirements in subdivision 4. If the commissioner determines that a qualified foundation should be barred from the program, the commissioner must notify the qualified foundation within 60 days of that determination.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 6. TUITION FUNDING, NONPUBLIC SCHOOLS, FISCAL YEARS 2013 AND 2014.

(a) Notwithstanding Minnesota Statutes, section 124D.031, subdivision 3, in fiscal year 2013 only the quarterly payments calculated under Minnesota Statutes, section 124D.031, subdivision 3, shall be reduced by 40 percent.

(b) Notwithstanding Minnesota Statutes, section 124D.031, subdivision 3, in fiscal year 2014 only the quarterly payments calculated under Minnesota Statutes, section 124D.031, subdivision 3, shall be reduced by 20 percent."

Amend the title as follows:

Page 1, line 3, before the semicolon, insert "; education tax credit modification; equity and opportunity in education income tax credit establishment"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Fischbach from the Committee on Higher Education, to which was referred

S.F. No. 1869: A bill for an act relating to higher education; establishing an internship program; allowing a tax credit; appropriating money; amending Minnesota Statutes 2010, section 290.06, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 135A.

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

Delete everything after the enacting clause and insert:

"Section 1. [136A.129] GREATER MINNESOTA INTERNSHIP PROGRAM.

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

(b) "Eligible employer" means a taxpayer under section 290.01 with employees located in greater Minnesota.

(c) "Eligible institution" means a Minnesota public postsecondary institution, or a Minnesota private, nonprofit, baccalaureate degree granting college or university.

(d) "Eligible student" means a student enrolled in an eligible institution who is a junior or senior in a degree program or has completed one-half of the credits necessary for an associate degree or certification.

(e) "Greater Minnesota" means the area located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 2. **Program established.** The Office of Higher Education shall administer a greater Minnesota internship program through eligible institutions to provide credit at the eligible institution for internships and tax credits for eligible employers who hire interns for employment in greater Minnesota. The purpose of the program is to encourage Minnesota businesses to:

- (1) employ and provide valuable experience to Minnesota students; and
- (2) foster long-term relationships between the students and greater Minnesota employers.

Subd. 3. **Program components.** (a) An intern must be an eligible student who has been admitted to a major program that is closely related to the intern experience as determined by the eligible institution.

(b) To participate in the program, an eligible institution must:

(1) enter into written agreements with eligible employers to provide internships that are at least 12 weeks long and located in greater Minnesota;

(2) determine that the work experience of the internship is closely related to the eligible student's course of study; and

(3) provide academic credit for the successful completion of the internship or ensure that it fulfills requirements necessary to complete a vocational technical education program.

(c) To participate in the program, an eligible employer must enter into a written agreement with an eligible institution specifying that the intern:

- (1) would not have been hired without the tax credit described in subdivision 4;
- (2) did not work for the employer prior to entering the agreement;
- (3) does not replace an existing employee;
- (4) has not previously participated in the program;
- (5) will be employed at a location in greater Minnesota;
- (6) will be paid at least minimum wage for a minimum of 16 hours per week for at least a 12-week period; and
- (7) will be supervised and evaluated by the employer.

(d) Participating eligible institutions and eligible employers must report annually to the office. The report must include at least the following:

- (1) the number of interns hired;
- (2) the number of hours and weeks worked by interns; and
- (3) the compensation paid to interns.

(e) An internship with clinical experience currently required for completion of an academic program does not qualify for the greater Minnesota internship program under this section.

Subd. 4. **Tax credit allowed; maximum limits.** (a) The tax credit for an eligible employee equals 40 percent of the compensation paid to each qualifying intern, but not to exceed \$1,250. An employer is limited to a credit for no more than five interns in any taxable year.

(b) The total amount of credits authorized under this section is limited to \$1,250,000 per fiscal year. The office shall allocate these credits to eligible institutions for participating employers and certify to the Department of Revenue the amount of the credit under section 290.06, subdivision 36.

Subd. 5. **Allocations to institutions.** The office shall allocate tax credits authorized in subdivision 4 to eligible institutions. The office shall determine relevant criteria to allocate the tax credits including the geographic distribution of credits to work locations outside the metropolitan area. Any credits allocated to an institution but not used may be reallocated to eligible institutions. The office shall allocate a portion of the administrative fee under section 290.06, subdivision 36, to participating eligible institutions for their administrative costs.

Subd. 6. **Reports to the legislature.** (a) By February 1, 2013, the office and the Department of Revenue shall report to the legislature on the greater Minnesota Internship program. The report must include at least the following:

- (1) the number and dollar amount of credits allowed;
- (2) the number of interns employed under the program; and
- (3) the cost of administering the program.

(b) By February 1, 2014, the office and the Department of Revenue shall report to the legislature with an analysis of the effectiveness of the program in stimulating businesses to hire interns and in

assisting participating interns in finding permanent career positions. This report must include the number of students who participated in the program who were subsequently employed full time by the employer.

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

Sec. 2. Minnesota Statutes 2010, section 290.06, is amended by adding a subdivision to read:

Subd. 36. Greater Minnesota internship credit. (a) A taxpayer may take a credit against the tax due under this chapter equal to the lesser of:

(1) 40 percent of the compensation paid to an intern qualifying under the program established under section 136A.129, but not to exceed \$1,250 per intern; or

(2) the amount certified by the Office of Higher Education under section 136A.129 to the taxpayer.

(b) Credits allowed to a partnership, a limited liability company taxed as a partnership, an S corporation, or multiple owners of property are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or owner based on their share of the entity's income for the taxable year.

(c) If the amount of credit which the taxpayer is eligible to receive under this subdivision exceeds the taxpayer's tax liability under this chapter, the commissioner of revenue shall refund the excess to the taxpayer.

(d) The amount necessary to: (1) pay claims for the refund provided in this subdivision; and (2) an amount equal to one percent of the total amount of the credits authorized under this subdivision for an administrative fee for the Office of Higher Education and participating eligible institutions, is appropriated from the general fund to the commissioner of revenue. The commissioner of revenue shall transfer the amount of the administrative fee to the Office of Higher Education.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011."

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1699: A bill for an act relating to human services; modifying group residential housing and Minnesota supplemental aid shelter needy provisions; modifying adult foster care homes; amending Minnesota Statutes 2010, sections 245A.11, subdivisions 2, 2a, 7, 7a, 8; 245B.07, subdivision 1; 245C.04, subdivision 6; 256B.092, subdivision 1b; 256D.44, subdivision 5; 256I.04, subdivision 2a; 326B.103, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245B; 256B; repealing Minnesota Rules, part 9555.5105, subpart 37, item B.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 245A.03, is amended by adding a subdivision to read:

Subd. 6a. **Adult foster care homes serving people with mental illness; certification.** (a) The commissioner of human services shall develop an optional certification process for adult foster care homes licensed under this chapter and Minnesota Rules, parts 9555.5105 to 9555.6265, that serve people with mental illness where the home is not the primary residence of the license holder. If an adult foster care license holder becomes certified, the certification shall be included in the license information. The certification process shall be developed with input from advocates, mental health professionals, and adult foster care providers.

(b) As part of the certification process, the commissioner shall require that:

(1) staff working in the adult foster care home receive training on the following topics:

(i) mental health diagnoses;

(ii) mental health crisis response and de-escalation techniques;

(iii) recovery from mental illness;

(iv) treatment options including evidence-based practices;

(v) medications and their side effects;

(vi) co-occurring substance abuse and health conditions; and

(vii) other topics as determined by the commissioner; and

(2) a mental health professional, as defined in section 245.462, subdivision 18, provides oversight of the adult foster care home.

(c) The commissioner shall develop certification requirements by January 1, 2013.

Sec. 2. Minnesota Statutes 2010, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care license capacity.** (a) The commissioner shall issue adult foster care licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (b) to (f).

(b) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) The commissioner may grant variances to paragraph (b) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and

approval of the variance is recommended by the county in which the licensed foster care provider is located.

(e) The commissioner may grant a variance to paragraph (b) to allow for the use of a fifth bed for respite services, as defined in section 245A.02, for persons with disabilities, regardless of age, if the variance complies with section 245A.03, subdivision 7, and section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is licensed. Respite care may be provided under the following conditions:

(1) staffing ratios cannot be reduced below the approved level for the individuals being served in the home on a permanent basis;

(2) no more than two different individuals can be accepted for respite services in any calendar month and the total respite days may not exceed 120 days per program in any calendar year;

(3) the person receiving respite services must have his or her bedroom, which could be used for alternative purposes when not used as a respite bedroom, and cannot be the room of another person who lives in the foster care home; and

(4) individuals living in the foster care home must be notified when the variance is approved. The provider must give 60 days' notice in writing to the residents and their legal representatives prior to accepting the first respite placement. Notice must be given to residents at least two days prior to service initiation, or as soon as the license holder is able if they receive notice of the need for respite less than two days prior to initiation, each time a respite client will be served, unless the requirement for this notice is waived by the resident or legal guardian.

~~(e) If the 2009 legislature adopts a rate reduction that impacts providers of adult foster care services,~~ (f) The commissioner may issue an adult foster care license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care beds in homes that are not the primary residence of the license holder, over the licensed capacity in such homes on July 1, 2009, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to remain living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, ~~2009~~ 2011.

~~(f)~~(g) The commissioner shall not issue a new adult foster care license under paragraph ~~(e)~~ (f) after June 30, ~~2011~~ 2016. The commissioner shall allow a facility with an adult foster care license issued under paragraph ~~(e)~~ (f) before June 30, ~~2011~~ 2016, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph ~~(e)~~ (f).

Sec. 3. Minnesota Statutes 2010, section 245A.11, subdivision 7, is amended to read:

Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a ~~licensing action~~ conditional license issued under section 245A.06, or any other licensing sanction issued under 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

Sec. 4. Minnesota Statutes 2010, section 245A.11, subdivision 7a, is amended to read:

Subd. 7a. **Alternate overnight supervision technology; adult foster care license.** (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that the facility is under electronic monitoring; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the host county and lead county contract agency and the host county licensing agency. The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (d) through (f).

(d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home, and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a foster care recipient requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on site;

(3) describe the types of events to which the program will respond with a physical presence when those events occur in the home during time when staff are not on site, and how the license holder's response plan meets the requirements in paragraph (e), clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under paragraph (e), clause (1) or (2). The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill to be conducted for which the effectiveness of the response protocol under paragraph (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of people receiving foster care services in the home:

(1) response alternative (1) requires only the technology to provide an electronic notification or

alert to the license holder that an event is underway that requires a response. Under this alternative, no more than ten minutes will pass before the license holder will be physically present on site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under alternative (1), but more than ten minutes may pass before the license holder is present on site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications that will assist the license holder in communicating with and assessing the needs related to the care, health, and safety of the foster care recipients. This interactive technology must permit the license holder to remotely assess the well being of the foster care recipient without requiring the initiation of the foster care recipient. Requiring the foster care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs under item (i) during the absence of the license holder on site;

(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each foster care recipient's individualized plan of care, individual service plan under section 256B.092, subdivision 1b, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on site for that foster care recipient.

(f) ~~All~~ Each foster care recipient's placement ~~agreements~~ agreement, individual service ~~agreements, and plans applicable to the foster care recipient~~ agreement, and plan must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to the health, safety, or rights of foster care recipients under paragraph (e), clause (1) or (2); and a signed informed consent from each foster care recipient or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the ~~license holder is~~ caregivers are trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (e);

(5) how the license holder protects the foster care recipient's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. A foster care recipient may not be removed from a program under this subdivision for failure to consent to electronic monitoring. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.

(i) For the purposes of paragraphs (d) through (h), "license holder" has the meaning under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

(k) The commissioner shall evaluate license applications using the requirements in paragraphs (d) to (f). The commissioner shall provide detailed application forms, including a checklist of criteria needed for approval.

(l) To be eligible for a license under paragraph (a), the adult foster care license holder must not have had a conditional license issued under section 245A.06 or any licensing sanction under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

(m) The commissioner shall review an application for an alternative overnight supervision license within 60 days of receipt of the application. When the commissioner receives an application that is incomplete because the applicant failed to submit required documents or that is substantially deficient because the documents submitted do not meet licensing requirements, the commissioner shall provide the applicant written notice that the application is incomplete or substantially deficient. In the written notice to the applicant, the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is substantially complete. An applicant's failure to submit a substantially complete application after receiving notice from the commissioner is a basis for license denial under section 245A.05. The commissioner shall complete subsequent review within 30 days.

(n) Once the application is considered complete under paragraph (m), the commissioner will approve or deny an application for an alternative overnight supervision license within 60 days.

(o) For the purposes of this subdivision, "supervision" means:

(1) oversight by a caregiver as specified in the individual resident's place agreement and awareness of the resident's needs and activities; and

(2) the presence of a caregiver in a residence during normal sleeping hours, unless a

determination has been made and documented in the individual's support plan that the individual does not require the presence of a caregiver during normal sleeping hours.

Sec. 5. Minnesota Statutes 2010, section 245B.06, subdivision 2, is amended to read:

Subd. 2. **Risk management plan.** (a) The license holder must develop, document ~~in writing,~~ and implement a risk management plan that meets the requirements of this subdivision. License holders licensed under this chapter are exempt from sections 245A.65, subdivision 2, and 626.557, subdivision 14, if the requirements of this subdivision are met.

(b) The risk management plan must identify areas in which the consumer is vulnerable, based on an assessment, at a minimum, of the following areas:

(1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as defined in section 626.5572, subdivision 2, and financial exploitation as defined in section 626.5572, subdivision 9; a minor consumer's susceptibility to sexual and physical abuse as defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse, regardless of age;

(2) the consumer's ability to manage mental and physical health needs, considering the consumer's:

~~physical~~ (i) mental health diagnosis and disabilities or sensory impairments and the ability to seek and use assistance, assistive technology, adaptive aids, or equipment; ~~allergies; sensory impairments~~

(ii) ability to recognize and avoid allergens and manage allergic reactions;

(iii) ability to manage seizures;

(iv) ability to meet diet and nutritional needs, including eating without assistance and swallowing without choking; ~~need for~~

(v) ability to self-administer and manage medications or treatment orders; ~~and ability to~~

(vi) ability to obtain routine medical treatment; and

(vii) ability to recognize, respond appropriately to, and report changes in physical and mental well-being;

(3) the consumer's safety needs skills in environments where the license holder serves the consumer, considering the consumer's ability to:

(i) take reasonable safety precautions to prevent falls, burns, or avoid hazards;

(ii) identify and use community survival skills to prevent becoming lost or seeking help when lost;

(iii) follow street safety rules;

(iv) use public transportation;

(v) drive or ride in a vehicle;

(vi) identify and follow water survival skills sufficient to avoid drowning or near drowning;

ability to

(vii) seek assistance with or provide medical care self-administer basic first aid; and access to

(viii) recognize and handle or avoid toxic substances or dangerous items;

(4) environmental issues the consumer's ability to recognize and respond appropriately to unsafe or hazardous situations or conditions in the physical and social environment, considering the program's location in a particular consumer's ability to:

(i) access and participate in the neighborhood or community resources where the program is located; the type of

(ii) maneuver around areas in the building where services are provided or on the grounds and terrain surrounding the building; and the consumer's ability to

(iii) respond to weather-related conditions, including dressing appropriately for the weather or seeking shelter;

(iv) open locked doors, to safely evacuate a room or building in an emergency; and

(v) remain alone in any environment; and

(5) the consumer's behavior, including when the license holder knows that the consumer has committed a violent crime or the consumer engages in behaviors that may increase the likelihood of physical aggression between consumers or sexual activity between consumers involving force or coercion, as defined under section 245B.02, subdivision 10, clauses (6) and (7), between consumers, or towards others. Under this clause, a license holder knows of a consumer's history of criminal misconduct or physical aggression if it receives such information from a law enforcement authority, through a medical record prepared by a health care provider, or the license holder's ongoing assessments of the consumer.

(c) When assessing a consumer's vulnerability, the license holder must consider only the consumer's skills and abilities, independent of staffing patterns, supervision plans, the environment, or other situational elements. License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of each license holder's risk management or the shared risk management plan.

(d) License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of each license holder's risk management or the shared risk management plan. The license holder's license holder must develop a plan must include that identifies the specific actions a staff person will take and measures that will be taken to protect the consumer and minimize risks for the identified vulnerability areas within the scope of the licensed services. The plan must identify referrals made when the consumer is vulnerable to risks outside the scope or control of the licensed services.

(e) The specific actions must include the proactive measures being taken to reduce or minimize the risk, training being provided to the consumer to develop skills or abilities to avoid or respond to the risk as independently as possible, or a detailed description of actions a staff person will take when intervention is needed.

(e) (f) The specific actions must be developed according to the requirements of subdivision 1,

paragraph (a). When the assessment indicates that the consumer is vulnerable but does not need specific risk reduction measures, the risk management plan shall document this determination and why, at a minimum, proactive measures or consumer training are not needed.

(g) Prior to or upon initiating services, a license holder must develop an initial risk management plan that is, at a minimum, verbally approved by the consumer or consumer's legal representative and case manager. The license holder must document the date the license holder receives the consumer's or consumer's legal representative's and case manager's verbal approval of the initial plan.

~~(f) As part of the meeting held~~ (h) Within 45 days of initiating service, ~~as required under section 245B.06, subdivision 4,~~ the license holder must review the initial risk management plan for accuracy and revise the plan if necessary. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in this plan review. If the license holder revises the plan, or if the consumer or consumer's legal representative and case manager have not previously signed and dated the plan, the license holder must obtain dated signatures to document the plan's approval.

~~(g)~~ (i) After plan approval, the license holder must review the plan at least annually and update the plan based on the individual consumer's needs and changes to the environment. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in the ongoing plan development. The license holder shall obtain dated signatures from the consumer or consumer's legal representative and case manager to document completion of the annual review and approval of plan changes.

Sec. 6. Minnesota Statutes 2010, section 245B.07, subdivision 1, is amended to read:

Subdivision 1. **Consumer data file.** The license holder must maintain the following information for each consumer:

(1) identifying information that includes date of birth, medications, legal representative, history, medical, and other individual-specific information, and names and telephone numbers of contacts;

(2) consumer health information, including individual medication administration and monitoring information;

(3) the consumer's individual service plan.

(i) When a consumer's case manager does not provide a current individual service plan, the license holder shall make a written request to the case manager to provide a copy of the individual service plan and inform the consumer or the consumer's legal representative of the right to an individual service plan and the right to appeal under section 256.045;

(ii) In the event the case manager fails to provide an individual service plan after a written request from the license holder, the license holder shall not be sanctioned or penalized financially for not having a current individual service plan in the consumer's data file;

(4) copies of assessments, analyses, summaries, and recommendations;

(5) progress review reports;

(6) incidents involving the consumer;

- (7) reports required under section 245B.05, subdivision 7;
- (8) discharge summary, when applicable;
- (9) record of other license holders serving the consumer that includes a contact person and telephone numbers, services being provided, services that require coordination between two license holders, and name of staff responsible for coordination;
- (10) information about verbal aggression directed at the consumer by another consumer; and
- (11) information about self-abuse.

Sec. 7. Minnesota Statutes 2010, section 245C.04, subdivision 6, is amended to read:

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) Providers required to initiate background studies under section 256B.4912 must initiate a study before the individual begins in a position allowing direct contact with persons served by the provider.

(b) ~~The commissioner shall conduct~~ Except as provided in paragraph (c), the providers must initiate a background study annually of an individual required to be studied under section 245C.03, subdivision 6.

(c) After an initial background study under this subdivision is initiated on an individual by a provider of both services licensed by the commissioner and the unlicensed services under this subdivision, a repeat annual background study is not required if:

(1) the provider maintains compliance with the requirements of section 245C.07, paragraph (a), regarding one individual with one address and telephone number as the person to receive sensitive background study information for the multiple programs that depend on the same background study, and that the individual who is designated to receive the sensitive background information is capable of determining, upon the request of the commissioner, whether a background study subject is providing direct contact services in one or more of the provider's programs or services and, if so, at which location or locations; and

(2) the individual who is the subject of the background study provides direct contact services under the provider's licensed program for at least 40 hours per year so the individual will be recognized by a probation officer or corrections agent to prompt a report to the commissioner regarding criminal convictions as required under section 245C.05, subdivision 7.

Sec. 8. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual ~~is:~~

(1) has been affiliated with a program or facility regulated by the Department of Human Services or Department of Health, a facility serving children or youth licensed by the Department of Corrections, or any type of home care agency or provider of personal care assistance services within the preceding year; and

(2) has been convicted of a crime constituting a disqualification under section 245C.14.

(b) For the purpose of this subdivision, "conviction" has the meaning given it in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this subdivision and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care programs.

Sec. 9. Minnesota Statutes 2010, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. **Individual service plan.** (a) The individual service plan must:

(1) include the results of the assessment information on the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;

(2) identify the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor;

(3) identify long- and short-range goals for the person;

(4) identify specific services and the amount and frequency of the services to be provided to the person based on assessed needs, preferences, and available resources. The individual service plan shall also specify other services the person needs that are not available;

(5) identify the need for an individual program plan to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(6) identify provider responsibilities to implement and make recommendations for modification to the individual service plan;

(7) include notice of the right to request a conciliation conference or a hearing under section 256.045;

(8) be agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative; and

(9) be reviewed by a health professional if the person has overriding medical needs that impact the delivery of services.

(b) Service planning formats developed for interagency planning such as transition, vocational, and individual family service plans may be substituted for service planning formats developed by county agencies.

(c) Approved, written, and signed changes to a consumer's services that meet the criteria in this subdivision shall be an addendum to that consumer's individual service plan.

Sec. 10. Minnesota Statutes 2011 Supplement, section 256B.097, subdivision 3, is amended to read:

Subd. 3. **State Quality Council.** (a) There is hereby created a State Quality Council which must define regional quality councils, and carry out a community-based, person-directed quality review component, and a comprehensive system for effective incident reporting, investigation, analysis, and follow-up.

(b) By August 1, 2011, the commissioner of human services shall appoint the members of the initial State Quality Council. Members shall include representatives from the following groups:

(1) disability service recipients and their family members;

(2) during the first two years of the State Quality Council, there must be at least three members from the Region 10 stakeholders. As regional quality councils are formed under subdivision 4, each regional quality council shall appoint one member;

(3) disability service providers;

(4) disability advocacy groups; and

(5) county human services agencies and staff from the Department of Human Services and Ombudsman for Mental Health and Developmental Disabilities.

(c) Members of the council who do not receive a salary or wages from an employer for time spent on council duties may receive a per diem payment when performing council duties and functions.

(d) The State Quality Council shall:

(1) assist the Department of Human Services in fulfilling federally mandated obligations by monitoring disability service quality and quality assurance and improvement practices in Minnesota; and

(2) establish state quality improvement priorities with methods for achieving results and provide an annual report to the legislative committees with jurisdiction over policy and funding of disability services on the outcomes, improvement priorities, and activities undertaken by the commission during the previous state fiscal year;

(3) identify issues pertaining to financial and personal risk that impede Minnesotans with disabilities from optimizing choice of community-based services; and

(4) recommend to the chairs and ranking minority members of the legislative committees with jurisdiction over human services and civil law by January 15, 2013, statutory and rule changes related to the findings under clause (3) that promote individualized service and housing choices balanced with appropriate individualized protection.

(e) The State Quality Council, in partnership with the commissioner, shall:

(1) approve and direct implementation of the community-based, person-directed system established in this section;

(2) recommend an appropriate method of funding this system, and determine the feasibility of the use of Medicaid, licensing fees, as well as other possible funding options;

(3) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems;

(4) establish variable licensure periods not to exceed three years based on outcomes achieved; and

(5) in cooperation with the Quality Assurance Commission, design a transition plan for licensed providers from Region 10 into the alternative licensing system by July 1, 2013.

(f) The State Quality Council shall notify the commissioner of human services that a facility, program, or service has been reviewed by quality assurance team members under subdivision 4, paragraph (b), clause (13), and qualifies for a license.

(g) The State Quality Council, in partnership with the commissioner, shall establish an ongoing review process for the system. The review shall take into account the comprehensive nature of the system which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to persons with disabilities. The review shall address efficiencies and effectiveness of the system.

(h) The State Quality Council may recommend to the commissioner certain variances from the standards governing licensure of programs for persons with disabilities in order to improve the quality of services so long as the recommended variances do not adversely affect the health or safety of persons being served or compromise the qualifications of staff to provide services.

(i) The safety standards, rights, or procedural protections referenced under subdivision 2, paragraph (c), shall not be varied. The State Quality Council may make recommendations to the commissioner or to the legislature in the report required under paragraph (c) regarding alternatives or modifications to the safety standards, rights, or procedural protections referenced under subdivision 2, paragraph (c).

(j) The State Quality Council may hire staff to perform the duties assigned in this subdivision.

Sec. 11. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 23, is amended to read:

Subd. 23. **Community-living settings.** "Community-living settings" means a single-family home or apartment where the service recipient or their family owns or rents, ~~as demonstrated by a lease agreement,~~ and maintains control over the individual unit as demonstrated by the lease agreement, or has a plan for transition of a lease from a service provider to the individual. Within two years of signing the initial lease, the service provider shall transfer the lease to the individual. In the event the landlord denies the transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the individual. Community-living settings are subject to the following:

- (1) individuals are not required to receive services;
- (2) individuals are not required to have a disability or specific diagnosis to live in the community-living setting;
- (3) individuals may hire service providers of their choice;
- (4) individuals may choose whether to share their household and with whom;
- (5) the home or apartment must include living, sleeping, bathing, and cooking areas;
- (6) individuals must have lockable access and egress;
- (7) individuals must be free to receive visitors and leave the settings at times and for durations of their own choosing;
- (8) leases must not reserve the right to assign units or change unit assignments; and
- (9) access to the greater community must be easily facilitated based on the individual's needs and preferences.

Sec. 12. [256B.492] ADULT FOSTER CARE VOLUNTARY CLOSURE.

Subdivision 1. **Commissioner's duties; report.** The commissioner of human services shall ask providers of adult foster care services to present proposals for the conversion of services provided for persons with developmental disabilities in settings licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, to services to other community settings in conjunction with the cessation of operations and closure of identified facilities.

Subd. 2. **Inventory of foster care capacity.** The commissioner of human services shall submit to the legislature by February 15, 2013, a report that includes:

- (1) an inventory of the assessed needs of all individuals with disabilities receiving foster care services under section 256B.092;
- (2) an inventory of total licensed foster care capacity for adults and children available in Minnesota as of January 1, 2013; and
- (3) a comparison of the needs of individuals receiving services in foster care settings and nonfoster care settings.

The report will also contain recommendations on developing a profile of individuals requiring foster care services and the projected level of foster care capacity needed to serve that population.

Subd. 3. **Applications for planned closure of adult foster care facilities.** (a) If the report required in subdivision 2 determines the existing supply of foster care capacity is higher than needed to meet the needs of individuals requiring that level of care, the commissioner shall, within the limits of available appropriations, announce and implement a program for closure of adult foster care homes. Names and identifying information provided in response to the announcement shall remain private unless approved, according to the timelines established in the plan.

(b) To be considered for approval, an application must include:

- (1) a description of the proposed closure plan, which must include identification of the home or

homes to receive a planned closure rate adjustment;

(2) the proposed timetable for any proposed closure, including the proposed dates for announcement to residents, commencement of closure, and completion of closure;

(3) the proposed relocation plan jointly developed by the county of financial responsibility and the provider for current residents of any facility designated for closure; and

(4) documentation in a format approved by the commissioner that all the adult foster care homes receiving a planned closure rate adjustment under the plan have accepted joint and several liability for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under the plan.

Subd. 4. **Criteria for review of application.** (a) In reviewing and approving closure proposals that the commissioner shall consider, the commissioner shall give first priority to proposals that:

(1) result in the closing of a facility;

(2) demonstrate savings of medical assistance expenditures; and

(3) demonstrate that alternative placements will be developed based on individual resident needs and applicable federal and state rules.

(b) The commissioner shall select proposals that best meet the criteria established in this subdivision within the appropriations made available for planned closure of adult foster care facilities. The commissioner shall notify providers of the selections made and approved by the commissioner.

(c) For each proposal approved by the commissioner, a contract must be established between the commissioner, the county of financial responsibility, and the participating provider.

Subd. 5. **Adjustment to rates.** (a) For purposes of this section, the commissioner shall establish an enhanced payment rate under section 256B.4913 to facilitate an orderly transition for persons with developmental disabilities from adult foster care to other community-based settings.

(b) The maximum length the commissioner may establish an enhanced rate is six months.

(c) The commissioner shall analyze the fiscal impact of the closure of each facility on medical assistance expenditures. Any savings is allocated to the medical assistance program.

Sec. 13. Minnesota Statutes 2010, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the

percentages of the thrifty food plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;
- (4) low cholesterol diet, 25 percent of thrifty food plan;
- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;
- (10) hypoglycemic diet, 15 percent of thrifty food plan; or
- (11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657,

subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage, unless allowed under paragraph (g).

(2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy benefit under this paragraph is considered a household of one. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

(3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may be owned, operated, or controlled by the recipient's service provider. ~~In a multifamily building of four or more units, the maximum number of apartments that may be used by recipients of this program shall be 50 percent of the units in a building. This paragraph expires on June 30, 2012.~~ the service provider shall implement a plan with the recipient to transition the lease to the recipient's name. Within two years of signing the initial lease, the service provider shall transfer the lease entered into under this subdivision to the recipient. In the event the landlord denies this transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the recipient.

Sec. 14. **INNOVATION TASK FORCE.**

(a) The commissioner of human services shall appoint members to the Innovation Task Force to review and make recommendations on provider or lead agency initiated pilot projects in home and community-based services for people with disabilities that otherwise would be limited by state-imposed regulatory or funding restrictions.

(b) The task force membership shall include: two providers of disability services; one person receiving disability services or a family member; one advocate for people with disabilities; one representative from the Disability Law Center; one county representative; one representative from the National Alliance on Mental Illness-Minnesota; and three representatives from the Department of Human Services, one from the mental health division, one from the disability services division, and one from the licensing division. Members of the task force shall serve three-year terms and shall not be reimbursed for task force work or meetings.

(c) On January 1 and July 1 of each year, the commissioner shall issue a request for proposals in the State Register for service providers or lead agencies to develop and implement new models for residential services that support people with disabilities. The task force shall review and recommend to the commissioner projects for implementation twice per year.

(d) Each proposed pilot project must:

(1) spend no more in state and federal funding than is spent in total funding for the affected service recipients;

(2) be two years in duration;

- (3) have the informed consent of all affected recipients or their guardians;
- (4) be based on recipients' individual needs and designed for specific quality outcomes; and
- (5) be evaluated by the task force after two years with recommendations to the commissioner to either discontinue the pilot project or continue the pilot project with no time limitation.
- (e) The commissioner shall review the task force's recommendations for start-up or continuation of pilot projects and may approve new and continued pilot projects twice per year.
- (f) If a pilot project is discontinued, the affected recipients may return to services provided prior to the pilot project and shall have funding for services restored to prepilot project levels.
- (g) Providers or lead agencies whose pilot projects are not continued shall not be penalized due to a pilot project's performance but remain accountable to state and federal Medicaid, vulnerable adult, and maltreatment of minors laws.

Sec. 15. HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH DISABILITIES.

Individuals receiving services under a home and community-based waiver may receive services in the following settings:

- (1) an individual's own home or family home;
- (2) a licensed adult foster care setting of up to five people; and
- (3) community living settings as defined in Minnesota Statutes, section 256B.49, subdivision 23, regardless of the number of people living in the setting receiving services under the home and community-based waiver.

The above settings must not:

- (1) be located in a building that is a publicly or privately operated facility that provides institutional treatment or custodial care;
- (2) be located in a building on the grounds of or adjacent to a public institution;
- (3) be a housing complex designed expressly around an individual's diagnosis or disability unless state or federal funding for housing requires it;
- (4) be segregated based on a disability, either physically or because of setting characteristics, from the larger community; and
- (5) have the qualities of an institution, unless specifically required in the individual's plan developed with the lead agency case manager and legal guardian. The qualities of an institution include, but are not limited to:
 - (i) regimented meal and sleep times;
 - (ii) limitations on visitors; and
 - (iii) lack of privacy.

The commissioner shall submit an amendment to the waiver plan no later than December 31, 2012.

Sec. 16. **INDEPENDENT LIVING SERVICES BILLING.**

The commissioner shall allow for daily rate and 15-minute increment billing for independent living services under the brain injury (BI) and CADI waivers. If necessary to comply with this requirement, the commissioner shall submit a waiver amendment to the state plan no later than December 31, 2012."

Delete the title and insert:

"A bill for an act relating to human services; Minnesota supplemental aid shelter needy provisions; modifying adult foster care homes; amending Minnesota Statutes 2010, sections 245A.03, by adding a subdivision; 245A.11, subdivisions 2a, 7, 7a; 245B.06, subdivision 2; 245B.07, subdivision 1; 245C.04, subdivision 6; 245C.05, subdivision 7; 256B.092, subdivision 1b; 256D.44, subdivision 5; Minnesota Statutes 2011 Supplement, sections 256B.097, subdivision 3; 256B.49, subdivision 23; proposing coding for new law in Minnesota Statutes, chapter 256B."

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 2224: A bill for an act relating to unemployment insurance; making federal conformity, policy, and other housekeeping changes; amending Minnesota Statutes 2010, sections 268.035, subdivision 12d; 268.042, subdivision 1; 268.044, subdivision 1; 268.046, subdivision 3; 268.047, subdivision 4; 268.051, subdivision 4; 268.085, subdivisions 5, 11, 15; 268.095, subdivision 6; 268.103, subdivision 1; 268.18, subdivisions 2, 2b, 4, 4a; 268.192, by adding a subdivision; 268.194, subdivision 1; Minnesota Statutes 2011 Supplement, sections 268.035, subdivision 20; 268.051, subdivision 5; 268.115, subdivision 1; 268.184, subdivisions 1, 1a.

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

Page 2, line 17, after the period, insert "The determination is effective the Sunday of the week that it was issued."

Pages 3 to 4, delete section 3 and insert:

"Sec. 3. Minnesota Statutes 2011 Supplement, section 268.184, subdivision 1, is amended to read:

Subdivision 1. **Administrative penalties.** (a) The commissioner must penalize an employer if that employer or any employee, officer, or agent of that employer, is in collusion with any applicant for the purpose of assisting the applicant to receive unemployment benefits fraudulently. The penalty is \$500 or the amount of unemployment benefits determined to be overpaid, whichever is greater.

(b) The commissioner must penalize an employer if that employer or any employee, officer, or agent of that employer (1) made a false statement or representation knowing it to be false, (2) made a false statement or representation without a good faith belief as to correctness of the statement or representation, (3) knowingly failed to disclose a material fact, or (4) made an offer of employment

to an applicant when, in fact, the employer had no employment available, ~~but only if the employer's action:~~

- ~~(i) was taken to prevent or reduce the payment of unemployment benefits to any applicant;~~
- ~~(ii) was taken to reduce or avoid any payment required from an employer under this chapter or section 116L.20; or~~
- ~~(iii) caused an overpayment of unemployment benefits to an applicant.~~

The penalty is the greater of \$500, or 50 percent of the ~~overpaid or reduced unemployment benefits or payment required, whichever is greater.~~ following resulting from the employer's action:

- (i) the amount of any overpaid unemployment benefits to an applicant;
- (ii) the amount of unemployment benefits not paid to an applicant that would otherwise have been paid; or
- (iii) the amount of any payment required from the employer under this chapter or section 116L.20 that was not paid.

(c) The commissioner must penalize an employer if that employer failed or refused to honor a subpoena issued under section 268.105, subdivision 4, or section 268.188. The penalty is \$500 and any costs of enforcing the subpoena, including attorney fees.

(d) Penalties under this subdivision and under section 268.047, subdivision 4, paragraph (b), are in addition to any other penalties and subject to the same collection procedures that apply to past due taxes. Penalties must be paid within 30 calendar days of assessment issuance of the determination of penalty and credited to the ~~contingent account~~ trust fund.

(e) The determination of ~~the~~ penalty is final unless the employer files an appeal within 20 calendar days after the sending of the determination of ~~the~~ penalty to the employer by mail or electronic transmission. Proceedings on the appeal are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective July 1, 2012, except the amendments to paragraph (d) are effective for penalties imposed on or after July 1, 2013."

Page 15, after line 16, insert:

"Sec. 5. Minnesota Statutes 2010, section 268.069, subdivision 2, is amended to read:

Subd. 2. Unemployment benefits paid from state funds. Unemployment benefits are paid from state funds and are not considered paid from any special insurance plan, nor as paid by an employer. An application for unemployment benefits is not considered a claim against an employer but is considered a request for unemployment benefits from the trust fund. The commissioner has the responsibility for the proper payment of unemployment benefits regardless of the level of interest or participation by an applicant or an employer in any determination or appeal. An applicant's entitlement to unemployment benefits must be determined based upon that information available and without regard to a burden of proof. Any agreement between an applicant and an employer is not binding on the commissioner in determining an applicant's entitlement. There is no presumption of entitlement or nonentitlement to unemployment benefits.

Sec. 6. Minnesota Statutes 2011 Supplement, section 268.07, subdivision 2, is amended to read:

Subd. 2. **Benefit account requirements.** (a) Unless paragraph (b) applies, to establish a benefit account an applicant must have total wage credits in the applicant's four quarter base period of at least: (1) \$2,400; or (2) 5.3 percent of the state's average annual wage rounded down to the next lower \$100, whichever is higher.

(b) To establish a new benefit account within 52 calendar weeks following the expiration of the benefit year on a prior benefit account, an applicant must have performed services in covered employment and have been paid wages in a one or more completed calendar quarter quarters that started after the effective date of the prior benefit account. The wages paid for those services must be at least enough to meet the requirements of paragraph (a), ~~and have been reported on wage detail under section 268.044.~~ A benefit account under this paragraph may not be established effective earlier than the Sunday following the end of the most recent completed calendar quarter in which the requirements of paragraph (a) were met. One of the reasons for this paragraph is to prevent an applicant from establishing a second benefit account as a result of one loss of employment.

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

Page 21, delete lines 8 to 10

Page 21, line 11, delete "(4)" and insert "(3)"

Page 21, after line 12, insert:

"Sec. 14. **REPEALER.**

Minnesota Rules, part 3315.0555, subparts 2, 3, and 4, are repealed.

EFFECTIVE DATE. This section is effective the day following final enactment and applies retroactively to all pending cases."

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 2065: A bill for an act relating to building codes; making changes to contractor recovery fund; amending Minnesota Statutes 2010, sections 326B.092, subdivision 7; 326B.89, subdivisions 3, 4, 7, 10; repealing Minnesota Statutes 2010, section 326B.89, subdivision 16.

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

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2011 Supplement, section 326B.0981, subdivision 4, is amended to read:

Subd. 4. **Internet continuing education.** (a) The design and delivery of an Internet continuing education course must be approved by the International Distance Education Certification Center

(IDECC) or the International Association for Continuing Education and Training (IACET) before the course is submitted for the commissioner's approval. The ~~IDECC~~ approval must accompany the course submitted.

(b) An Internet continuing education course must:

- (1) specify the minimum computer system requirements;
- (2) provide encryption that ensures that all personal information, including the student's name, address, and credit card number, cannot be read as it passes across the Internet;
- (3) include technology to guarantee seat time;
- (4) include a high level of interactivity;
- (5) include graphics that reinforce the content;
- (6) include the ability for the student to contact an instructor or course sponsor within a reasonable amount of time;
- (7) include the ability for the student to get technical support within a reasonable amount of time;
- (8) include a statement that the student's information will not be sold or distributed to any third party without prior written consent of the student. Taking the course does not constitute consent;
- (9) be available 24 hours a day, seven days a week, excluding minimal downtime for updating and administration, except that this provision does not apply to live courses taught by an actual instructor and delivered over the Internet;
- (10) provide viewing access to the online course at all times to the commissioner, excluding minimal downtime for updating and administration;
- (11) include a process to authenticate the student's identity;
- (12) inform the student and the commissioner how long after its purchase a course will be accessible;
- (13) inform the student that license education credit will not be awarded for taking the course after it loses its status as an approved course;
- (14) provide clear instructions on how to navigate through the course;
- (15) provide automatic bookmarking at any point in the course;
- (16) provide questions after each unit or chapter that must be answered before the student can proceed to the next unit or chapter;
- (17) include a reinforcement response when a quiz question is answered correctly;
- (18) include a response when a quiz question is answered incorrectly;
- (19) include a final examination in which the student must correctly answer 70 percent of the questions;
- (20) allow the student to go back and review any unit at any time, except during the final

examination;

(21) provide a course evaluation at the end of the course. At a minimum, the evaluation must ask the student to report any difficulties caused by the online education delivery method;

(22) provide a completion certificate when the course and exam have been completed and the provider has verified the completion. Electronic certificates are sufficient and shall include the name of the provider, date and location of the course, educational program identification that was provided by the department, hours of instruction or continuing education hours, and licensee's or attendee's name and license, certification, or registration number or the last four digits of the licensee's or attendee's Social Security number; and

(23) allow the commissioner the ability to electronically review the class to determine if credit can be approved.

(c) The final examination must be either an encrypted online examination or a paper examination that is monitored by a proctor who certifies that the student took the examination.

Sec. 3. Minnesota Statutes 2010, section 326B.89, subdivision 3, is amended to read:

Subd. 3. **Fund fees.** In addition to any other fees, a person who applies for or renews a license under sections 326B.802 to 326B.885 shall pay a fee to the fund. The person shall pay, in addition to the appropriate application or renewal fee, the following additional fee that shall be deposited in the fund. The amount of the fee shall be based on the person's gross annual receipts for the person's most recent fiscal year preceding the application or renewal, on the following scale:

Fee	<u>As of July 1, 2013</u>	<u>As of July 1, 2015</u>	Gross Annual Receipts
\$320	<u>\$330</u>	<u>\$350</u>	under \$1,000,000
\$420	<u>\$435</u>	<u>\$465</u>	\$1,000,000 to \$5,000,000
\$520	<u>\$540</u>	<u>\$580</u>	over \$5,000,000"

Page 3, after line 8, insert:

"Sec. 5. Minnesota Statutes 2010, section 326B.89, subdivision 5, is amended to read:

Subd. 5. **Payment limitations.** The commissioner shall not pay compensation from the fund to an owner or a lessee in an amount greater than \$75,000 per licensee. The commissioner shall not pay compensation from the fund to owners and lessees in an amount that totals more than \$150,000 per licensee. The commissioner shall only pay compensation from the fund for a final judgment that is based on a contract directly between the licensee and the homeowner or lessee that was entered into prior to the cause of action and that requires licensure as a residential building contractor or residential remodeler. All claims, regardless of the date the breach occurred, are subject to the payment limitations and application verification requirements of this section."

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 2067: A bill for an act relating to consumer protection; clarifying the definition of home solicitation sale; amending Minnesota Statutes 2010, section 325G.06, subdivision 2.

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

Senator Gerlach from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 2069: A bill for an act relating to insurance; regulating the offer and dissemination of travel insurance; amending Minnesota Statutes 2010, sections 60K.36, subdivision 2; 60K.38, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60K.

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

Page 3, line 24, delete "including its employees," and after "activities" insert ", and those of its employees,"

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

Senator Gerlach from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 1738: A bill for an act relating to insurance; making changes in the public employee insurance program administered by Minnesota Management and Budget; establishing a temporary moratorium to preclude employees from joining the public employee insurance program if their employer is not in the program as of the date of enactment; amending Minnesota Statutes 2010, section 43A.316, subdivision 5.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Health and Human Services. Report adopted.

Senator Gerlach from the Committee on Commerce and Consumer Protection, to which was re-referred

S.F. No. 1737: A bill for an act relating to local government finance; authorizing certain investments; providing for designated depositories; amending Minnesota Statutes 2010, sections 123B.14, subdivision 3; 366.01, subdivision 4; 385.07; 427.06.

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

Page 1, line 13, delete the second "or" and insert a comma

Page 1, line 14, after "associations" insert ", or credit unions"

Page 1, line 17, before the period, insert "or the National Credit Union Share Insurance Fund"

Page 2, line 11, delete the second "or" and insert a comma

Page 2, line 12, after "associations" insert ", or credit unions"

Page 2, line 15, before the period, insert "or the National Credit Union Share Insurance Fund"

Page 2, line 29, delete the second "or" and insert a comma

Page 2, line 30, after "associations" insert ", or credit unions"

Page 2, line 33, before the period, insert "or the National Credit Union Share Insurance Fund"

Page 3, line 15, delete the second "or" and insert a comma

Page 3, line 16, after "associations" insert ", or credit unions"

Page 3, line 19, before the period, insert "or the National Credit Union Share Insurance Fund"

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1780: A bill for an act relating to higher education; clarifying the authority of the Minnesota State Colleges and Universities system to continue operations during a budget impasse; appropriating money; amending Minnesota Statutes 2010, section 136F.71, subdivision 3, by adding a subdivision.

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

Page 1, line 20, after the period, insert "In addition, the board shall pay for treasury operations services provided by the commissioner of management and budget."

Page 1, line 23, after the period, insert "The commissioner of management and budget may transfer payments received under this subdivision to the chief information officer and the commissioner of administration, if necessary."

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1551: A bill for an act relating to electrical inspections; providing for continued electrical inspections when biennial appropriations have not been enacted; appropriating money; amending Minnesota Statutes 2010, section 326B.04, subdivision 1.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1530: A bill for an act relating to transportation; appropriating money; providing contingent appropriations for highways; proposing coding for new law in Minnesota Statutes, chapter 161.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 1844: A bill for an act relating to natural resources; providing for continued operation of the Minnesota Zoological Garden when biennial appropriations have not been enacted; appropriating money; amending Minnesota Statutes 2010, section 85A.04, subdivision 1.

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

Senator Limmer from the Committee on Judiciary and Public Safety, to which was referred

S.F. No. 2106: A bill for an act relating to marriage; authorizing a judge from the Office of Administrative Hearings to perform marriages; amending Minnesota Statutes 2010, section 517.04.

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

Senator Limmer from the Committee on Judiciary and Public Safety, to which was re-referred

S.F. No. 1689: A bill for an act relating to veterans affairs; providing a waiver of immunity for veterans to sue the state of Minnesota as an employer in federal or other courts for violation of the Uniformed Services Employment and Reemployment Rights Act; giving special emphasis to recruitment of veterans for state employment; extending reemployment rights protections to certain nonpublic employees; increasing credits for veterans in open examination ratings for public employment; amending Minnesota Statutes 2010, sections 1.05, by adding a subdivision; 43A.09; 192.261, subdivision 6; 197.455, subdivisions 4, 5.

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

Senator Limmer from the Committee on Judiciary and Public Safety, to which was referred

S.F. No. 1678: A bill for an act relating to public defenders; amending provisions related to public defender representation, appointment, and reimbursement obligations; outlining financial responsibility for public defender costs, cost for counsel in CHIPS cases, pretrial appeals costs, and standby counsel costs; establishing an appellate process working group; amending Minnesota Statutes 2010, sections 244.052, subdivision 6; 244.11, subdivision 1; 257.69, subdivision 1; 260B.163, subdivision 4; 260B.331, subdivision 5; 260C.163, subdivision 3; 260C.331, subdivision 5; 609.115, subdivision 4; 609.131, subdivision 1; 611.14; 611.16; 611.17; 611.18; 611.20, subdivision 4; 611.215, subdivision 2; 611.26, subdivision 6; 611.27, subdivision 5, by adding a subdivision; repealing Minnesota Statutes 2010, sections 611.20, subdivision 6; 611.27, subdivision 15.

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

Delete everything after the enacting clause and insert:

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

Subd. 6. **Administrative review.** (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise

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

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

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

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

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

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

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

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

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

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

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

- (1) charged by delinquency petition with a gross misdemeanor or felony offense; or
- (2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

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

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

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

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

(b) The court may order a parent, guardian, or custodian who is employed when counsel is appointed, or who becomes employed while represented by appointed counsel, or who is or becomes able to make partial payments for appointed counsel, to reimburse the state for the cost of appointed counsel. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a parent, guardian, or custodian if their financial circumstances warrant a reduced reimbursement schedule. If a parent, guardian, or custodian does not agree to make payments, the court may order their respective employer to withhold a percentage of their respective income to be turned over to the court. In determining the percentage to be withheld, the court shall consider the income and assets of the parent, guardian, or custodian.

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

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

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

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

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

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

(f) Court-appointed counsel for the parent, guardian, or custodian under this subdivision is at county expense. The court shall appoint only one counsel at public expense to jointly represent the interests of the parent, guardian, and custodian subject to the jurisdiction of the court unless, upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent a separate interest of other parents, guardians, or custodians subject to the jurisdiction of the juvenile court. The court shall appoint counsel retained by the county to provide representation in juvenile court proceedings unless the court finds there is a conflict of interest. Upon a finding of conflict of interest, the county shall contract with competent counsel to provide the necessary representation. The county board must consult with the chief judge of the judicial district or the judge's designee before retaining counsel under this paragraph.

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

EFFECTIVE DATE. This section is effective January 1, 2013.

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

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

(b) The court shall order a parent, guardian, or custodian who is employed when counsel is appointed, or who becomes employed while represented by appointed counsel, or who is or becomes able to make partial payments for appointed counsel, to reimburse the governmental unit providing

counsel for the cost of appointed counsel. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a parent, guardian, or custodian if their financial circumstances warrant a reduced reimbursement schedule. If a parent, guardian, or custodian does not agree to make payments, the court may order their respective employer to withhold a percentage of their respective income to be turned over to the court. In determining the percentage to be withheld, the court shall consider the income and assets of the parent, guardian, or custodian.

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

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

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

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

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

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

611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.

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

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

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

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

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

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

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

611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.

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

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

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

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

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

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

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

the financial statement or refuses to provide information necessary to determine financial eligibility under this section, or waives the appointment of a public defender under section 611.19.

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

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

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

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

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

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

611.18 APPOINTMENT OF PUBLIC DEFENDER.

If it appears to a court that a person requesting the appointment of counsel satisfies the requirements of this chapter, the court shall order the appropriate public defender to represent the person ~~at all further stages of the proceeding through appeal, if any.~~ For a person appealing from a conviction, or a person pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, according to the standards of sections 611.14, clause (2), and 611.25, subdivision 1, paragraph (a), clause (2), the state chief appellate public defender shall be appointed. For a person covered by section 611.14, clause (1), (3), or (4), a the chief district public defender shall be appointed to represent that person. ~~If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.~~ If at any stage of the proceedings, including an

~~appeal~~, the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the ~~appropriate~~ public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel. The representation may be made available at the discretion of the public defender, upon the request of the person or someone on the person's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

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

Subd. 4. **Employed defendants; ability to pay.** (a) A court shall order a defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, or who is or becomes able to make partial payments for counsel, to reimburse the state for the cost of the public defender. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. ~~The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule.~~ If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. ~~The percentage to be withheld may be determined under subdivision 6~~ In determining the percentage to be withheld, the court shall consider the income and assets of the defendant based on the financial statement provided by the defendant when applying for the public defender under section 611.17.

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

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

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

(1) a defendant or other person appealing from a conviction of a felony, ~~or gross misdemeanor,~~ or misdemeanor;

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

(3) a child who is appealing from a delinquency adjudication or from an extended jurisdiction juvenile conviction.

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

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

EFFECTIVE DATE. This section is effective August 1, 2012, and applies to offenses

committed on or after that date.

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

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

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

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

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

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

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

Sec. 18. **REPEALER.**

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

Amend the title as follows:

Page 1, line 5, delete "establishing an appellate"

Page 1, line 6, delete "process working group;"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Rosen from the Committee on Energy, Utilities and Telecommunications, to which was referred

S.F. No. 2187: A resolution memorializing the President and Congress to enact legislation and take other federal government action related to interim storage of used nuclear fuel.

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

Page 1, line 7, delete "and defense-related high-level radioactive waste from defense sites"

Page 1, line 16, delete "and defense-related waste"

Page 1, line 22, delete "and defense waste"

Page 2, line 17, delete "and defense waste shipments"

And when so amended the resolution do pass and be re-referred to the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Senjem, from the Committee on Rules and Administration, to which was referred

H.F. No. 545 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
545	1600				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 545 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 545, the first engrossment; and insert the language after the enacting clause of S.F. No. 1600, the first engrossment; further, delete the title of H.F. No. 545, the first engrossment; and insert the title of S.F. No. 1600, the first engrossment.

And when so amended H.F. No. 545 will be identical to S.F. No. 1600, and further recommends that H.F. No. 545 be given its second reading and substituted for S.F. No. 1600, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Senjem, from the Committee on Rules and Administration, to which was referred

H.F. No. 1560 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for

its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1560	993				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1906, 2131, 1544, 1856, 1876, 1809, 2224, 2067, 2069, 1737, 1780, 1551, 1530, 1844, 2106 and 1689 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1903, 545 and 1560 were read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Eaton, Tomassoni, Higgins and Dzedzic introduced—

S.F. No. 2284: A bill for an act relating to health; requiring reports on nursing personnel staffing; amending Minnesota Statutes 2010, section 144A.04, subdivision 7.

Referred to the Committee on Health and Human Services.

Senators Eaton, Harrington, Sheran and Dzedzic introduced—

S.F. No. 2285: A bill for an act relating to education; prohibiting bullying in public schools; amending Minnesota Statutes 2010, section 122A.60, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 121A.

Referred to the Committee on Education.

Senator Kruse introduced—

S.F. No. 2286: A bill for an act relating to transportation; regulating bridge inspections; amending Minnesota Statutes 2010, sections 165.01; 165.03; repealing Minnesota Rules, parts 8810.9000; 8810.9100; 8810.9200; 8810.9300; 8810.9400; 8810.9500; 8810.9600; 8810.9700.

Referred to the Committee on Transportation.

Senator Dibble introduced—

S.F. No. 2287: A bill for an act relating to highways; imposing a transportation economic development fee on motor fuels; providing for deposit into trunk highway economic development account; proposing coding for new law as Minnesota Statutes, chapter 196A.

Referred to the Committee on Transportation.

Senator Fischbach introduced—

S.F. No. 2288: A bill for an act relating to taxation; sales and use; modifying exemptions; amending Minnesota Statutes 2010, section 297A.70, subdivision 4, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Fischbach introduced—

S.F. No. 2289: A bill for an act relating to higher education; modifying definition of contingent account owner for purposes of the college savings plan; amending Minnesota Statutes 2010, section 136G.03, subdivision 7.

Referred to the Committee on Higher Education.

Senators Lillie and Michel introduced—

S.F. No. 2290: A bill for an act relating to economic development; making changes to the angel investment tax credit; adding a data practices exemption; amending Minnesota Statutes 2010, section 116J.8737, subdivision 8; Minnesota Statutes 2011 Supplement, section 116J.8737, subdivisions 1, 2.

Referred to the Committee on Jobs and Economic Growth.

Senator Lillie introduced—

S.F. No. 2291: A bill for an act relating to local government; authorizing Woodbury to issue public debt without a referendum for a youth athletic facility.

Referred to the Committee on Local Government and Elections.

Senators Lillie and Parry introduced—

S.F. No. 2292: A bill for an act relating to state government; providing for management and consolidation of the state passenger vehicle fleet; amending Minnesota Statutes 2010, section 16B.54, subdivision 1.

Referred to the Committee on State Government Innovation and Veterans.

Senator Newman introduced—

S.F. No. 2293: A bill for an act relating to health; establishing a working group to make

recommendations on methods to reduce administrative burdens for nursing homes in the state.

Referred to the Committee on Health and Human Services.

Senator Limmer introduced—

S.F. No. 2294: A bill for an act relating to natural resources; modifying Mississippi River management plan; providing for certain minimum standards for future critical area ordinance approval; providing for certain classifications within the Mississippi River corridor critical area.

Referred to the Committee on Environment and Natural Resources.

Senator Limmer introduced—

S.F. No. 2295: A bill for an act relating to public safety; clarifying the community notification law by adding cross-references; amending Minnesota Statutes 2010, section 244.052, subdivision 4.

Referred to the Committee on Judiciary and Public Safety.

Senator Chamberlain introduced—

S.F. No. 2296: A bill for an act relating to elections; modifying certificate on absentee ballot envelopes; amending Minnesota Statutes 2010, section 203B.21, subdivision 3.

Referred to the Committee on Local Government and Elections.

Senator Dahms introduced—

S.F. No. 2297: A bill for an act relating to crime victims; establishing Jacob's law; requiring initial notice of crime victim rights to be distributed to each parent, guardian, or custodian of a child victim; requiring notification by law enforcement to social services if a child is neglected or abused outside the home; amending parental rights under custody orders to include police reports on minor children; amending Minnesota Statutes 2010, sections 518.17, subdivision 3; 611A.01; 626.556, subdivision 10a.

Referred to the Committee on Judiciary and Public Safety.

Senator Vandever introduced—

S.F. No. 2298: A bill for an act relating to data practices; classifying certain Metropolitan Council data for building plans, specifications, and drawings; classifying certain government agency requests for bids and proposal data; amending Minnesota Statutes 2010, sections 13.202, subdivision 11; 13.591, subdivision 3; 473.504, by adding a subdivision.

Referred to the Committee on Judiciary and Public Safety.

Senators Lillie and Vandever introduced—

S.F. No. 2299: A bill for an act relating to metropolitan government; making miscellaneous

technical corrections to water resources statutes; removing and modifying obsolete language; amending Minnesota Statutes 2010, sections 473.157; 473.517, subdivisions 1, 9; 473.519; 473.523, subdivision 1; 473.541, subdivision 2; 473.543, subdivision 1.

Referred to the Committee on Local Government and Elections.

Senator Vandever introduced—

S.F. No. 2300: A bill for an act relating to metropolitan government; extending the sunset date of the Metropolitan Area Water Supply Advisory Committee; amending Minnesota Statutes 2010, section 473.1565, subdivision 2.

Referred to the Committee on Local Government and Elections.

Senators Bakk and Lourey introduced—

S.F. No. 2301: A bill for an act relating to taxes; sales and use; modifying construction exemptions; amending Minnesota Statutes 2010, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Chamberlain introduced—

S.F. No. 2302: A bill for an act relating to emergency medical services; permitting local units of government to designate primary services areas and assign ambulance service to the area; amending Minnesota Statutes 2010, sections 144E.06; 144E.10, subdivision 2.

Referred to the Committee on Health and Human Services.

Senator Koch introduced—

S.F. No. 2303: A bill for an act relating to health; amending health professional education loan forgiveness program requirements; amending Laws 2011, First Special Session chapter 9, article 2, section 14.

Referred to the Committee on Health and Human Services.

Senators Bonoff, Parry, Daley, Gazelka and Reinert introduced—

S.F. No. 2304: A bill for an act relating to state government; implementing changes to the sunset review; changing certain agency requirements; requiring posting of convictions of felonies or gross misdemeanors and malpractice settlements or judgments for a regulated practitioner; requiring certain information on regulated practitioners; requiring a study; prohibiting transfer of certain funds; requiring reports; setting fees; appropriating money; amending Minnesota Statutes 2010, sections 3.922, by adding a subdivision; 3.9223, subdivision 7; 3.9225, subdivision 7; 3.9226, subdivision 7; 147.01, subdivision 4; 147.111, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 3D.06; 3D.21, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 3D; 16B; 214; repealing Minnesota Statutes 2010, sections 138A.01; 138A.02; 138A.03; 138A.04; 138A.05; 138A.06.

Referred to the Committee on State Government Innovation and Veterans.

Senators Latz, Marty and Goodwin introduced—

S.F. No. 2305: A bill for an act relating to human services; requiring the commissioner of human services to establish a voluntary registry; requiring the commissioner of human services to release information for purposes of firearms background checks; amending Minnesota Statutes 2010, sections 245.041; 624.7131, subdivisions 1, 2; 624.714, subdivisions 3, 4; proposing coding for new law in Minnesota Statutes, chapters 214; 245.

Referred to the Committee on Health and Human Services.

Senators Michel and Hann introduced—

S.F. No. 2306: A bill for an act relating to education; making certain special or independent school districts subject to mayoral control; amending Minnesota Statutes 2010, section 128D.02; proposing coding for new law in Minnesota Statutes, chapter 123A; repealing Minnesota Statutes 2010, sections 128D.05; 128D.08, subdivisions 1, 3, 4; 128D.14.

Referred to the Committee on Education.

Senators Ingebrigtsen, Gimse, Lourey, Parry and Sheran introduced—

S.F. No. 2307: A bill for an act relating to transportation; appropriating money for trunk highway interchanges; authorizing the sale and issuance of state bonds.

Referred to the Committee on Transportation.

Senator DeKruif introduced—

S.F. No. 2308: A bill for an act relating to motor vehicles; increasing registration tax by \$100 on electric vehicles; amending Minnesota Statutes 2010, section 168.013, subdivision 1a.

Referred to the Committee on Transportation.

Senators Brown and Gazelka introduced—

S.F. No. 2309: A bill for an act relating to natural resources; requiring legislative approval of five-year management plan for Mille Lacs walleye harvest.

Referred to the Committee on Environment and Natural Resources.

Senator Thompson introduced—

S.F. No. 2310: A bill for an act relating to insurance; regulating sale of portable electronics insurance; amending Minnesota Statutes 2010, section 60K.381.

Referred to the Committee on Commerce and Consumer Protection.

Senator Hann introduced—

S.F. No. 2311: A bill for an act relating to insurance; providing guaranteed issue in the individual health insurance market and related changes in the Minnesota Comprehensive Health Association; amending Minnesota Statutes 2010, sections 62A.65, subdivision 2, by adding a subdivision; 62E.10, subdivision 7; 62E.11, subdivision 1; 62E.14, subdivision 1; repealing Minnesota Statutes 2010, section 62A.65, subdivision 6.

Referred to the Committee on Commerce and Consumer Protection.

Senator Hann introduced—

S.F. No. 2312: A bill for an act relating to health; repealing provider peer grouping; repealing Minnesota Statutes 2010, section 62U.04, subdivisions 1, 2, 4, 5, 6, 7, 8; Minnesota Statutes 2011 Supplement, section 62U.04, subdivisions 3, 9.

Referred to the Committee on Health and Human Services.

Senators Hann, Gerlach, Benson, Rosen and Michel introduced—

S.F. No. 2313: A bill for an act relating to insurance; permitting certain entities to administer unified personal health premium accounts; creating a task force; proposing coding for new law as Minnesota Statutes, chapter 62V; repealing Minnesota Statutes 2010, section 62L.12, subdivisions 3, 4.

Referred to the Committee on Commerce and Consumer Protection.

Senator Parry introduced—

S.F. No. 2314: A resolution memorializing Congress and the President of the United States to formally recognize the Khmer Freedom Fighters.

Referred to the Committee on State Government Innovation and Veterans.

Senators Benson and Brown introduced—

S.F. No. 2315: A bill for an act relating to utilities; requiring utility rates be based primarily on cost of service between and among consumer classes; making clarifying and technical changes; making changes to the low-income affordability program; amending Minnesota Statutes 2010, sections 216B.03; 216B.07; 216B.16, by adding subdivisions.

Referred to the Committee on Energy, Utilities and Telecommunications.

Senator Magnus introduced—

S.F. No. 2316: A bill for an act relating to veterans; veterans preference; modifying appointment procedure for removal hearing board; amending Minnesota Statutes 2010, section 197.46.

Referred to the Committee on State Government Innovation and Veterans.

Senators Ingebrigtsen and Harrington introduced–

S.F. No. 2317: A bill for an act relating to public safety; providing for a fusion center to assist with detection, prevention, and investigation of, and response to, criminal and terrorist activities; proposing coding for new law in Minnesota Statutes, chapter 299C.

Referred to the Committee on Judiciary and Public Safety.

Senator Jungbauer introduced–

S.F. No. 2318: A bill for an act relating to state government; renaming and extending the Ladder Out of Poverty Task Force; modifying its duties; amending Laws 2010, chapter 374, section 1.

Referred to the Committee on State Government Innovation and Veterans.

Senator Newman introduced–

S.F. No. 2319: A bill for an act relating to public safety; aligning state-controlled substance schedules with federal controlled substance schedules; modifying the authority of the Board of Pharmacy to regulate controlled substances; providing for penalties; amending Minnesota Statutes 2010, section 152.02, as amended; Minnesota Statutes 2011 Supplement, section 152.027, subdivision 6.

Referred to the Committee on Judiciary and Public Safety.

Senator Gazelka introduced–

S.F. No. 2320: A bill for an act relating to capital investment; appropriating money for Camp Ripley/Veterans State Trail; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senator Gimse introduced–

S.F. No. 2321: A bill for an act relating to transportation; requiring fare increases for Metro Transit service; amending Minnesota Statutes 2010, section 473.408, by adding a subdivision.

Referred to the Committee on Transportation.

Senators Thompson, Hann and Hoffman introduced–

S.F. No. 2322: A bill for an act relating to health; providing an exemption for performance indicators used for quality incentive payments; amending Minnesota Statutes 2010, section 62U.02, by adding a subdivision.

Referred to the Committee on Health and Human Services.

Senator Rest introduced–

S.F. No. 2323: A bill for an act relating to the Metropolitan Council; providing for staggered

terms of Metropolitan Council members; amending Minnesota Statutes 2010, section 473.123, subdivision 2a.

Referred to the Committee on Local Government and Elections.

Senators Pederson and Gerlach introduced—

S.F. No. 2324: A bill for an act relating to occupational licensing; modifying electrical licenses; amending Minnesota Statutes 2010, sections 326B.31, subdivision 14, by adding subdivisions; 326B.33, subdivision 19, by adding a subdivision.

Referred to the Committee on Commerce and Consumer Protection.

Senators Benson and Hall introduced—

S.F. No. 2325: A bill for an act relating to health; requiring informed consent for certain vaccines manufactured with or containing human DNA; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Human Services.

Senator Pederson introduced—

S.F. No. 2326: A bill for an act relating to barbers; changing licenses and fees; creating penalties; appropriating money; amending Minnesota Statutes 2010, sections 154.001, by adding a subdivision; 154.003; 154.02; 154.05; 154.06; 154.065, subdivision 2; 154.07, subdivision 1; 154.08; 154.09; 154.10, subdivision 1; 154.11, subdivision 1; 154.12; 154.14; 154.15, subdivision 2; 154.26; Laws 2011, First Special Session chapter 4, article 1, section 11; proposing coding for new law in Minnesota Statutes, chapter 154.

Referred to the Committee on Jobs and Economic Growth.

Senator Higgins introduced—

S.F. No. 2327: A bill for an act relating to commerce; requiring estate sale conductors to post a bond to protect owners of the property to be sold; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Commerce and Consumer Protection.

Senators Vandever and Koch introduced—

S.F. No. 2328: A bill for an act relating to the military; amending the pay differential law as it applies to school district employees who are members of the National Guard or any other reserve unit; amending Minnesota Statutes 2010, section 471.975.

Referred to the Committee on State Government Innovation and Veterans.

Senators Bonoff, Magnus and Higgins introduced—

S.F. No. 2329: A bill for an act relating to higher education; requiring an expanded waiver for mandatory health care coverage; proposing coding for new law in Minnesota Statutes, chapter 135A.

Referred to the Committee on Higher Education.

Senators Carlson, Stumpf and Hann introduced—

S.F. No. 2330: A bill for an act relating to health; modifying eligibility for grants; amending Minnesota Statutes 2010, section 145.4235, subdivision 2.

Referred to the Committee on Health and Human Services.

Senators Dibble and Reinert introduced—

S.F. No. 2331: A bill for an act relating to public safety; eliminating surcharge for and stacked letters on veteran license plates; authorizing donation for education on anatomical gifts with vehicle registration tax; creating anatomical gift account; clarifying and conforming provisions regarding driver's license revocation periods for DWI convictions; providing for acceptable methods of payment and surcharge on driver's licenses; authorizing a fee for motor vehicle title searches and appropriating that amount to the Department of Public Safety; amending Minnesota Statutes 2010, sections 168.013, by adding a subdivision; 168.123, subdivision 2; 168A.07, subdivision 1; 169A.54, subdivisions 1, 6; 171.061, subdivision 4; 171.30, subdivision 1; 171.306, subdivision 4; Minnesota Statutes 2011 Supplement, sections 168.12, subdivision 5; 168.123, subdivision 1; 171.075, subdivision 1; repealing Minnesota Statutes 2010, section 169A.54, subdivision 5.

Referred to the Committee on Transportation.

Senators Dibble, Rest and Gimse introduced—

S.F. No. 2332: A bill for an act relating to transportation; public safety; traffic regulations; regulating electric-assisted bicycle as bicycle rather than motorized bicycle; amending Minnesota Statutes 2010, sections 169.011, subdivisions 4, 45; 169.222, subdivision 6; 169.223, subdivisions 1, 5.

Referred to the Committee on Transportation.

Senator Dibble introduced—

S.F. No. 2333: A bill for an act relating to human services; clarifying an exception to the transfer prohibition for medical assistance eligibility; amending Minnesota Statutes 2010, section 256B.0595, subdivisions 1, 4; Laws 2009, chapter 173, article 1, section 17, as amended.

Referred to the Committee on Health and Human Services.

Senators Vandever, Sieben, Harrington and Chamberlain introduced—

S.F. No. 2334: A bill for an act relating to lobbying; modifying principal reports; amending Minnesota Statutes 2010, section 10A.04, subdivision 6.

Referred to the Committee on Local Government and Elections.

Senator Dahms introduced—

S.F. No. 2335: A bill for an act relating to capital investment; appropriating money for restoration of the Ramsey Park Swayback Bridge in Redwood County; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senator Skoe introduced—

S.F. No. 2336: A bill for an act relating to energy; utilities; joint ventures; Indian tribes; expanding joint venture authority to include Indian tribes; amending Minnesota Statutes 2010, section 452.25, subdivisions 2, 3, 5, 6.

Referred to the Committee on Energy, Utilities and Telecommunications.

Senators Hall, Thompson, Howe and Pappas introduced—

S.F. No. 2337: A bill for an act relating to liquor; creating licensure for wine educators; proposing coding for new law in Minnesota Statutes, chapter 340A.

Referred to the Committee on Commerce and Consumer Protection.

Senators Hayden, Sheran, Torres Ray, Stumpf and Bonoff introduced—

S.F. No. 2338: A bill for an act relating to children; requiring a plan to improve child well-being; modifying requirements of the annual child maltreatment report; amending Minnesota Statutes 2010, section 257.0725.

Referred to the Committee on Health and Human Services.

Senators Magnus, Dahms, Rosen and Skoe introduced—

S.F. No. 2339: A bill for an act relating to environment; modifying permit requirements for certain feedlots; amending Minnesota Statutes 2011 Supplement, section 116.07, subdivision 7c.

Referred to the Committee on Agriculture and Rural Economies.

Senator Thompson introduced—

S.F. No. 2340: A bill for an act relating to commerce; regulating closing agents; exempting a licensed attorney and a direct employee of a licensed attorney from the licensing requirements for closing agents; amending Minnesota Statutes 2011 Supplement, section 82.641, subdivision 1.

Referred to the Committee on Commerce and Consumer Protection.

Senator Vandever introduced—

S.F. No. 2341: A bill for an act relating to natural resources; providing for repayment when gifts of land are sold; amending Minnesota Statutes 2010, section 84.085, subdivision 1.

Referred to the Committee on Environment and Natural Resources.

Senator Gazelka introduced—

S.F. No. 2342: A bill for an act relating to commerce; regulating auto insurance claims practices; amending Minnesota Statutes 2010, sections 65B.54, subdivision 6; 609.612, subdivision 1.

Referred to the Committee on Commerce and Consumer Protection.

Senator Jungbauer introduced—

S.F. No. 2343: A bill for an act relating to local government; establishing research and development facilities and uses as conditional uses; amending Minnesota Statutes 2010, sections 394.301, by adding a subdivision; 462.357, by adding a subdivision.

Referred to the Committee on Local Government and Elections.

Senators Sieben and Dibble introduced—

S.F. No. 2344: A bill for an act relating to transportation; establishing certification and training requirements for performance of certain bridge protective coating work; proposing coding for new law in Minnesota Statutes, chapter 165.

Referred to the Committee on Transportation.

Senator Reinert introduced—

S.F. No. 2345: A bill for an act relating to public safety; modifying provisions relating to 911 funds to make them available for statewide public safety radio communications; amending Minnesota Statutes 2010, section 403.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 403.

Referred to the Committee on Judiciary and Public Safety.

Senators Nelson, Harrington, Stumpf and Olson introduced—

S.F. No. 2346: A bill for an act relating to education finance; creating a process for adjusting adult basic education contact hours lost due to a service disruption; amending Minnesota Statutes 2010, sections 124D.518, subdivision 3, by adding a subdivision; 124D.531, by adding a subdivision.

Referred to the Committee on Education.

Senators Sheran, Lourey, Dibble, Pappas and Dzedzic introduced—

S.F. No. 2347: A bill for an act relating to finance; requiring the appointment of at least one

member of the minority party in the house of representatives and the senate to any conference committee appointed to resolve differences in a major appropriation bill; suspending compensation of legislators until certain major budget bills have been enacted; requiring legislators and the governor to mediate their differences after adjournment of the annual legislative session in an odd-numbered year if the governor vetoes a major appropriation bill; proposing coding for new law in Minnesota Statutes, chapters 3; 16A.

Referred to the Committee on State Government Innovation and Veterans.

Senators Daley, Rest, Bonoff, DeKruif and Benson introduced—

S.F. No. 2348: A bill for an act relating to state government; making changes to budget preparation requirements; amending Minnesota Statutes 2010, section 16A.10.

Referred to the Committee on Finance.

Senator Dibble introduced—

S.F. No. 2349: A bill for an act relating to financial institutions; providing for increased use of community financial institutions for state banking services; amending Minnesota Statutes 2010, sections 16A.011, by adding a subdivision; 16A.27, subdivision 3; 16A.671, subdivision 6a; proposing coding for new law in Minnesota Statutes, chapter 16A.

Referred to the Committee on Finance.

Senator McGuire introduced—

S.F. No. 2350: A bill for an act relating to public safety; appropriating money; bicycle light safety pilot program.

Referred to the Committee on Transportation.

Senator Nelson introduced—

S.F. No. 2351: A bill for an act relating to insurance; permitting service cooperatives to provide group health coverage to private employers; proposing coding for new law in Minnesota Statutes, chapter 123A.

Referred to the Committee on Commerce and Consumer Protection.

Senators Nienow, Lillie, Daley, Hayden and Stumpf introduced—

S.F. No. 2352: A bill for an act relating to homeless children; creating the Visible Child Act; modifying the duties of the Interagency Council on Homelessness and the State Interagency Coordinating Council; developing a visible child plan; requiring reports; amending Minnesota Statutes 2010, sections 125A.27, subdivision 11; 125A.28; 462A.29.

Referred to the Committee on Education.

Senator Hoffman introduced—

S.F. No. 2353: A bill for an act relating to education; modifying provisions relating to allocation of funds for motorcycle safety education program; amending Minnesota Statutes 2010, section 121A.36.

Referred to the Committee on Education.

Senator Daley introduced—

S.F. No. 2354: A bill for an act relating to state government; veterans; providing noncompetitive appointment of certain disabled veterans; proposing coding for new law in Minnesota Statutes, chapter 43A.

Referred to the Committee on State Government Innovation and Veterans.

MOTIONS AND RESOLUTIONS

Senator Bakk moved that the name of Senator Scheid be stricken as chief author and the name of Senator Bonoff be added as chief author to S.F. No. 227. The motion prevailed.

Senator Daley moved that the name of Senator Rest be added as a co-author to S.F. No. 933. The motion prevailed.

Senator Newman moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Michel be added as chief author to S.F. No. 1177. The motion prevailed.

Senator Robling moved that the name of Senator Daley be added as a co-author to S.F. No. 1342. The motion prevailed.

Senator Robling moved that the name of Senator Ortman be added as a co-author to S.F. No. 1829. The motion prevailed.

Senator Pederson moved that the name of Senator Tomassoni be added as a co-author to S.F. No. 1922. The motion prevailed.

Senator Daley moved that the name of Senator Pederson be added as a co-author to S.F. No. 2065. The motion prevailed.

Senator Daley moved that the names of Senators Lillie and Gazelka be added as co-authors to S.F. No. 2067. The motion prevailed.

Senator Carlson moved that the name of Senator Miller be added as a co-author to S.F. No. 2264. The motion prevailed.

Senator Senjem moved that S.F. No. 687 be withdrawn from the Committee on Taxes and re-referred to the Committee on Health and Human Services. The motion prevailed.

Senator Reinert introduced –

Senate Resolution No. 132: A Senate resolution honoring Suzanne Kritzberg on the occasion of her retirement from the Minnesota Ballet.

Referred to the Committee on Rules and Administration.

Senator Thompson moved that S.F. No. 1705 be withdrawn from the Committee on Jobs and Economic Growth and re-referred to the Committee on Judiciary and Public Safety.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 34 and nays 30, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Ingebrigtsen	Michel	Robling
Brown	Gerlach	Jungbauer	Nelson	Rosen
Carlson	Gimse	Koch	Newman	Senjem
Chamberlain	Hall	Kruse	Nienow	Thompson
Daley	Hann	Lillie	Olson	Vanderveer
DeKruif	Hoffman	Limmer	Parry	Wolf
Fischbach	Howe	Magnus	Pederson	

Those who voted in the negative were:

Bakk	Goodwin	Latz	Pappas	Skoe
Bonoff	Harrington	Lourey	Reinert	Sparks
Cohen	Hayden	Marty	Rest	Stumpf
Dibble	Higgins	McGuire	Saxhaug	Tomassoni
Dziedzic	Kelash	Metzen	Sheran	Torres Ray
Eaton	Langseth	Miller	Sieben	Wiger

The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Harrington moved that S.F. No. 1520 be withdrawn from the Committee on Local Government and Elections and re-referred to the Committee on Taxes. The motion prevailed.

Senator Chamberlain moved that S.F. No. 2127 be withdrawn from the Committee on Local Government and Elections and re-referred to the Committee on Commerce and Consumer Protection. The motion prevailed.

Pursuant to Rule 26, Senator Senjem, Chair of the Committee on Rules and Administration, designated S.F. No. 1567 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1567: A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; eliminating conservation rate structure requirement; modifying terms for certain permits; appropriating money; amending Minnesota Statutes 2010, sections 41A.10, subdivision 1; 84.027, by adding a subdivision; 103G.291, subdivision 3; 115.03,

by adding a subdivision; 116.07, subdivision 4a; 116D.04, by adding a subdivision; 116J.03, by adding subdivisions; 116J.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a; repealing Minnesota Statutes 2010, section 103G.291, subdivision 4.

Senator Ingebrigtsen moved to amend S.F. No. 1567 as follows:

Page 4, line 36, delete "and"

Page 5, line 2, delete the period and insert "; and"

Page 5, after line 2, insert:

"(3) abide by the duty of candor in agency rules and comply with chapter 326."

Page 5, line 26, delete everything after "approved"

Page 5, line 27, delete everything before the period

Page 8, line 14, delete everything after "(a)" and insert "The Department of Employment and Economic Development shall, through their multiagency collaboration called "Minnesota Business First Stop", ensure that the coordination, implementation, and administration of state and federal permits, including:"

Page 8, delete lines 15 and 16

Page 13, line 22, delete "and repeal"

The motion prevailed. So the amendment was adopted.

Senator Bakk moved to amend S.F. No. 1567 as follows:

Page 14, after line 3, insert:

"Sec. 4. PILOT PROGRAM FOR ALTERNATIVE FORM OF ENVIRONMENTAL REVIEW.

(a) The commissioner of the Pollution Control Agency and the commissioner of natural resources may jointly conduct a pilot program for an alternative form of environmental review as specified in this section. This pilot program is in addition to the alternate forms of environmental review that are authorized under Minnesota Statutes, section 116D.04, subdivision 4a. Minnesota Rules, part 4410.3600, does not apply to the pilot program authorized in this section.

(b) The commissioners may select up to three projects to be processed under the pilot program. The environmental review work for each project must commence before January 1, 2014, to remain eligible for proceeding under this program.

(c) The pilot program procedures are as follows:

(1) an environmental assessment worksheet is not required;

(2) a scoping document must be prepared that identifies the issues to be analyzed, the alternatives to be considered, and the studies to be undertaken. The scoping document results must be published at the same time as the notice of preparation of the environmental impact statement;

(3) any person may submit written comments within 20 days of publication of the notice for preparation of the environmental impact statement. The responsible governmental unit must consider modifying the scope of the project based on the comments;

(4) the environmental impact statement must be an analytical, rather than an encyclopedic, document that describes the proposed action in detail, analyzes the action's significant environmental impacts, discusses appropriate alternatives to the proposed action and the alternatives' impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement must also analyze those economic, employment, and sociological effects that cannot be avoided should the action be implemented;

(5) if an impact analysis is needed for permitting, the impact analysis may be summarized for inclusion in the draft environmental impact statement rather than the full modeling and analysis being contained within the draft environmental impact statement. An impact analysis must identify the regulatory requirements, types of impact, and mitigation methods; and

(6) the responsible governmental unit must follow the procedural notice requirements for a draft environmental impact statement, final environmental impact statement, and notice of determination of adequacy for an environmental impact statement.

(d) A project proposed to be processed under the pilot program must meet all of the following criteria:

(1) the project meets or exceeds the threshold of a project requiring a mandatory environmental impact statement;

(2) if a combustion source is part of the project, natural gas is the only fuel;

(3) the project does not have any known projected drawdown effect on private wells;

(4) Class I air modeling demonstrates that the project will not cause adverse impacts; and

(5) the project is subject to Code of Federal Regulations, title 40, section 52.21, and the reviews required for a PSD (prevention of significant deterioration) permit, including control technology, ambient air, and Class I area impact analysis.

(e) A project may not be processed under the pilot program if the project:

(1) requires a federal environmental impact statement;

(2) is for mining metallic minerals by open pit or underground methods or is a new facility for processing metallic minerals mined by open pit or underground methods;

(3) is for mining nonferrous metallic minerals or is a new facility for processing nonferrous metallic minerals;

(4) is located in a karst area; or

(5) would result in a direct discharge of process water to surface water.

(f) For the selected projects, the responsible governmental unit must prepare the environmental impact statement according to this section. Notwithstanding Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (i), the proposers of the specific project selected for the pilot program

may not prepare or submit a preliminary draft environmental impact statement.

(g) The proposers are subject to the assessment of reasonable costs as provided in Minnesota Statutes, section 116D.045.

(h) By January 15, 2016, the commissioners shall report to the Environmental Quality Board on the outcomes of the pilot program and include any recommendations for statute or rule changes.

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Tomassoni moved to amend S.F. No. 1567 as follows:

Page 12, line 36, after the period, insert "When an environmental impact statement is prepared for a project requiring multiple permits for which two or more agencies' decision processes include either mandatory or discretionary hearings before a hearing officer prior to the agencies' decision on the permit, the agencies may, notwithstanding any law or rule to the contrary, conduct such hearings in a single consolidated hearing process if requested by the proposer. All agencies having jurisdiction over a permit that is included in the consolidated hearing shall participate. The responsible governmental unit shall establish appropriate procedures for the consolidated hearing process, including procedures to ensure that the consolidated hearing process is consistent with the applicable requirements for each permit regarding the rights and duties of parties to the hearing, and shall utilize the earliest applicable hearing procedure to initiate the hearing. The procedures of section 116C.28, subdivision 2, shall apply to the consolidated hearing."

The motion prevailed. So the amendment was adopted.

Senator Magnus moved to amend S.F. No. 1567 as follows:

Page 7, after line 14, insert:

"Sec. 7. Minnesota Statutes 2010, section 116.07, is amended by adding a subdivision to read:

Subd. 7e. **Manure digester permits.** Except for areas within the metropolitan area, as defined in section 473.121, subdivision 2, or within cities of the first or second class, an air emission permit is not required for a manure digester and associated electrical generation equipment that process manure from the farm or provide for backup power for the farm."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 49 and nays 12, as follows:

Those who voted in the affirmative were:

Bakk	Carlson	Fischbach	Goodwin	Howe
Benson	Chamberlain	Gazelka	Hall	Ingebrigtsen
Bonoff	Daley	Gerlach	Hann	Jungbauer
Brown	DeKruif	Gimse	Hoffman	Koch

Kruse
Langseth
Lillie
Limmer
Lourey
Magnus

Metzen
Michel
Miller
Nelson
Newman
Nienow

Olson
Parry
Pederson
Reinert
Rest
Robling

Rosen
Saxhaug
Senjem
Sheran
Skoe
Sparks

Stumpf
Thompson
Tomassoni
Vandever
Wolf

Those who voted in the negative were:

Cohen
Dibble
Dziedzic

Eaton
Hayden
Higgins

Latz
Marty
McGuire

Pappas
Torres Ray
Wiger

The motion prevailed. So the amendment was adopted.

Senator Pederson moved to amend S.F. No. 1567 as follows:

Page 2, delete section 3 and insert:

"Sec. 3. Minnesota Statutes 2010, section 103G.291, subdivision 3, is amended to read:

Subd. 3. **Water supply plans; demand reduction.** (a) Every public water supplier serving more than 1,000 people must submit a water supply plan to the commissioner for approval by January 1, 1996. In accordance with guidelines developed by the commissioner, the plan must address projected demands, adequacy of the water supply system and planned improvements, existing and future water sources, natural resource impacts or limitations, emergency preparedness, water conservation, supply and demand reduction measures, and allocation priorities that are consistent with section 103G.261. Public water suppliers must update their plan and, upon notification, submit it to the commissioner for approval every ten years.

(b) The water supply plan in paragraph (a) is required for all communities in the metropolitan area, as defined in section 473.121, with a municipal water supply system and is a required element of the local comprehensive plan required under section 473.859. Water supply plans or updates submitted after December 31, 2008, must be consistent with the metropolitan area master water supply plan required under section 473.1565, subdivision 1, paragraph (a), clause (2).

(c) Public water suppliers serving more than 1,000 people must employ encourage water conservation by employing water use demand reduction measures, including a conservation rate structure, as defined in subdivision 4, paragraph (a), ~~unless exempted under subdivision 4, paragraph (e),~~ before requesting approval from the commissioner of health under section 144.383, paragraph (a), to construct a public water supply well or requesting an increase in the authorized volume of appropriation. ~~Demand reduction measures must include evaluation of conservation rate structures and a public education program that may include a toilet and showerhead retrofit program.~~ The commissioner of natural resources and the water supplier shall use a collaborative process to achieve demand reduction measures as a part of a water supply plan review process.

(d) Public water suppliers serving more than 1,000 people must submit records that indicate the number of connections and amount of use by customer category and volume of water unaccounted for with the annual report of water use required under section 103G.281, subdivision 3.

(e) For the purposes of this section, "public water supplier" means an entity that owns, manages, or operates a public water supply, as defined in section 144.382, subdivision 4.

Sec. 4. Minnesota Statutes 2010, section 103G.291, subdivision 4, is amended to read:

Subd. 4. ~~Conservation rate structure required~~ **Demand reduction measures.** (a) For the purposes of this section, "demand reduction measures" means measures that reduce water demand, water losses, peak water demands, and nonessential water uses. Demand reduction measures must include a conservation rate structure, or a uniform rate structure with a conservation program that achieves demand reduction. A "conservation rate structure" means a rate structure that encourages conservation and may include increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates. If a conservation rate is applied to multi-family dwellings, the rate structure must consider each residential unit as an individual user in multiple-family dwellings.

(b) To encourage conservation, a public water supplier serving more than 1,000 people ~~in the metropolitan area, as defined in section 473.121, subdivision 2,~~ shall use a conservation rate structure by January 1, 2010. All remaining public water suppliers serving more than 1,000 people shall use a conservation rate structure must implement demand reduction measures by January 1, 2013 2015.

~~(c) A public water supplier without the proper measuring equipment to track the amount of water used by its users, as of July 1, 2008, is exempt from this subdivision and the conservation rate structure requirement under subdivision 3, paragraph (c)."~~

Page 7, delete section 9

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Higgins moved to amend S.F. No. 1567 as follows:

Page 1, line 19, reinstate the stricken language

Page 2, line 13, reinstate the stricken language

Page 2, line 14, reinstate the stricken language and delete the new language

Page 2, lines 15 to 19, reinstate the stricken language

Page 4, line 5, reinstate the stricken language

Page 4, line 25, reinstate the stricken language

Page 4, line 26, reinstate the stricken language and delete the new language

Page 4, lines 27 to 31, reinstate the stricken language

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

S.F. No. 1567 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 47 and nays 16, as follows:

Those who voted in the affirmative were:

Bakk

Benson

Bonoff

Brown

Carlson

Chamberlain	Hoffman	Limmer	Pederson	Sparks
Daley	Howe	Magnus	Reinert	Stumpf
DeKruif	Ingebrigtsen	Metzen	Rest	Thompson
Fischbach	Jungbauer	Michel	Robling	Tomassoni
Gazelka	Kelash	Miller	Rosen	Vanderveer
Gerlach	Koch	Nelson	Saxhaug	Wolf
Gimse	Kruse	Newman	Senjem	
Hall	Langseth	Nienow	Sheran	
Hann	Lillie	Parry	Skoe	

Those who voted in the negative were:

Cohen	Goodwin	Latz	Pappas
Dibble	Harrington	Lourey	Sieben
Dziedzic	Hayden	Marty	Torres Ray
Eaton	Higgins	McGuire	Wiger

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

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. 382:

H.F. No. 382: A bill for an act relating to commerce; amending statutes regarding receiverships, assignments for the benefit of creditors, and nonprofit corporations; amending Minnesota Statutes 2010, sections 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 462A.05, subdivision 32; 469.012, subdivision 2i; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

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

Hoppe, Mazorol and Simon have been appointed as such committee on the part of the House.

House File No. 382 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 7, 2012

Senator Thompson moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 382, 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.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1870:

H.F. No. 1870: A bill for an act relating to education; allowing school districts to base unrequested leave of absence and certain discharge and demotion decisions on teacher evaluation outcomes; amending Minnesota Statutes 2010, sections 122A.40, subdivisions 10, 11, 19; 122A.41, subdivisions 14, 15; 123A.75, subdivision 1; Minnesota Statutes 2011 Supplement, sections 122A.245, subdivision 1; 122A.41, subdivision 6.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Petersen, B.; Downey; Kelly; Woodard and Mariani have been appointed as such committee on the part of the House.

House File No. 1870 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 7, 2012

Senator Wolf moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1870, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

Senator Senjem moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 2234: A bill for an act relating to human services; amending continuing care policy

provisions; making changes to disability services and licensing provisions; establishing home and community-based services standards; establishing payment methodologies; requiring a report; amending Minnesota Statutes 2010, sections 245A.03, subdivision 2; 245A.041, by adding subdivisions; 245A.085; 245B.02, subdivision 10, by adding a subdivision; 245B.04, subdivisions 1, 2, 3; 245B.05, subdivision 1; 245B.06, subdivision 2; 245B.07, subdivisions 5, 9, 10, by adding a subdivision; 252.40; 252.41, subdivision 3; 252.42; 252.43; 252.44; 252.45; 252.451, subdivisions 2, 5; 252.46, subdivision 1a; 256B.0916, subdivision 2; 256B.49, subdivision 17; 256B.4912; 256B.501, subdivision 4b; 256B.5013, subdivision 1; Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 16a; proposing coding for new law in Minnesota Statutes, chapters 245A; 256B; proposing coding for new law as Minnesota Statutes, chapter 245D; repealing Minnesota Statutes 2010, sections 252.46, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, 20, 21; 256B.501, subdivision 8.

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

Page 3, strike lines 5 to 10

Page 3, line 11, strike "(23)" and insert "(21)"

Page 3, line 13, strike "(24)" and insert "(22)"

Page 3, line 15, strike "(25)" and insert "(23)"

Page 3, line 17, strike "(26)" and insert "(24)"

Page 3, line 21, strike "(27)" and insert "(25)"

Page 6, delete lines 8 to 15

Page 6, line 16, delete "3" and insert "2"

Page 6, line 17, delete "phased in upon receipt of an" and insert "implemented upon authorization for the commissioner to collect fees according to section 245A.10, subdivisions 3 and 4, necessary to support licensing functions. License applications will be received on a phased in schedule as determined by the commissioner. Licenses will be issued on or after January 1, 2013, according to section 245A.04."

Page 6, delete lines 18 and 19

Page 9, line 11, delete "(13) to (15)" and insert "(14) to (19)"

Page 19, line 16, delete "and" and insert "or"

Page 20, line 14, after "CADI" insert ", BI, CAC, DD, and EW" and delete everything after "waiver" and insert "plans or successor plans when the provider is an individual who is not an employee of a residential or nonresidential program licensed by the Department of Human Services or the Department of Health that is otherwise providing the respite service;"

Page 20, delete line 15

Page 20, line 23, delete "and excluding providers serving only" and insert a semicolon

Page 20, delete line 24

Page 20, line 26, delete everything before the semicolon

Page 20, line 29, after "waiver" insert "plan or successor plans"

Page 20, line 30, after "CADI" insert "BI, CAC, DD, and EW" and delete "plan" and insert "plans"

Page 20, line 31, delete the second comma and insert "and"

Page 20, line 32, delete ", and providers serving only one family"

Page 21, line 16, delete "(2),"

Page 24, line 9, delete "and (14)" and insert "to (15)"

Page 24, line 30, before "The" insert "(a)"

Page 25, line 1, delete everything after the period

Page 25, delete lines 2 and 3 and insert:

"(b) When assigned in the service plan, the license holder is required to maintain documentation on how the person's health needs will be met, including a description of the procedures the license holder will follow in order to:"

Page 33, line 21, delete "(5)" and insert "(6)"

Page 36, line 1, delete "24 hours" and insert "five working days" and delete ", or if requested by the person," and insert a period

Page 36, delete line 2

Page 46, line 31, after "a" insert "provider is enrolled or"

Page 47, line 17, after "living" insert "or 24-hour customized living"

Page 47, line 18, delete "treatment" and insert "training"

Page 49, line 28, after the second period, insert "For bathing services provided in conjunction with adult day care services, the payment rate is \$7.01 per 15-minute unit per bath."

Page 51, line 4, after "use" insert "service planning"

Page 51, line 22, delete "a shared" and insert "an individual"

Page 51, line 29, delete "individual" and insert "shared"

Page 52, line 4, after "section" insert "as revised to reflect the results of staffing and service utilization findings under subdivision 11"

Page 52, line 7, delete "that" and insert "the prior"

Page 52, line 11, delete "county and tribal allocation changes"

Page 52, line 25, after "2012" insert "to inform factor values for payments to be made in 2013"

Page 53, line 5, delete "reduce" and insert "increase" and delete "as follows:" and insert "to five percent below the historic rate."

Page 53, delete lines 6 to 10

Page 53, line 13, delete "increase" and insert "decrease" and delete "as follows:" and insert "to five percent above the historic rate."

Page 53, delete lines 14 to 18

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

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 1948: A bill for an act relating to human services; modifying nursing facility rate equalization; amending Minnesota Statutes 2010, section 256B.48, subdivision 1.

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

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 2172: A bill for an act relating to transportation; providing contingent appropriations for county state-aid highways and municipal state-aid streets, construction support, and finance operations; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 162.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 2166: A bill for an act relating to public safety; modifying provisions relating to school bus safety and standards; abolishing standards for type III vehicles used for transporting students; amending Minnesota Statutes 2010, sections 169.4501, subdivisions 1, 2; 169.4503, subdivisions 5, 20, by adding subdivisions; repealing Minnesota Statutes 2010, section 169.454, subdivision 10.

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

Page 3, delete section 7 and insert:

"Sec. 7. Minnesota Statutes 2010, section 169.451, subdivision 3, is amended to read:

Subd. 3. **Rules of commissioner.** (a) The commissioner of public safety shall provide by rule for the issuance and display of distinctive inspection certificates.

(b) The commissioner of public safety shall provide by rule a ~~point~~ system for evaluating the effect on safety operation of any variance from law detected during inspections conducted pursuant to subdivision 1.

Sec. 8. Minnesota Statutes 2010, section 169.4582, subdivision 2, is amended to read:

Subd. 2. **Duty to report; school official.** Consistent with the school bus safety policy under section 123B.91, subdivision 1, the school principal, the school transportation safety director, or

other designated school official shall immediately report to the local law enforcement agency having jurisdiction where the misbehavior occurred and to the school superintendent if the reporting school official knows or has reason to believe that a student has committed a reportable offense on a school bus or in a bus loading or unloading area. The reporting school official shall issue a report to the commissioner of public safety concerning the incident ~~on a form developed by the commissioner for that purpose~~ upon request of the commissioner.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 169.441, subdivision 5; 169.445, subdivision 2; and 169.454, subdivision 10, are repealed."

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Gimse from the Committee on Transportation, to which was referred

S.F. No. 1734: A bill for an act relating to motor vehicles; regulating salvage titles; modifying the disclosure of motor vehicle damage; amending Minnesota Statutes 2010, sections 168A.01, subdivisions 8a, 12a; 168A.151, subdivision 1; 325F.6641; 325F.6644, subdivision 1; repealing Minnesota Statutes 2010, section 168A.01, subdivision 6a.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 168A.01, subdivision 6a, is amended to read:

Subd. 6a. **High-value vehicle.** "High-value vehicle" means a vehicle ~~manufactured six or more years before the start of the current model year~~ that had an actual cash value in excess of ~~\$5,000~~ \$9,000 before being damaged, or a vehicle with a manufacturer's rating of over 26,000 pounds gross vehicle weight that is not a late-model vehicle.

Sec. 2. Minnesota Statutes 2010, section 168A.01, subdivision 8a, is amended to read:

Subd. 8a. **Late-model vehicle.** "Late-model vehicle" means a vehicle ~~manufactured in the current model year or the five model years~~ with a manufacturer's designated model year equal to or greater than the fifth calendar year immediately preceding the current model calendar year.

Sec. 3. Minnesota Statutes 2010, section 168A.01, subdivision 12a, is amended to read:

Subd. 12a. **Older model vehicle.** "Older model vehicle" means a vehicle ~~manufactured in the sixth model year immediately preceding the current model year or earlier~~ that is not a high-value vehicle that is not a late-model vehicle.

Sec. 4. Minnesota Statutes 2010, section 168A.151, subdivision 1, is amended to read:

Subdivision 1. **Salvage titles.** (a) When an insurer, licensed to conduct business in Minnesota, acquires ownership of a late-model or high-value vehicle through payment of damages, the insurer shall immediately apply for a salvage certificate of title or shall stamp the existing certificate of title

with the legend "SALVAGE CERTIFICATE OF TITLE" in a manner prescribed by the department. ~~Within 48 hours of taking possession~~ ten days of obtaining the title of a vehicle through payment of damages, an insurer must notify the department in a manner prescribed by the department.

(b) A person shall immediately apply for a salvage certificate of title if the person acquires a damaged late-model or high-value ~~motor~~ vehicle with an out-of-state title and the vehicle:

- (1) is a vehicle that was acquired by an insurer through payment of damages;
- (2) is a vehicle for which the cost of repairs exceeds the value of the damaged vehicle; or
- (3) has an out-of-state salvage certificate of title as proof of ownership.

(c) A self-insured owner of a late-model or high-value vehicle ~~who~~ that sustains damage by collision or other occurrence which exceeds ~~70~~ 80 percent of its actual cash value shall immediately apply for a salvage certificate of title. ~~Damage, for the purpose of this calculation, does not include the actual cost incurred to repair, replace, or reinstall inflatable safety restraints and other vehicle components that must be replaced due to the deployment of the inflatable safety restraints.~~

Sec. 5. Minnesota Statutes 2010, section 325F.6641, is amended to read:

325F.6641 DISCLOSURE OF MOTOR VEHICLE DAMAGE.

Subdivision 1. **Damage.** (a) If a ~~motor~~ late-model vehicle, as defined in section 168A.01, subdivision 8a, has sustained damage by collision or other occurrence which exceeds ~~70~~ 80 percent of its actual cash value immediately prior to sustaining damage, the seller must disclose that fact to the buyer, if the seller has actual knowledge of the damage. The amount of damage is determined by the retail cost of repairing the vehicle based on a complete written retail repair estimate or invoice, ~~exclusive of the actual cost incurred to repair, replace, or reinstall inflatable safety restraints and other vehicle components that must be replaced due to the deployment of the inflatable safety restraints.~~

(b) The disclosure required under this subdivision must be made in writing on the application for title and registration or other transfer document, in a manner prescribed by the registrar of motor vehicles. The registrar shall revise the certificate of title form, including the assignment by seller (transferor) and reassignment by licensed dealer sections of the form, the separate application for title forms, and other transfer documents to accommodate this disclosure. If the seller is a motor vehicle dealer licensed pursuant to section 168.27, the disclosure required by this section must be made orally by the dealer to the prospective buyer in the course of the sales presentation.

(c) Upon transfer and application for title to a vehicle covered by this subdivision, the registrar shall record the term "rebuilt" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title used for that vehicle.

Subd. 2. **Form of disclosure.** The disclosure required in this section must be made in substantially the following form: "To the best of my knowledge, this vehicle has has not sustained damage, ~~exclusive of any costs to repair, replace, or reinstall air bags and other components that were replaced due to deployment of air bags,~~ in excess of ~~70~~ 80 percent actual cash value."

Sec. 6. Minnesota Statutes 2010, section 325F.6644, subdivision 1, is amended to read:

Subdivision 1. **Damage disclosure.** Section 325F.6641 does not apply to ~~vehicles that are six years old or older as calculated from the first day of January of the designated model year or to~~ commercial motor vehicles with a gross vehicle weight rating of 16,000 pounds or more or to motorcycles."

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Gimse from the Committee on Transportation, to which was re-referred

S.F. No. 1416: A bill for an act relating to real estate; providing process for unaffixing manufactured home from real property; amending Minnesota Statutes 2010, sections 168A.01, by adding a subdivision; 168A.02, subdivision 3; 168A.04, subdivision 1; 168A.05, subdivisions 1, 1a, 1b; 168A.141, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 168A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Report adopted.

Senator Olson from the Committee on Education, to which was referred

S.F. No. 2201: A bill for an act relating to education; providing for the creation of individualized learning schools; modifying certain site-governed school, postsecondary enrollment options, and charter school provisions; amending Minnesota Statutes 2010, sections 120B.024; 123B.045, subdivision 3; 124D.09, subdivisions 9, 12, 13, 24, 25; 135A.101, subdivision 1; Minnesota Statutes 2011 Supplement, sections 124D.09, subdivision 5; 124D.10, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2010, section 124D.09, subdivision 23.

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

Page 3, line 20, after "baccalaureate" insert "test and receive a score of 4 or higher,"

Page 3, line 21, delete "2" and insert "3"

Page 3, delete lines 31 to 34

Page 4, line 1, delete "(c)" and insert "(b)"

Page 4, line 4, delete "(d)" and insert "(c)"

And when so amended the bill do pass and be re-referred to the Committee on Higher Education. Amendments adopted. Report adopted.

Senator Olson from the Committee on Education, to which was referred

S.F. No. 1094: A bill for an act relating to education; creating education boards; allowing school boards to reorganize as education boards; amending Minnesota Statutes 2010, sections 123B.045; 124D.10, subdivisions 3, 8, 17; proposing coding for new law in Minnesota Statutes, chapter 123A.

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

Page 5, line 6, after the period, insert "An agreement by the exclusive representative of the teachers is not required for approval of a site council's proposal if no waivers from the employment contract are being requested."

Page 7, delete section 3 and insert:

"Sec. 3. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 3, is amended to read:

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.

(b) The following organizations may authorize one or more charter schools:

(1) a school board; education 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) 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;

(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; or

(5) 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 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) An applicant must include in its application to the commissioner 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;
- (4) a description of the type of contract it will arrange with the schools it charters that meets the provisions of subdivision 6;

(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

(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 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.

(g) The authorizer must participate in department-approved training.

(h) An authorizer that chartered a school before August 1, 2009, must apply by June 30, 2012, 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.

(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.

(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;

(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."

Page 11, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 2011 Supplement, section 124D.10, subdivision 8, is amended to read:

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 or education board may be located in any district, unless the school or education 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.

(r) A charter school that provides school-sponsored youth athletic activities must comply with section 121A.38."

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Local Government and Elections. Amendments adopted. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2260: A bill for an act relating to environment; providing for alternative local standards for subsurface sewage treatment systems; requiring rulemaking; amending Minnesota Statutes 2010, section 115.55, subdivision 7.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1945: A bill for an act relating to natural resources; providing for taking wolf; modifying predator control program; appropriating money; amending Minnesota Statutes 2010, sections 97A.015, subdivision 53; 97A.451, subdivision 3; 97A.473, subdivisions 3, 5, 5a; 97A.475, subdivisions 2, 3, 20; 97B.031, subdivisions 1, 2; 97B.035, subdivision 1a; 97B.601, subdivisions 3a, 4; 97B.603; 97B.605; 97B.671, subdivision 4; 97B.901; Minnesota Statutes 2011 Supplement, sections 97A.075, by adding a subdivision; 97B.075; 97B.645, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2010, sections 97A.331, subdivision 7; 97B.645, subdivision 2.

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

Page 4, line 16, delete "\$30" and insert "\$26"

Page 5, line 11, delete "\$30" and insert "\$26"

Page 8, line 1, delete everything after "appropriated"

Page 8, line 2, delete everything before "to"

Page 9, delete section 23 and insert:

"Sec. 23. RULEMAKING; USE OF SNARES.

(a) The commissioner of natural resources shall add a definition of a wolf snare to Minnesota Rules, part 6234.0900, to read: "'Wolf snare' means any snare set that:

A. has a maximum loop diameter greater than ten inches, but less than or equal to 18 inches;

B. has a cable diameter of at least 7/64 inches;

C. includes stops affixed to the cable to ensure that the portion of the snare that makes up the noose loop may not be less than three inches in diameter when fully closed;

D. includes a breakaway device that would cause the snare loop to break when pulled by a moose; and

E. includes a diverter wire that extends 27 inches in both directions, measured perpendicular to and from the top of the snare loop. The diverter wires must be positioned at an angle no more than 20 degrees from the horizontal plane of the top of the snare, and the snare must be set within 20 yards of bait."

(b) The commissioner of natural resources shall amend Minnesota Rules, part 6234.2300, to include a subpart to read: "Wolves may be taken with snares or wolf snares as defined in part 6234.0900."

(c) The commissioner of natural resources shall amend Minnesota Rules, part 6234.2400, subpart 7, to read: "A snare may not be set so that the top of the loop is more than 20 inches above the first surface beneath the bottom of the set snare loop. During the wolf season, licensed wolf trappers may use wolf snares but a wolf snare may not be set so that the bottom of the loop is more than 18 inches above the first surface beneath the bottom of the set snare loop."

(d) The commissioner of natural resources shall amend Minnesota Rules, part 6234.2400, subpart 5, to read: "Snares, including wolf snares, may not be set in deer, elk, or moose trails."

(e) The commissioner of natural resources shall amend Minnesota Rules, part 6234.2400, to include a subpart to read: "Licensed wolf trappers shall set wolf snares for wolves no closer than 500 feet to another wolf snare set by the same licensed wolf trapper."

(f) 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."

Page 10, line 21, delete "AND 2013" and insert "FIREARMS"

Page 10, line 23, delete everything after the period

Page 10, delete line 24

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1962: A bill for an act relating to game and fish; allowing scopes on muzzleloaders; amending Minnesota Statutes 2011 Supplement, section 97B.031, subdivision 5.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2234, 1948 and 1962 were read the second time.

RECESS

Senator Senjem 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 Senjem 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. 1870: Senators Wolf, Daley, Kruse, Olson and Bonoff.

Senator Senjem moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senators Dahms and Ortman were excused from the Session of today. Senators Harrington, Kelash and Sieben were excused from the Session of today from 1:00 to 1:40 p.m. Senator Olson was excused from the Session of today at 1:30 p.m.

ADJOURNMENT

Senator Senjem moved that the Senate do now adjourn until 12:00 noon, Monday, March 12, 2012. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate

