

STATE OF MINNESOTA

EIGHTY-FIFTH SESSION — 2007

SEVENTY-FOURTH DAY

SAINT PAUL, MINNESOTA, SUNDAY, MAY 20, 2007

The House of Representatives convened at 2:00 p.m. and was called to order by Margaret Anderson Kelliher, Speaker of the House.

Prayer was offered by the Reverend Paul Rogers, House Chaplain.

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

The roll was called and the following members were present:

Abeler	Dill	Heidgerken	Liebling	Otremba	Smith
Anderson, B.	Dittrich	Hilstrom	Lieder	Ozment	Solberg
Anderson, S.	Dominguez	Hilty	Lillie	Paymar	Sviggum
Anzelc	Doty	Holberg	Loeffler	Pelowski	Swails
Atkins	Eastlund	Hornstein	Madore	Peppin	Thao
Beard	Eken	Hortman	Magnus	Peterson, A.	Thissen
Benson	Emmer	Hosch	Mahoney	Peterson, N.	Tillberry
Berns	Erhardt	Howes	Mariani	Peterson, S.	Tschumper
Bigham	Erickson	Huntley	Marquart	Poppe	Urdahl
Bly	Faust	Jaros	Masin	Rukavina	Wagenius
Brod	Finstad	Johnson	McFarlane	Ruth	Walker
Brown	Fritz	Juhnke	McNamara	Ruud	Ward
Brynaert	Gardner	Kahn	Moe	Sailer	Wardlow
Buesgens	Garofalo	Kalin	Morgan	Scalze	Welti
Bunn	Gottwalt	Knuth	Morrow	Seifert	Westrom
Carlson	Greiling	Koenen	Mullery	Sertich	Winkler
Clark	Gunther	Kohls	Murphy, E.	Severson	Wollschlager
Cornish	Hackbarth	Kranz	Murphy, M.	Shimanski	Zellers
Davnie	Hamilton	Laine	Nelson	Simon	Spk. Kelliher
Dean	Hansen	Lanning	Nornes	Simpson	
DeLaForest	Hausman	Lenczewski	Norton	Slawik	
Demmer	Haws	Lesch	Olin	Slocum	

A quorum was present.

Olson was excused until 4:30 p.m. Hoppe was excused until 4:35 p.m. Paulsen was excused until 4:40 p.m. Tingelstad was excused until 6:00 p.m. Dettmer was excused until 8:30 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Haws moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

S. F. No. 590 and H. F. No. 903, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Severson moved that the rules be so far suspended that S. F. No. 590 be substituted for H. F. No. 903 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1274 and H. F. No. 151, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

DeLaForest moved that the rules be so far suspended that S. F. No. 1274 be substituted for H. F. No. 151 and that the House File be indefinitely postponed. The motion prevailed.

SECOND READING OF SENATE BILLS

S. F. Nos. 590 and 1274 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Atkins, Jaros, Swails and Paulsen introduced:

H. F. No. 2541, A bill for an act relating to capital improvements; appropriating money for public ice facilities; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Seifert, by request; Hortman, Lanning, Demmer and Peterson, A., introduced:

H. F. No. 2542, A bill for an act relating to capital improvements; appropriating money for the Southwest Regional Amateur Sports Facility; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Knuth, Kranz, Lanning, Hortman, Demmer and Gardner introduced:

H. F. No. 2543, A bill for an act relating to capital improvements; appropriating money for the Metro North Regional Sports Facility; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Atkins introduced:

H. F. No. 2544, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for expansion of the Inver Grove Heights Veterans Memorial Community Center.

The bill was read for the first time and referred to the Committee on Finance.

Knuth introduced:

H. F. No. 2545, A bill for an act relating to capital improvements; appropriating money for a regional bioscience and environmental library in Ramsey County; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Atkins introduced:

H. F. No. 2546, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for restoration of Bridge 5600.

The bill was read for the first time and referred to the Committee on Finance.

Laine, Tillberry, Tingelstad, Knuth and Hausman introduced:

H. F. No. 2547, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for a train station in Fridley.

The bill was read for the first time and referred to the Committee on Finance.

Simon moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Solberg from the Committee on Ways and Means to which was referred:

S. F. No. 1196, A bill for an act relating to housing; creating the Minnesota manufactured home relocation trust fund; requiring that a manufactured home park owner make specified payments to the trust fund; requiring an owner of a manufactured home who rents a lot in a manufactured home park to make an annual payment to the trust fund; authorizing advances to the Minnesota manufactured home relocation trust fund; amending Minnesota Statutes 2006, sections 327C.095, subdivisions 1, 4, by adding subdivisions; 462A.21, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 462A.

Reported the same back with the following amendments:

Page 9, delete section 10

Page 9, line 11, delete "10" and insert "9"

Renumber the sections in sequence

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. No. 1196 was read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1396, A bill for an act relating to guardians and conservators; requiring a study to make recommendations regarding conservatorship and guardianship.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Madore moved that the House concur in the Senate amendments to H. F. No. 1396 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1396, A bill for an act relating to guardians and conservators; requiring a study to make recommendations regarding conservatorship and guardianship.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 106 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Huntley	Magnus	Ozment	Solberg
Anzelc	Eken	Jaros	Mahoney	Paymar	Swails
Atkins	Faust	Johnson	Mariani	Pelowski	Thao
Benson	Fritz	Juhnke	Marquart	Peterson, A.	Thissen
Bigham	Gardner	Kahn	Masin	Peterson, N.	Tillberry
Bly	Greiling	Kalin	McFarlane	Peterson, S.	Tschumper
Brod	Gunther	Knuth	McNamara	Poppe	Urdahl
Brown	Hamilton	Koenen	Moe	Rukavina	Wagenius
Brynaert	Hansen	Kranz	Morgan	Ruth	Walker
Bunn	Hausman	Laine	Morrow	Ruud	Ward
Carlson	Haws	Lanning	Mullery	Sailer	Wardlow
Clark	Heidgerken	Lenczewski	Murphy, E.	Scalze	Walti
Cornish	Hilstrom	Lesch	Murphy, M.	Seifert	Westrom
Davnie	Hilty	Liebling	Nelson	Sertich	Winkler
Demmer	Hornstein	Lieder	Nornes	Simon	Wollschlager
Dill	Hortman	Lillie	Norton	Slawik	Spk. Kelliher
Dittrich	Hosch	Loeffler	Olin	Slocum	
Dominguez	Howes	Madore	Otremba	Smith	

Those who voted in the negative were:

Anderson, B.	Buesgens	Emmer	Gottwalt	Peppin	Svigum
Anderson, S.	Dean	Erickson	Hackbarth	Severson	Zellers
Beard	DeLaForest	Finstad	Holberg	Shimanski	
Berns	Eastlund	Garofalo	Kohls	Simpson	

The bill was repassed, as amended by the Senate, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 463.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 463

A bill for an act relating to notaries public; increasing maximum fees; amending Minnesota Statutes 2006, section 357.17.

May 17, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 463 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 463 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 357.17, is amended to read:

357.17 NOTARIES PUBLIC.

The maximum fees to be charged and collected by a notary public shall be as follows:

- (1) for protest of nonpayment of note or bill of exchange or of nonacceptance of such bill; where protest is legally necessary, and copy thereof, \$4 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission;
- (2) for every other protest and copy, \$4 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission;
- (3) for making and serving every notice of nonpayment of note or nonacceptance of bill and copy thereof, \$4 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission;

(4) for any affidavit or paper for which provision is not made herein, \$1 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission per folio, and 20 cents per folio for copies;

(5) for each oath administered, \$1 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission;

(6) for acknowledgments of deeds and for other services authorized by law, the legal fees allowed other officers for like services;

(7) for recording each instrument required by law to be recorded by the notary, \$1 five percent of the fee established in section 357.021, subdivision 2, for recording a notary commission per folio."

Delete the title and insert:

"A bill for an act relating to notaries public; changing maximum fees; amending Minnesota Statutes 2006, section 357.17."

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

Senate Conferees: DON BETZOLD, LINDA SCHEID AND JULIANNE E. ORTMAN.

House Conferees: MELISSA HORTMAN AND CAROLYN LAINE.

Hortman moved that the report of the Conference Committee on S. F. No. 463 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 463, A bill for an act relating to notaries public; increasing maximum fees; amending Minnesota Statutes 2006, section 357.17.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 69 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Greiling	Huntley	Lesch	Moe
Anzelc	Dill	Hausman	Jaros	Liebling	Morgan
Atkins	Dittrich	Haws	Johnson	Lieder	Morrow
Benson	Dominguez	Hilstrom	Kahn	Lillie	Murphy, E.
Brynaert	Doty	Hilty	Kalin	Loeffler	Murphy, M.
Bunn	Eken	Hornstein	Knuth	Mahoney	Nelson
Carlson	Faust	Hortman	Laine	Mariani	Norton
Clark	Gardner	Howes	Lenczewski	Marquart	Olin

Otremba	Ruud	Simon	Swails	Tschumper	Spk. Kelliher
Paymar	Sailer	Slawik	Thao	Wagenius	
Peterson, A.	Scalze	Slocum	Thissen	Ward	
Peterson, S.	Sertich	Solberg	Tillberry	Winkler	

Those who voted in the negative were:

Anderson, B.	Dean	Gottwalt	Kohls	Ozment	Simpson
Anderson, S.	DeLaForest	Gunther	Kranz	Pelowski	Smith
Beard	Demmer	Hackbarth	Lanning	Peppin	Sviggum
Berns	Eastlund	Hamilton	Madore	Peterson, N.	Urdahl
Bigham	Emmer	Hansen	Magnus	Poppe	Walker
Bly	Erhardt	Heidgerken	Masin	Rukavina	Wardlow
Brod	Erickson	Holberg	McFarlane	Ruth	Walti
Brown	Finstad	Hosch	McNamara	Seifert	Westrom
Buesgens	Fritz	Juhnke	Mullery	Severson	Wollschlager
Cornish	Garofalo	Koenen	Nornes	Shimanski	Zellers

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 167.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 167

A bill for an act relating to unemployment insurance; making various policy, housekeeping, and style changes to the Minnesota Unemployment Insurance Law; incorporating certain administrative rules into Minnesota Statutes; modifying fraud penalties; extending certain unemployment benefits; amending Minnesota Statutes 2006, sections 268.001; 268.03, subdivisions 1, 2; 268.035, subdivisions 1, 4, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21a, 23, 23a, 24, 26, 29, 30, by adding a subdivision; 268.042, subdivisions 1, 3, 4; 268.043; 268.0435; 268.044, subdivisions 1, 1a, 2, 3, 4; 268.045, subdivision 1; 268.046; 268.047, subdivisions 1, 2, 3, 5; 268.051, subdivisions 1, 1a, 2, 3, 4, 4a, 5, 6, 7, 8, 9; 268.052, subdivisions 1, 2, 3, 4, 5; 268.0525; 268.053, subdivisions 1, 2, 3; 268.057, subdivisions 1, 2, 3, 4, 5, 6, 7, 10; 268.058; 268.059; 268.0625, subdivisions 4, 5; 268.063; 268.064; 268.065, subdivisions 1, 3; 268.066; 268.067; 268.0675; 268.068; 268.069, subdivisions 1, 2, 3; 268.07, subdivisions 1, 2, 3a, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 11, 12, 13, 13a, 13b, 13c, 16; 268.086, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 268.087; 268.095, subdivisions 1, 2, 3, 4, 5, 6, 6a, 7, 10, 11; 268.101; 268.103, subdivisions 1, 2; 268.105, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7; 268.115; 268.125, subdivisions 3, 4, 5; 268.131, subdivision 1; 268.135; 268.145, subdivisions 1, 2, 3; 268.155; 268.18, subdivisions 1, 2, 2b, 4, 5, 6; 268.182, subdivisions 1, 2; 268.184, subdivisions 1, 1a; 268.186; 268.188; 268.19, subdivisions 1, 1a, 2; 268.192; 268.194, subdivisions 1, 2, 3, 4, 5, 6; 268.196, subdivisions 1, 3; 268.20; 268.21; 268.22; 268.23; proposing coding for new law in Minnesota Statutes,

chapter 268; repealing Minnesota Statutes 2006, sections 268.0435; 268.0511; 268.085, subdivision 10; 268.103, subdivision 4; Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530, subparts 2, 3, 4, 5, 6; 3315.0540; 3315.0550; 3315.0910, subparts 1, 2, 3, 4, 5, 6, 7, 8; 3315.1005, subparts 1, 3; 3315.1315, subpart 4; 3315.2010; 3315.2810, subparts 2, 4.

May 18, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 167 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 167 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

POLICY CHANGES

Section 1. Minnesota Statutes 2006, section 268.035, subdivision 4, is amended to read:

Subd. 4. **Base period.** "Base period" means:

(1) the first four of the last five completed calendar quarters ~~prior to~~ before the effective date of an applicant's ~~benefit account application for unemployment benefits~~ as set forth below:

If the ~~benefit account application~~
for unemployment benefits is
effective on or between these dates:

The base period is the
prior:

January 1 - March 31
April 1 - June 30
July 1 - September 30
October 1 - December 31

October 1 - September 30
January 1 - December 31
April 1 - March 31
July 1 - June 30

(2) if the applicant has insufficient wage credits to establish a benefit account under clauses (1) and (3), and during the base period under clause (1) an applicant received workers' compensation for temporary disability under chapter 176 or a similar federal law or similar law of another state, or if an applicant whose own serious illness caused a loss of work for which the applicant received compensation for loss of wages from some other source, the applicant may request ~~a~~ an extended base period as follows:

(i) if an applicant was compensated for a loss of work of seven to 13 weeks, the base period ~~shall be~~ is the first four of the last six completed calendar quarters ~~prior to~~ before the effective date of the ~~benefit account application for unemployment benefits~~;

(ii) if an applicant was compensated for a loss of work of 14 to 26 weeks, the base period ~~shall be~~ is the first four of the last seven completed calendar quarters ~~prior to~~ before the effective date of the ~~benefit account~~ application for unemployment benefits;

(iii) if an applicant was compensated for a loss of work of 27 to 39 weeks, the base period ~~shall be~~ is the first four of the last eight completed calendar quarters ~~prior to~~ before the effective date of the ~~benefit account~~ application for unemployment benefits; and

(iv) if an applicant was compensated for a loss of work of 40 to 52 weeks, the base period ~~shall be~~ is the first four of the last nine completed calendar quarters ~~prior to~~ before the effective date of the ~~benefit account~~ application for unemployment benefits;

(3) if the applicant ~~qualifies for a base period under clause (2), but~~ has insufficient wage credits to establish a benefit account, ~~the applicant may request a~~ under clause (1), an alternate base period of the last four completed calendar quarters ~~prior to~~ before the date the applicant's ~~benefit account~~ application for unemployment benefits is effective will be used. This base period ~~may~~ can be used only ~~once during any five calendar year period~~ 30 calendar days or more after the end of the last completed quarter, when a wage detail report has been, or should have been, filed for that quarter under section 268.044; and

(4) no base period under clause (1), (2), or (3) ~~shall~~ may include wage credits upon which a prior benefit account was established.

EFFECTIVE DATE. This section applies to applications for unemployment benefits filed effective on or after September 30, 2007.

Sec. 2. Minnesota Statutes 2006, section 268.035, subdivision 17, is amended to read:

Subd. 17. **Filing; filed.** "Filing" or "filed" means the delivery of any document to the commissioner or any of the commissioner's agents, or the depositing of the document in the United States mail properly addressed to the department with postage prepaid, in which case the document ~~shall be~~ is considered filed on the day indicated by the cancellation mark of the United States Postal Service.

If, where allowed, an application, ~~protest~~, appeal, or other required action is made by electronic transmission, it ~~shall be~~ is considered filed on the day received by the department.

EFFECTIVE DATE. This section is effective September 30, 2007.

Sec. 3. Minnesota Statutes 2006, section 268.043, is amended to read:

268.043 DETERMINATIONS OF COVERAGE.

(a) The commissioner, upon the commissioner's own motion or upon application of a person, shall determine if that ~~organization or~~ person is an employer or whether services performed for it constitute employment and covered employment, or whether the compensation for services constitutes wages, and ~~shall~~ notify the person of the determination. The determination ~~shall be~~ is final unless the ~~organization or~~ person, within ~~30~~ 20 calendar days after sending of the determination by mail or electronic transmission, files a protest. ~~Upon receipt of a protest, the commissioner shall review all available evidence and determine whether an error has been made. The commissioner shall send to the person, by mail or electronic transmission, an affirmation or redetermination. The affirmation or redetermination shall be final unless, within 30 calendar days after sending of the affirmation or redetermination to the person by mail or electronic transmission, an appeal is filed.~~ Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

(b) No person ~~shall~~ may be initially determined an employer, or that services performed for it were in employment or covered employment, for periods more than four years ~~prior to~~ before the year in which the determination is made, unless the commissioner finds that there was fraudulent action to avoid liability under this chapter.

EFFECTIVE DATE. This section applies to determinations issued on or after September 30, 2007.

Sec. 4. Minnesota Statutes 2006, section 268.047, subdivision 2, is amended to read:

Subd. 2. **Exceptions for all employers.** Unemployment benefits paid ~~shall~~ will not be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements when:

(1) the applicant was discharged from the employment because of aggravated employment misconduct as determined under section 268.095. This exception ~~shall apply~~ applies only to unemployment benefits paid for periods after the applicant's discharge from employment;

(2) an applicant's discharge from that employment occurred because a law required removal of the applicant from the position the applicant held;

(3) the employer is in the tourist or recreation industry and is in active operation of business less than 15 calendar weeks each year and the applicant's wage credits from the employer are less than 600 times the applicable state or federal minimum wage;

(4) the employer provided regularly scheduled part-time employment to the applicant during the applicant's base period and continues to provide the applicant with regularly scheduled part-time employment during the benefit year of at least 90 percent of the part-time employment provided in the base period, and is an involved employer because of the applicant's loss of other employment. This exception ~~shall terminate~~ terminates effective the first week that the employer fails to meet the benefit year employment requirements. This exception ~~shall apply~~ applies to educational institutions without consideration of the period between academic years or terms;

~~(4)~~ (5) the employer is a fire department or firefighting corporation or operator of a life-support transportation service, and continues to provide employment for the applicant as a volunteer firefighter or a volunteer ambulance service personnel during the benefit year on the same basis that employment was provided in the base period. This exception ~~shall terminate~~ terminates effective the first week that the employer fails to meet the benefit year employment requirements;

~~(5)~~ (6) the applicant's unemployment from this employer was a direct result of the condemnation of property by a governmental agency, a fire, flood, or act of nature, where 25 percent or more of the employees employed at the affected location, including the applicant, became unemployed as a result. This exception ~~shall~~ does not apply where the unemployment was a direct result of the intentional act of the employer or a person acting on behalf of the employer;

~~(6)~~ (7) the unemployment benefits were paid by another state as a result of the transferring of wage credits under a combined wage arrangement provided for in section 268.131;

~~(7)~~ (8) the applicant stopped working because of a labor dispute at the applicant's primary place of employment if the employer was not a party to the labor dispute;

~~(8)~~ (9) the unemployment benefits were determined overpaid unemployment benefits under section 268.18; or

~~(9)~~ (10) the trust fund was reimbursed for the unemployment benefits by the federal government.

EFFECTIVE DATE. This section applies to benefits paid on benefit accounts filed effective on or after September 30, 2007.

Sec. 5. Minnesota Statutes 2006, section 268.047, subdivision 5, is amended to read:

Subd. 5. **Notice of unemployment benefits paid.** (a) The commissioner shall notify each employer at least quarterly by mail or electronic transmission of the unemployment benefits paid each applicant that will be used in computing the future tax rate of a taxpaying employer, or that have been charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements.

(b) A notice under this subdivision ~~shall~~ is not be subject to ~~protest or~~ appeal. The commissioner may at any time upon the commissioner's own motion correct any error that resulted in an incorrect notice under paragraph (a) and issue a corrected notice.

EFFECTIVE DATE. This section is effective September 30, 2007.

Sec. 6. Minnesota Statutes 2006, section 268.051, subdivision 1, is amended to read:

Subdivision 1. **Payments.** (a) Unemployment insurance taxes and any additional assessments, fees, or surcharges ~~shall~~ accrue and become payable by each employer for each calendar year on the taxable wages that the employer paid to employees in covered employment, except for:

(1) nonprofit organizations that elect to make reimbursements as provided in section 268.053; and

(2) the state of Minnesota and political subdivisions that make reimbursements, unless they elect to pay taxes as provided in section 268.052.

~~Except as allowed under section 268.0511,~~ Each employer ~~shall~~ must pay taxes quarterly, at the employer's assigned tax rate under subdivision 6, on the taxable wages paid to each employee. The commissioner shall compute the tax due from the wage detail report required under section 268.044 and notify the employer of the tax due. The taxes and any ~~additional~~ special assessments, fees, or surcharges ~~shall~~ must be paid to the trust fund and must be received by the department on or before the last day of the month following the end of the calendar quarter.

(b) The tax amount computed, if not a whole dollar, ~~shall be~~ is rounded down to the next lower whole dollar.

(c) If for any reason the wages on the wage detail report under section 268.044 are adjusted for any quarter, the commissioner shall recompute the taxes due for that quarter and assess the employer for any amount due or credit the employer as appropriate.

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

Sec. 7. Minnesota Statutes 2006, section 268.051, subdivision 5, is amended to read:

Subd. 5. **Tax rate for new employers.** (a) Each new taxpaying employer that does not qualify for an experience rating under subdivision 3, except new employers in a high experience rating industry, ~~shall~~ must be assigned, for a calendar year, a tax rate the higher of (1) one percent, or (2) the tax rate computed, to the nearest one-hundredth of a percent, by dividing the total amount of unemployment benefits paid all applicants during the 48

calendar months ending on June 30 of the prior calendar year by the total taxable wages of all taxpaying employers during the same period, plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

(b) Each new taxpaying employer in a high experience rating industry that does not qualify for an experience rating under subdivision 3, ~~shall must~~ be assigned, for a calendar year, a tax rate of 8.00 percent, plus the applicable base tax rate and any additional assessments under subdivision 2, paragraph (d).

An employer is considered to be in a high experience rating industry if:

- (1) the employer is engaged in residential, commercial, or industrial construction, including general contractors;
- (2) the employer is engaged in sand, gravel, or limestone mining;
- (3) the employer is engaged in the manufacturing of concrete, concrete products, or asphalt; or
- (4) the employer is engaged in road building, repair, or resurfacing, including bridge and tunnels and residential and commercial driveways and parking lots.

(c) The commissioner shall send to the new employer, by mail or electronic transmission, notice of the tax rate assigned. An employer may ~~protest~~ appeal the assignment of a tax rate in accordance with the procedures in subdivision 6, paragraph (c).

EFFECTIVE DATE. This section applies to tax rate notices issued on or after September 30, 2007.

Sec. 8. Minnesota Statutes 2006, section 268.051, subdivision 6, is amended to read:

Subd. 6. **Notice of tax rate.** (a) On or before each December 15, the commissioner shall notify each employer by mail or electronic transmission of the employer's tax rate, along with any additional assessments, fees, or surcharges, for the following calendar year. The notice ~~shall must~~ contain the base tax rate and the factors used in determining the employer's experience rating. Unless a ~~protest~~ an appeal of the tax rate is made, the computed tax rate ~~shall be is~~ final, except for fraud or recomputation required under subdivision 4 or 4a, and ~~shall be is~~ the rate at which taxes ~~shall must~~ be paid. A recomputed tax rate under subdivision 4 or 4a ~~shall be is~~ the rate applicable for the quarter that includes the date of acquisition and any quarter thereafter during the calendar year in which the acquisition occurred. The tax rate ~~shall is~~ not be subject to collateral attack by way of claim for a credit adjustment or refund, or otherwise.

(b) If the legislature, ~~subsequent to after~~ the sending of the tax rate, changes any of the factors used to determine the rate, a new tax rate based on the new factors ~~shall must~~ be computed and sent to the employer.

(c) A review of an employer's tax rate may be obtained by the employer filing a ~~protest~~ an appeal within ~~30~~ 20 calendar days from the date the tax rate notice was sent to the employer. ~~Upon receipt of the protest, the commissioner shall review the tax rate to determine whether or not there has been any error in computation or assignment of the tax rate. The commissioner shall either affirm or make a redetermination of the rate and a notice of the affirmation or redetermination shall be sent to the employer by mail or electronic transmission. The affirmation or redetermination shall be final unless the employer files an appeal within 30 calendar days after the date the affirmation or redetermination was sent. Proceedings on the appeal shall be are~~ conducted in accordance with section 268.105.

(d) The commissioner may at any time upon the commissioner's own motion correct any error in the ~~computation or the assignment of an~~ employer's tax rate.

EFFECTIVE DATE. This section is effective for determinations issued on or after September 30, 2007.

Sec. 9. Minnesota Statutes 2006, section 268.053, subdivision 2, is amended to read:

Subd. 2. **Determination, ~~protest,~~ and appeal.** The commissioner shall notify each nonprofit organization by mail or electronic transmission of any determination of its status as an employer with covered employment and of the effective date of any election or termination of election. ~~The determinations shall be final unless a protest is filed within 30 calendar days after sending of the determination. Upon receipt of a protest, the commissioner shall review all available evidence and determine whether an error has been made. The commissioner shall send to the nonprofit organization, by mail or electronic transmission, an affirmation or redetermination. The affirmation or redetermination shall be~~ determination is final unless an appeal is filed within 30 20 calendar days of sending the ~~affirmation or redetermination~~ determination. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after September 30, 2007.

Sec. 10. Minnesota Statutes 2006, section 268.057, subdivision 7, is amended to read:

Subd. 7. **Credit adjustments, refunds.** (a) If an employer makes an application for a credit adjustment of any amount paid under this chapter or section 116L.20 within four years of the date that the payment was due, in a manner and format prescribed by the commissioner, and the commissioner determines that the payment or any portion was erroneous, the commissioner shall make an adjustment and issue a credit without interest. If a credit cannot be used, the commissioner shall refund, without interest, the amount erroneously paid. The commissioner, on the commissioner's own motion, may make a credit adjustment or refund under this subdivision.

Any refund returned to the commissioner ~~shall be~~ is considered unclaimed property under chapter 345.

(b) If a credit adjustment or refund is denied in whole or in part, a notice of denial ~~shall~~ must be sent to the employer by mail or electronic transmission. ~~Within 30 calendar days after sending of~~ The notice of denial, ~~the employer may protest.~~

~~Upon receipt of a timely protest, the commissioner shall review the denial and either affirm the denial or redetermine the credit adjustment or refund. The affirmation of denial or redetermination of the credit adjustment or refund, sent by mail or electronic transmission, shall be~~ is final unless an employer files an appeal within 30 20 calendar days after sending. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for all denials issued on or after September 30, 2007.

Sec. 11. Minnesota Statutes 2006, section 268.063, is amended to read:

268.063 PERSONAL LIABILITY.

(a) Any officer, director, or employee of a corporation or any manager, governor, member, or employee of a limited liability company who

(1) either individually or jointly with others, have or should have had control of, supervision over, or responsibility for paying the amounts due under this chapter or section 116L.20, and

(2) knowingly fails to pay the amounts due, ~~shall be~~ is personally liable for the amount due in the event the employer does not pay.

For purposes of this section, "knowingly" means that the facts demonstrate that the responsible individual used or allowed the use of corporate or company assets to pay other creditors knowing that the amounts due under this chapter were unpaid. An evil motive or intent to defraud is not necessary.

(b) Any partner of a limited liability partnership, or professional limited liability partnership, ~~shall be~~ is jointly and severally liable for any amount due under this chapter or section 116L.20 in the event the employer does not pay.

(c) Any personal representative of the estate of a decedent or fiduciary who voluntarily distributes the assets without reserving a sufficient amount to pay the amount due ~~shall be~~ is personally liable for the deficiency.

(d) The personal liability of any individual ~~shall survive~~ survives dissolution, reorganization, receivership, or assignment for the benefit of creditors. For the purposes of this section, all wages paid by the employer ~~shall be~~ are considered earned from the individual determined to be personally liable.

(e) The commissioner shall make a determination as to personal liability. The determination ~~shall be~~ is final unless the individual found to be personally liable, within ~~30~~ 20 calendar days after sending, by mail or electronic transmission, a notice of determination, files a protest. ~~Upon receipt of the protest, the commissioner shall reexamine the personal liability determination and either affirm or redetermine the assessment of personal liability and a notice of the affirmation or redetermination shall be sent to the individual by mail or electronic transmission. The affirmation or redetermination shall become final unless an appeal is filed within 30 calendar days after the date of sending.~~ Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for determinations issued on or after September 30, 2007.

Sec. 12. Minnesota Statutes 2006, section 268.07, subdivision 2, is amended to read:

Subd. 2. **Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment benefits.** (a) To establish a benefit account, an applicant must have:

- (1) high quarter wage credits of ~~at least~~ \$1,000 or more; and
- (2) wage credits, in other than the high quarter, of ~~at least~~ \$250 or more.

(b) If an applicant has established a benefit account, the weekly unemployment benefit amount available during the benefit year ~~shall be~~ is the higher of:

- (1) 50 percent of the applicant's average weekly wage during the base period, to a maximum of 66-2/3 percent of the state's average weekly wage; or
- (2) 50 percent of the applicant's average weekly wage during the high quarter, to a maximum of ~~45~~ 43 percent of the state's average weekly wage.

The applicant's average weekly wage under clause (1) ~~shall be~~ is computed by dividing the total wage credits by 52. The applicant's average weekly wage under clause (2) ~~shall be~~ is computed by dividing the high quarter wage credits by 13.

(c) The state's maximum weekly unemployment benefit amount and an applicant's weekly unemployment benefit amount and maximum amount of unemployment benefits available ~~shall be~~ is rounded down to the next lower whole dollar. The state's maximum weekly benefit amount, computed in accordance with section 268.035, subdivision 23, ~~shall apply~~ applies to a benefit account established effective on or after the ~~first last~~ Sunday in ~~August~~ October. Once established, an applicant's weekly unemployment benefit amount ~~shall is not be~~ affected by the ~~first last~~ Sunday in ~~August~~ October change in the state's maximum weekly unemployment benefit amount.

(d) The maximum amount of unemployment benefits available on any benefit account ~~shall be~~ is the lower of:

- (1) 33-1/3 percent of the applicant's total wage credits; or
- (2) 26 times the applicant's weekly unemployment benefit amount.

EFFECTIVE DATE. This section is effective December 1, 2007.

Sec. 13. Minnesota Statutes 2006, section 268.085, subdivision 2, is amended to read:

Subd. 2. **Not eligible.** An applicant ~~shall not be eligible to receive~~ is ineligible for unemployment benefits for any week:

(1) that occurs before the effective date of a benefit account;

(2) that the applicant, at the beginning of the week, has an outstanding fraud overpayment balance under section 268.18, subdivision 2, including any penalties and interest;

(3) that occurs in a period when the applicant is a student in attendance at, or on vacation from a secondary school including the period between academic years or terms;

~~(3)~~ (4) that the applicant is incarcerated or performing court ordered community service. The applicant's weekly unemployment benefit amount ~~shall be~~ is reduced by one-fifth for each day the applicant is incarcerated or performing court ordered community service. If the computation of the reduced unemployment benefits is not a whole dollar, it ~~shall be~~ is rounded down to the next lower whole dollar;

~~(4)~~ (5) that the applicant fails or refuses to provide information on an issue of ~~eligibility~~ ineligibility required under section 268.101 ~~or an issue of disqualification required under section 268.101;~~

~~(5)~~ (6) that the applicant is performing services 32 hours or more, in employment, covered employment, noncovered employment, volunteer work, or self-employment regardless of the amount of any earnings; or

~~(6)~~ (7) with respect to which the applicant is receiving, has received, or has filed an application for unemployment benefits under any federal law or the law of any other state. If the appropriate agency finally determines that the applicant is not entitled to the unemployment benefits, this clause ~~shall~~ does not apply.

EFFECTIVE DATE. This section is effective and applies to all outstanding fraud overpayment balances, including penalty and interest, as of September 30, 2007.

Sec. 14. Minnesota Statutes 2006, section 268.085, subdivision 3, is amended to read:

Subd. 3. **Payments that delay unemployment benefits.** (a) An applicant ~~shall~~ is not be eligible to receive unemployment benefits for any week with respect to which the applicant is receiving, has received, or has filed for payment, equal to or in excess of the applicant's weekly unemployment benefit amount, in the form of:

(1) vacation pay paid upon temporary, indefinite, or seasonal separation. This clause ~~shall~~ does not apply to vacation pay paid upon a permanent separation from employment;

(2) severance pay, bonus pay, sick pay, and any other ~~money~~ payments, except earnings under subdivision 5, and back pay under subdivision 6, paid by an employer because of, upon, or after separation from employment, but only if the ~~money~~ payment is considered wages at the time of payment under section 268.035, subdivision 29, ~~or United States Code, title 26, section 3121, clause (2), of the Federal Insurance Contribution Act; or~~

(3) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government, except Social Security benefits ~~which that~~ are provided for in subdivision 4. The base period employer is considered to have contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29, clause (1); or United States Code, title 26, section 3121, clause (2), of the Federal Insurance Contribution Act.

An applicant ~~shall is~~ not ~~be~~ considered to have received the lump sum payment if the applicant immediately deposits that payment in a qualified pension plan or account; ~~or,~~

~~(4) holiday pay.~~

(b) This subdivision ~~shall apply applies~~ to all the weeks of payment ~~and shall be.~~ Payments under paragraph (a), clauses (1) and (2), are applied to the period immediately following the last day of employment, and the number of weeks of payment shall be, for purposes of those clauses, is determined as follows:

(1) if the payments are made periodically, the total of the payments to be received ~~shall be is~~ divided by the applicant's last level of regular weekly pay from the employer; or

(2) if the payment is made in a lump sum, that sum ~~shall be is~~ divided by the applicant's last level of regular weekly pay from the employer.

(c) If the payment is less than the applicant's weekly unemployment benefit amount, unemployment benefits ~~shall be are~~ reduced by the amount of the payment. If the computation of reduced unemployment benefits is not a whole dollar, it ~~shall be is~~ rounded down to the next lower whole dollar.

EFFECTIVE DATE. This section is effective for unemployment benefits paid on or after September 30, 2007, regardless of when the continued request was filed or the week for which the unemployment benefits are paid.

Sec. 15. Minnesota Statutes 2006, section 268.085, subdivision 4, is amended to read:

Subd. 4. **Social Security benefits.** (a) Any applicant aged 62 or over ~~shall be is~~ required to state when filing an application for unemployment benefits and when filing continued ~~biweekly~~ requests for unemployment benefits ~~whether if~~ the applicant is receiving, has filed for, or intends to file for, primary Social Security old age benefits for any week during the benefit year.

If the effective date of the applicant's Social Security claim for old age benefits is, or will be, after the start of the base period, there shall must be deducted from an applicant's weekly unemployment benefit amount 50 percent of the weekly equivalent of the primary Social Security old age benefit the applicant has received, has filed for, or intends to file for, with respect to that week.

If the effective date of the applicant's Social Security claim for old age benefits is before the start of the base period, there is no deduction from the applicant's weekly unemployment benefit amount.

(b) An applicant who is receiving, has received, or has filed for primary Social Security disability benefits for any week during the benefit year ~~shall must~~ be determined unable to work and unavailable for suitable employment for that week, unless:

(1) the Social Security Administration approved the collecting of primary Social Security disability benefits each month the applicant was employed during the base period; or

(2) the applicant provides a statement from an appropriate health care professional who is aware of the applicant's Social Security disability claim and the basis for that claim, certifying that the applicant is able to work and available for suitable employment.

If an applicant meets the requirements of clause (1) ~~or there is no deduction from the applicant's weekly benefit amount for any Social Security disability benefits.~~ If only clause (2) applies, then there ~~shall~~ must be deducted from the applicant's weekly unemployment benefit amount 50 percent of the weekly equivalent of the primary Social Security disability benefits the applicant is receiving, has received, or has filed for, with respect to that week; provided, however, that if the Social Security Administration determines that an individual is not entitled to receive primary Social Security disability benefits for any week the applicant has applied for those benefits, the 50 percent deduction ~~shall~~ does not apply to that week.

(c) Information from the Social Security Administration ~~shall be~~ is considered conclusive, absent specific evidence showing that the information was erroneous.

(d) If the computation of the reduced unemployment benefits is not a whole dollar, it ~~shall be~~ is rounded down to the next lower whole dollar.

(e) This subdivision does not apply to Social Security survivor benefits.

EFFECTIVE DATE. This section is effective for unemployment insurance benefit accounts filed effective on or after September 30, 2007.

Sec. 16. Minnesota Statutes 2006, section 268.095, subdivision 1, is amended to read:

Subdivision 1. **Quit.** An applicant who quit employment ~~shall be disqualified from~~ is ineligible for all unemployment benefits according to subdivision 10 except when:

(1) the applicant quit the employment because of a good reason caused by the employer as defined in subdivision 3;

(2) the applicant quit the employment to accept other covered employment that provided substantially better terms and conditions of employment, but the applicant did not work long enough at the second employment to have sufficient subsequent earnings to satisfy the ~~disqualification~~ period of ineligibility that would otherwise be imposed under subdivision 10 for quitting the first employment;

(3) the applicant quit the employment within 30 calendar days of beginning the employment because the employment was unsuitable for the applicant;

(4) the employment was unsuitable for the applicant and the applicant quit to enter reemployment assistance training;

(5) the employment was part time and the applicant also had full-time employment in the base period, from which full-time employment the applicant separated because of ~~nondisqualifying~~ reasons for which the applicant was held not to be ineligible, and the wage credits from the full-time employment are sufficient to meet the minimum requirements to establish a benefit account under section 268.07;

(6) the applicant quit because the employer notified the applicant that the applicant was going to be laid off ~~due to because of~~ lack of work within 30 calendar days. An applicant who quit employment within 30 calendar days of a notified date of layoff ~~due to because of~~ lack of work ~~shall be disqualified from~~ is ineligible for unemployment benefits through the end of the week that includes the scheduled date of layoff;

(7) the applicant quit the employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, provided that the applicant inform the employer of the serious illness or injury and request accommodation and no reasonable accommodation is made available.

If the applicant's serious illness is chemical dependency, this exception ~~shall~~ does not apply if the applicant was previously diagnosed as chemically dependent or had treatment for chemical dependency, and since that diagnosis or treatment has failed to make consistent efforts to control the chemical dependency; ~~or~~.

This exception raises an issue of the applicant's being able to work under section 268.085, subdivision 1, that the commissioner shall determine;

(8) the applicant's loss of child care for the applicant's minor child caused the applicant to quit the employment, provided the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation is available.

This exception raises an issue of the applicant's availability for suitable employment under section 268.085, subdivision 1, that the commissioner shall determine; or

(9) domestic abuse of the applicant or the applicant's minor child, necessitated the applicant's quitting the employment. Domestic abuse ~~shall~~ must be shown by one or more of the following:

- (i) a district court order for protection or other documentation of equitable relief issued by a court;
- (ii) a police record documenting the domestic abuse;
- (iii) documentation that the perpetrator of the domestic abuse has been convicted of the offense of domestic abuse;
- (iv) medical documentation of domestic abuse; or
- (v) written statement that the applicant or the applicant's minor child is a victim of domestic abuse, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic abuse.

Domestic abuse for purposes of this clause ~~shall be~~ is defined under section 518B.01.

EFFECTIVE DATE. This section is effective and applies to all determinations and decisions issued on or after September 30, 2007.

Sec. 17. Minnesota Statutes 2006, section 268.095, subdivision 6, is amended to read:

Subd. 6. **Employment misconduct defined.** (a) Employment misconduct means any intentional, negligent, or indifferent conduct, on the job or off the job (1) that displays clearly a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee, or (2) that displays clearly a substantial lack of concern for the employment.

Inefficiency, inadvertence, simple unsatisfactory conduct, a single incident that does not have a significant adverse impact on the employer, conduct an average reasonable employee would have engaged in under the circumstances, poor performance because of inability or incapacity, good faith errors in judgment if judgment was required, or absence because of illness or injury with proper notice to the employer, are not employment misconduct.

(b) Conduct that was a direct result of the applicant's chemical dependency is not employment misconduct unless the applicant was previously diagnosed chemically dependent or had treatment for chemical dependency, and since that diagnosis or treatment has failed to make consistent efforts to control the chemical dependency.

(c) Conduct that was a result of the applicant, or the applicant's minor child, being a victim of domestic abuse as defined under section 518B.01, is not employment misconduct. Domestic abuse ~~shall~~ must be shown as provided for in section 268.095, subdivision 1, clause ~~(8)~~ (9).

(d) A driving offense in violation of sections 169A.20, 169A.31, or 169A.50 to 169A.53 that interferes with or adversely affects the employment is employment misconduct.

(e) The definition of employment misconduct provided by this subdivision ~~shall be~~ is exclusive and no other definition ~~shall apply~~ applies.

EFFECTIVE DATE. This section is effective and applies to all determinations and decisions issued on or after September 30, 2007.

Sec. 18. Minnesota Statutes 2006, section 268.105, subdivision 1, is amended to read:

Subdivision 1. **Evidentiary hearing by an unemployment law judge.** (a) Upon a timely appeal having been filed, the department ~~shall~~ must send, by mail or electronic transmission, a notice of appeal to all involved parties that an appeal has been filed, that a de novo due process evidentiary hearing will be scheduled, and that the parties have certain rights and responsibilities regarding the hearing. The department ~~shall~~ must set a time and place for a de novo due process evidentiary hearing and send notice to any involved applicant and any involved employer, by mail or electronic transmission, not less than ten calendar days ~~prior to~~ before the date of the hearing.

(b) The evidentiary hearing ~~shall be~~ is conducted by an unemployment law judge without regard to any ~~common law~~ burden of proof as an evidence gathering inquiry and not an adversarial proceeding. The unemployment law judge ~~shall~~ must ensure that all relevant facts are clearly and fully developed. The department ~~shall~~ may adopt rules on evidentiary hearings. The rules need not conform to common law or statutory rules of evidence and other technical rules of procedure. The department ~~shall have~~ has discretion regarding the method by which the evidentiary hearing is conducted. A report of any employee of the department, except a determination, made in the regular course of the employee's duties, ~~shall be~~ is competent evidence of the facts contained in it.

(c) After the conclusion of the hearing, upon the evidence obtained, the unemployment law judge ~~shall~~ must make findings of fact and decision and send those, by mail or electronic transmission, to all involved parties. When the credibility of an involved party or witness testifying in an evidentiary hearing has a significant effect on the outcome of a decision, the unemployment law judge must set out the reason for crediting or discrediting that testimony. The unemployment law judge's decision is final unless a request for reconsideration is filed ~~pursuant to~~ under subdivision 2.

(d) Regardless of paragraph (c), if the appealing party fails to participate in the evidentiary hearing, the unemployment law judge has the discretion to dismiss the appeal by summary order. By failing to participate, the appealing party is considered to have failed to exhaust available administrative remedies unless the appealing party

files a request for reconsideration under subdivision 2 and establishes good cause for failing to participate in the evidentiary hearing under subdivision 2, paragraph (d). Submission of a written statement does not constitute participation. The applicant must participate personally and appearance solely by a representative does not constitute participation.

(e) Only employees of the department who are attorneys ~~shall~~ licensed to practice law in Minnesota may serve as unemployment law judges. The commissioner may transfer to another unemployment law judge any proceedings pending before an unemployment law judge.

EFFECTIVE DATE. This section applies to evidentiary hearings conducted on or after 30 days following the date of final enactment.

Sec. 19. Minnesota Statutes 2006, section 268.18, subdivision 2, is amended to read:

Subd. 2. **Overpayment due to because of fraud.** (a) Any applicant who receives unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose any material fact, or who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, has committed fraud. After the discovery of facts indicating fraud, the commissioner shall make a determination that the applicant obtained unemployment benefits by fraud and that the applicant must promptly repay the unemployment benefits to the trust fund. In addition, the commissioner shall assess a penalty equal to ~~25 percent of the amount fraudulently obtained. If the applicant had a prior overpayment due to fraud, the commissioner shall, on the present overpayment, assess a penalty equal to 50~~ 40 percent of the amount fraudulently obtained. This penalty is in addition to penalties under section 268.182.

(b) Unless the applicant files an appeal within ~~30~~ 20 calendar days after the sending of the determination of overpayment by fraud to the applicant by mail or electronic transmission, the determination ~~shall become~~ is final. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

(c) If the applicant fails to repay the unemployment benefits, penalty, and interest assessed, ~~the commissioner shall offset from future unemployment benefits otherwise payable the total amount due. the total due may also be collected by the same methods as delinquent payments from an employer. A determination of overpayment by fraud shall must state the methods of collection the commissioner may use to recover the overpayment. Money received in repayment of fraudulently obtained unemployment benefits, penalties, and interest shall is first be applied to the unemployment benefits overpaid, then to the penalty amount due, then to any interest due. 62.5 percent of the payments made toward the penalty shall be are credited to the contingent account and 37.5 percent credited to the administration account for deterring, detecting, or collecting overpayments.~~

(d) If an applicant has been overpaid unemployment benefits under the law of another state because of fraud and that state certifies that the applicant is liable to repay the unemployment benefits and requests the commissioner to recover the overpayment, the commissioner may offset from future unemployment benefits otherwise payable the amount of overpayment.

(e) Unemployment benefits paid for weeks more than four years ~~prior to~~ before the date of a determination of overpayment by fraud issued under this subdivision ~~shall are not be~~ considered overpaid unemployment benefits.

EFFECTIVE DATE. This section is effective for all determinations of overpayment by fraud issued on or after September 30, 2007.

Sec. 20. Minnesota Statutes 2006, section 268.194, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** There is ~~hereby~~ established as a special state trust fund, separate and apart from all other public money or funds of this state, an unemployment insurance trust fund, that ~~shall be~~ is administered by the commissioner exclusively for the payment of unemployment benefits. This trust fund ~~shall consist~~ consists of:

- (1) all taxes collected;
- (2) interest earned upon any money in the trust fund;
- (3) reimbursements paid by nonprofit organizations and the state and political subdivisions;
- (4) ~~voluntary tax rate buydown~~ payments under section 268.051, subdivision 7;
- (5) any money received as a loan from the federal unemployment trust fund in accordance with United States Code, title 42, section 1321, of the Social Security Act;
- (6) any other money received ~~pursuant to~~ under a reciprocal unemployment benefit arrangement with the federal government or any other state;
- (7) ~~all~~ money recovered on overpaid unemployment benefits except, if allowed by federal law, five percent of any recovered amount is credited to the administration account;
- (8) all money recovered on losses sustained by the trust fund;
- (9) all money received from the contingent account under section 268.196, subdivision 3;
- (10) all money credited to the account of Minnesota in the federal unemployment trust fund ~~pursuant to~~ under United States Code, title 42, section 1103, of the Social Security Act, also known as the Reed Act; and
- (11) all money received for the trust fund from any other source.

EFFECTIVE DATE. This section is effective September 30, 2007.

Sec. 21. Minnesota Statutes 2006, section 268.196, subdivision 1, is amended to read:

Subdivision 1. **Administration account.** (a) There is ~~hereby~~ created in the state treasury a special account to be known as the administration account. All money that is deposited or paid into this account ~~shall be~~ is continuously available to the commissioner for expenditure to administer the Minnesota unemployment insurance program, and ~~shall does~~ not lapse at any time. The administration account ~~shall consist~~ consists of:

- (1) all money received from the federal government to administer the Minnesota unemployment insurance program;
- (2) five percent of any money recovered on overpaid unemployment benefits as provided for in section 268.194, subdivision 1, clause (7), which must be used for deterring, detecting, and collecting overpaid unemployment benefits;
- (3) any money received as compensation for services or facilities supplied to the federal government or any other state;

~~(3)~~ (4) any amounts received for losses sustained by this account or by reason of damage to equipment or supplies; and

~~(4)~~ (5) any proceeds from the sale or disposition of any equipment or supplies that may no longer be necessary for the proper administration of those sections.

(b) All money in this account ~~shall~~ must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other special accounts in the state treasury. The commissioner of finance, as treasurer and custodian of this account, ~~shall be~~ is liable for the faithful performance of duties in connection with this account.

(c) All money in this account ~~shall~~ must be spent ~~solely~~ for the purposes and in the amounts found necessary by the United States Secretary of Labor for the proper and efficient administration of the Minnesota unemployment insurance program.

EFFECTIVE DATE. This section is effective September 30, 2007.

Sec. 22. **MAXIMUM WEEKLY BENEFIT AMOUNT.**

Notwithstanding Minnesota Statutes, section 268.07, subdivision 2, paragraph (b), clause (2), the maximum amount of weekly unemployment benefits available based upon the high quarter calculation is \$351.

EFFECTIVE DATE. This section is effective the day following final enactment and sunsets November 1, 2008.

Sec. 23. **REPEALER.**

(a) Minnesota Statutes 2006, sections 268.0435; and 268.0511, are repealed effective January 1, 2008.

(b) Minnesota Statutes 2006, sections 268.085, subdivision 10; and 268.103, subdivision 4, are repealed effective September 30, 2007.

ARTICLE 2

POLICY AND TECHNICAL CHANGES

Section 1. Minnesota Statutes 2006, section 268.035, subdivision 23, is amended to read:

Subd. 23. **State's average annual and average weekly wage.** (a) On or before June 30 of each year, the commissioner shall calculate the state's average annual wage and the state's average weekly wage in the following manner:

(1) The sum of the total monthly covered employment reported by all employers for the prior calendar year ~~shall~~ be ~~is~~ divided by 12 to calculate the average monthly covered employment.

(2) The sum of the total wages paid for all covered employment reported by all employers for the prior calendar year ~~shall be~~ is divided by the average monthly covered employment to calculate the state's average annual wage.

(3) The state's average annual wage ~~shall be~~ is divided by 52 to calculate the state's average weekly wage.

(b) For purposes of calculating the amount of taxable wages, the state's average annual wage ~~shall apply~~ applies to the calendar year following the calculation.

(c) For purposes of calculating the state's maximum weekly unemployment benefit amount available on any benefit account under section 268.07, subdivision 2, the state's average weekly wage ~~shall apply~~ applies to the one-year period beginning the ~~first last~~ Sunday in ~~August~~ October of the calendar year of the calculation.

EFFECTIVE DATE. This section is effective December 1, 2007.

Sec. 2. Minnesota Statutes 2006, section 268.051, subdivision 1a, is amended to read:

Subd. 1a. **Payments by electronic payment required.** (a) Every employer that reports ~~500~~ 50 or more employees in any calendar quarter on the wage detail report required under section 268.044 ~~shall~~ must make any payments due under this chapter and section 116L.20 by electronic payment.

(b) All third-party processors, paying ~~quarterly taxes~~ on behalf of a client company, ~~shall~~ must make any payments due under this chapter and section 116L.20 by electronic payment.

(c) Regardless of paragraph (a) or (b), the commissioner ~~shall have~~ has the discretion to accept payment by other means.

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

Sec. 3. Minnesota Statutes 2006, section 268.0625, subdivision 4, is amended to read:

Subd. 4. **Notice and right to hearing.** At least 30 calendar days before the commissioner notifies a licensing authority, a notice of action under this section ~~shall~~ must be sent to the licensee by mail or electronic transmission. If the licensee disputes the action, the licensee must appeal within ~~30~~ 20 calendar days after the sending of the notice to the licensee. The only issue on any appeal is whether the commissioner has complied with the requirements of this section. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for notices sent on or after September 30, 2007.

Sec. 4. Minnesota Statutes 2006, section 268.065, subdivision 3, is amended to read:

Subd. 3. **Determination of liability.** The commissioner shall make a determination as to the liability under this section. The determination ~~shall be~~ is final unless the contractor or person found to be liable files an appeal within ~~30~~ 20 calendar days after being sent the determination by mail or electronic transmission. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section applies to determinations issued on or after September 30, 2007.

Sec. 5. Minnesota Statutes 2006, section 268.07, subdivision 1, is amended to read:

Subdivision 1. **Application for unemployment benefits; determination of benefit account.** (a) An application for unemployment benefits may be filed in person, by mail, or by electronic transmission as the commissioner ~~shall may~~ require. The applicant must be unemployed at the time the application is filed and must provide all requested information in the manner required. If the applicant is not unemployed at the time of the application or fails to provide all requested information, the communication ~~shall is not be~~ considered an application for unemployment benefits.

(b) The commissioner shall examine each application for unemployment benefits to determine the base period and the benefit year, and based upon all the covered employment in the base period the commissioner shall determine the weekly unemployment benefit amount available, if any, and the maximum amount of unemployment benefits available, if any. The determination ~~shall be~~ is known as the determination of benefit account. A determination of benefit account ~~shall~~ must be sent to the applicant and all base period employers, by mail or electronic transmission.

(c) If a base period employer did not provide wage information for the applicant as provided for in section 268.044, or provided erroneous information, the commissioner may accept an applicant certification as to wage credits, based upon the applicant's records, and issue a determination of benefit account.

(d) The commissioner may, at any time within 24 months from the establishment of a benefit account, reconsider any determination of benefit account and make an amended determination if the commissioner finds that the determination was incorrect for any reason. An amended determination ~~shall~~ must be promptly sent to the applicant and all base period employers, by mail or electronic transmission.

(e) If an amended determination of benefit account reduces the weekly unemployment benefit amount or maximum amount of unemployment benefits available, any unemployment benefits that have been paid greater than the applicant was entitled is considered an overpayment of unemployment benefits under section 268.18, subdivision 1. A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

EFFECTIVE DATE. This section applies to all determinations issued on or after September 30, 2007.

Sec. 6. Minnesota Statutes 2006, section 268.07, subdivision 3a, is amended to read:

Subd. 3a. **Right of appeal.** (a) A determination or amended determination of benefit account ~~shall be~~ is final unless an applicant or base period employer within ~~30-20~~ 20 calendar days after the sending of the determination or amended determination files an appeal. Every determination or amended determination of benefit account ~~shall~~ must contain a prominent statement indicating in clear language the consequences of not appealing. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

(b) Any applicant or base period employer may appeal from a determination or amended determination of benefit account on the issue of whether services performed constitute employment and covered employment. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section applies to determinations issued on or after September 30, 2007.

Sec. 7. Minnesota Statutes 2006, section 268.085, subdivision 5, is amended to read:

Subd. 5. **Deductible earnings.** (a) If the applicant has earnings, including holiday pay, with respect to any week, from employment, covered employment, noncovered employment, self-employment, or volunteer work, equal to or in excess of the applicant's weekly unemployment benefit amount, the applicant ~~shall be~~ is ineligible for unemployment benefits for that week.

(b) If the applicant has earnings, with respect to any week, that is less than the applicant's weekly unemployment benefit amount, from employment, covered employment, noncovered employment, self-employment, or volunteer work, ~~that amount over the following shall be~~ 55 percent of the earnings are deducted from the weekly unemployment benefit amount.

(1) ~~25 percent of earnings or \$50, whichever is higher; and~~

(2) ~~\$200 for earnings from service in the National Guard or a United States military reserve unit.~~

The resulting unemployment benefit, if not a whole dollar, ~~shall be~~ is rounded down to the next lower whole dollar.

(c) No deduction ~~shall be~~ is made from an applicant's weekly unemployment benefit amount for earnings from service in the National Guard or a United States military reserve unit or from direct service as a volunteer firefighter or volunteer ambulance service personnel. This exception to paragraphs (a) and (b) does not apply to on-call or standby pay provided to a volunteer firefighter or volunteer ambulance service personnel. No deduction ~~shall be~~ is made for jury duty pay or for pay as an election judge.

(d) The applicant may report deductible earnings on continued ~~biweekly~~ requests for unemployment benefits at the next lower whole dollar amount.

(e) Deductible earnings ~~shall~~ does not include any money considered a deductible payment under subdivision 3, but ~~shall include~~ includes all ~~other money compensation~~ considered wages under section 268.035, subdivision 29, and any other ~~money compensation~~ considered earned income under state and federal law for income tax purposes.

EFFECTIVE DATE. The striking of paragraph (b), clause (2), and the insertion of "service in the National Guard or a United States military reserve unit or from" in paragraph (c) are effective the Sunday following final enactment. The remainder of the section is effective for all unemployment benefits paid on or after September 30, 2007, regardless of when the continued request was filed or the week for which the unemployment benefits are paid.

Sec. 8. Minnesota Statutes 2006, section 268.101, subdivision 6, is amended to read:

Subd. 6. **Overpayment.** A determination or amended determination that holds an applicant ~~disqualified or~~ ineligible for unemployment benefits for periods an applicant has been paid benefits is considered an overpayment of those unemployment benefits ~~under section 268.18, subdivision 1.~~ A determination or amended determination issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

EFFECTIVE DATE. This section applies to determinations issued on or after September 30, 2007.

Sec. 9. Minnesota Statutes 2006, section 268.105, subdivision 2, is amended to read:

Subd. 2. **Request for reconsideration.** (a) Any involved applicant, involved employer, or the commissioner may, within ~~30~~ 20 calendar days of the sending of the unemployment law judge's decision under subdivision 1, file a request for reconsideration asking the unemployment law judge to reconsider that decision. Section 268.103 ~~shall~~ apply applies to a request for reconsideration. If a request for reconsideration is timely filed, the unemployment law judge ~~shall~~ must issue an order:

(1) modifying the findings of fact and decision issued under subdivision 1;

(2) setting aside the findings of fact and decision issued under subdivision 1 and directing that an additional evidentiary hearing be conducted under subdivision 1; or

(3) affirming the findings of fact and decision issued under subdivision 1.

(b) Upon a timely request for reconsideration having been filed, the department ~~shall~~ must send a notice, by mail or electronic transmission, to all involved parties that a request for reconsideration has been filed. The notice ~~shall~~ must inform the involved parties:

(1) of the opportunity to provide comment on the request for reconsideration, and the right under subdivision 5 to obtain a copy of any recorded testimony and exhibits offered or received into evidence at the evidentiary hearing;

(2) that providing specific comments as to a perceived factual or legal error in the decision, or a perceived error in procedure during the evidentiary hearing, will assist the unemployment law judge in deciding the request for reconsideration;

(3) of the right to obtain any comments and submissions provided by the other involved party regarding the request for reconsideration; and

(4) of the provisions of paragraph (c) regarding additional evidence.

This paragraph ~~shall~~ does not apply if paragraph (d) is applicable.

(c) In deciding a request for reconsideration, the unemployment law judge ~~shall~~ must not, except for purposes of determining whether to order an additional evidentiary hearing, consider any evidence that was not submitted at the evidentiary hearing conducted under subdivision 1.

The unemployment law judge must order an additional evidentiary hearing if an involved party shows that evidence which was not submitted at the evidentiary hearing: (1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or (2) would show that the evidence that was submitted at the evidentiary hearing was likely false and that the likely false evidence had an effect on the outcome of the decision.

(d) If the involved applicant or involved employer who filed the request for reconsideration failed to participate in the evidentiary hearing conducted under subdivision 1, an order setting aside the findings of fact and decision and directing that an additional evidentiary hearing be conducted must be issued if the party who failed to participate had good cause for failing to do so. In the notice ~~of the~~ that a request for reconsideration has been filed, the party who failed to participate ~~shall~~ must be informed of the requirement, and provided the opportunity, to show good cause for failing to participate. If the unemployment law judge determines that good cause for failure to participate has not been shown, the unemployment law judge must state that in the order issued under paragraph (a).

Submission of a written statement at the evidentiary hearing under subdivision 1 ~~shall~~ does not constitute participation for purposes of this paragraph.

All involved parties must be informed of this paragraph with the notice of appeal and notice of hearing provided for in subdivision 1.

"Good cause" for purposes of this paragraph is a reason that would have prevented a reasonable person acting with due diligence from participating at the evidentiary hearing.

(e) A request for reconsideration ~~shall~~ must be decided by the unemployment law judge who issued the findings of fact and decision under subdivision 1 unless that unemployment law judge: (1) is no longer employed by the department; (2) is on an extended or indefinite leave; (3) has been disqualified from the proceedings on the judge's own motion; or (4) has been removed from the proceedings as provided for under subdivision 1 or applicable rule.

(f) The unemployment law judge ~~shall~~ must send to any involved applicant or involved employer, by mail or electronic transmission, the order issued under this subdivision. An order modifying the previously issued findings of fact and decision or an order affirming the previously issued findings of fact and decision ~~shall be~~ is the final department decision on the matter and ~~shall be~~ is final and binding on the involved applicant and involved employer unless judicial review is sought under subdivision 7.

EFFECTIVE DATE. This section applies to decisions issued on or after September 30, 2007.

Sec. 10. Minnesota Statutes 2006, section 268.105, subdivision 3a, is amended to read:

Subd. 3a. **Decisions.** (a) If an unemployment law judge's decision or order allows unemployment benefits to an applicant, the unemployment benefits ~~shall~~ must be paid regardless of any request for reconsideration or any appeal to the Minnesota Court of Appeals having been filed.

(b) If an unemployment law judge's decision or order modifies or reverses a determination, or prior decision of the unemployment law judge, allowing unemployment benefits to an applicant, any benefits paid ~~pursuant to in accordance with~~ the determination, or prior decision of the unemployment law judge, is considered an overpayment of those unemployment benefits ~~under section 268.18, subdivision 1.~~ A decision or order issued under this section that results in an overpayment of unemployment benefits must set out the amount of the overpayment and the requirement under section 268.18, subdivision 1, that the overpaid unemployment benefits must be repaid.

(c) If an unemployment law judge's order under subdivision 2 allows unemployment benefits to an applicant under section 268.095 because of a quit or discharge and the unemployment law judge's decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota, any unemployment benefits paid the applicant ~~shall is~~ is not be considered an overpayment of those unemployment benefits under section 268.18, subdivision 1.

(d) If an unemployment law judge, ~~pursuant to under~~ subdivision 2, orders the taking of additional evidence, the unemployment law judge's prior decision ~~shall~~ must continue to be enforced until new findings of fact and decision are made by the unemployment law judge.

EFFECTIVE DATE. This section applies to decisions issued on or after September 30, 2007.

Sec. 11. Minnesota Statutes 2006, section 268.131, subdivision 1, is amended to read:

Subdivision 1. **Cooperation with other state and federal government states on combining wages.** (a) In accordance with the requirements of United States Code, title 26, section 3304(a)(9)(B), the Federal Unemployment Tax Act, the commissioner shall participate in reciprocal arrangements with other states and the federal government, or both, for the payment of unemployment benefits on the basis of combining an applicant's wages and employment covered under this law with wages and employment covered under the unemployment insurance programs of other states or the federal government that from multiple states for the purposes of collecting unemployment benefits from a single state. The reciprocal agreement must include provisions for applying the base period of a single state law to an a benefit account involving the combining of an applicant's wages and employment and avoiding the duplicate use of wages by reason of such combining. No The commissioner may not enter into any reciprocal arrangement shall be entered into unless it contains provisions for reimbursements to the trust fund, by the other state or the federal government, for unemployment benefits paid from the trust fund to applicants based upon wages and employment covered under the laws of the other state or the federal government.

(b) The commissioner is authorized to pay unemployment benefits based upon an applicant's wages paid in covered employment in another state only if the applicant is combining Minnesota wage credits with the wages paid in covered employment from another state or states.

(c) Section 268.23 does not apply to this subdivision.

(d) On any reciprocal arrangement, the wages paid an applicant from employment covered under an unemployment insurance program of another state ~~or of the federal government, shall be~~ are considered wages from covered employment for the purpose of determining the applicant's rights to unemployment benefits under the Minnesota Unemployment Insurance Law.

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

Sec. 12. Minnesota Statutes 2006, section 268.18, subdivision 1, is amended to read:

Subdivision 1. **Nonfraud overpayment.** (a) Any applicant who (1) ~~by reason of the applicant's own mistake, or~~ (2) ~~because of an error by any employee of the department, or~~ (3) because of a determination or amended determination issued pursuant to under section 268.07 or 268.101, or any other section of this chapter, or ~~(4) (2)~~ because of an appeal decision or order under section 268.105, has received any unemployment benefits that the applicant was held not entitled to, shall must promptly repay the unemployment benefits to the trust fund. ~~The commissioner shall, as soon as the overpayment is discovered, determine the amount due and notify the applicant to repay the unemployment benefits.~~

~~(b) Unless the applicant files an appeal within 30 calendar days after the sending of the determination of overpayment to the applicant by mail or electronic transmission, the determination shall become final. Proceedings on the appeal shall be conducted in accordance with section 268.105. An applicant may not collaterally attack, by way of an appeal to an overpayment determination, any prior determination issued pursuant to section 268.07 or 268.101, or decision issued pursuant to section 268.105, that has become final.~~

~~(e)~~ If the applicant fails to repay the unemployment benefits ~~determined~~ overpaid ~~under this subdivision~~, the commissioner may offset from any future unemployment benefits otherwise payable the amount of the overpayment. Except when the overpayment resulted because the applicant failed to report deductible earnings or deductible or benefit delaying payments, no single offset shall may exceed 50 percent of the amount of the payment from which the offset is made. The overpayment may also be collected by the same methods as delinquent payments from an employer. ~~A determination of overpayment shall state the methods of collection the commissioner may use to recover the overpayment.~~

~~(d)~~ (c) If an applicant has been overpaid unemployment benefits under the law of another state, ~~due to~~ because of a reason other than fraud, and that state certifies that the applicant is liable under its law to repay the unemployment benefits and requests the commissioner to recover the overpayment, the commissioner may offset from future unemployment benefits otherwise payable the amount of overpayment, except that no single offset shall may exceed 50 percent of the amount of the payment from which the offset is made.

~~(e)~~ (d) If under paragraph (b) ~~or~~ (c) ~~or~~ (d) the reduced unemployment benefits as a result of a 50 percent offset is not a whole dollar amount, it ~~shall be~~ is rounded down to the next lower whole dollar.

~~(f) Unemployment benefits paid for weeks more than three years prior to the date of a determination of overpayment issued under this subdivision shall not be considered overpaid unemployment benefits.~~

EFFECTIVE DATE. This section is effective September 30, 2007.

Sec. 13. Minnesota Statutes 2006, section 268.18, subdivision 2b, is amended to read:

Subd. 2b. **Interest.** (a) On any unemployment benefits fraudulently obtained, and any penalty amounts assessed under subdivision 2, the commissioner ~~may~~ shall assess interest at the rate of 1-1/2 percent per month on any amount that remains unpaid beginning 30 calendar days after the date of the determination of overpayment by fraud. A determination of overpayment by fraud ~~shall~~ must state that interest ~~shall~~ will be assessed.

(b) If ~~this subdivision became effective after the date of the determination, or the determination did not state that interest shall will be assessed, interest shall be is assessed beginning 30 calendar days after notification, by mail or electronic transmission, to the applicant that interest is now assessed.~~

(c) Interest payments under this section ~~shall be are~~ credited to the administration account.

EFFECTIVE DATE. This section is effective September 30, 2007, and applies to all outstanding fraud overpayment balances as of that date.

Sec. 14. Minnesota Statutes 2006, section 268.18, subdivision 4, is amended to read:

Subd. 4. **Cancellation of overpayments.** (a) If unemployment benefits ~~determined~~ overpaid under subdivision 1 are not repaid or offset from subsequent unemployment benefits as provided for in subdivision 1 within six years after the date of the determination ~~of overpayment or decision holding the applicant overpaid~~, the commissioner shall cancel the overpayment balance, and no administrative or legal proceedings ~~shall~~ may be used to enforce collection of those amounts.

(b) If unemployment benefits determined overpaid under subdivision 2 including penalties and interest are not repaid ~~or offset from subsequent unemployment benefits as provided for in subdivision 2~~ within ~~ten~~ 15 years after the date of the determination of overpayment by fraud, the commissioner shall cancel the overpayment balance and any penalties and interest due, and no administrative or legal proceeding ~~shall~~ may be used to enforce collection of those amounts.

(c) The commissioner may cancel at any time any overpayment, including penalties and interest, that the commissioner determines is uncollectible ~~due to~~ because of death or bankruptcy.

EFFECTIVE DATE. This section is effective September 30, 2007, and applies to all overpayments existing as of that date.

Sec. 15. Minnesota Statutes 2006, section 268.182, subdivision 2, is amended to read:

Subd. 2. **Administrative penalties.** Any applicant who knowingly makes a false statement or representation, who knowingly fails to disclose a material fact, or who makes a false statement or representation without a good faith belief as to the correctness of the statement or representation, in order to obtain or in an attempt to obtain unemployment benefits may be assessed, in addition to any other penalties, an administrative penalty of being ineligible for unemployment benefits for 13 to 104 weeks. A determination of ineligibility setting out the weeks the applicant ~~shall be is~~ ineligible ~~shall~~ must be sent to the applicant by mail or electronic transmission. Unless an appeal is filed within ~~30~~ 20 calendar days of sending, the determination ~~shall be is~~ final. ~~Proceeding~~ Proceedings on the appeal ~~shall be are~~ conducted in accordance with section 268.105.

EFFECTIVE DATE. This section applies to determinations issued on or after September 30, 2007.

Sec. 16. Minnesota Statutes 2006, section 268.184, subdivision 1, is amended to read:

Subdivision 1. **Administrative penalties.** (a) ~~If The commissioner finds shall penalize an employer if that any~~ employer or any employee, officer, or agent of ~~any that~~ employer, is in collusion with any applicant for the purpose of assisting the applicant to receive unemployment benefits fraudulently, ~~the employer shall be penalized. The penalty is~~ \$500 or the amount of unemployment benefits determined to be overpaid, whichever is greater.

(b) ~~If The commissioner finds shall penalize an employer if that any~~ employer or any employee, officer, or agent of ~~an that~~ employer ~~has (1) made (+) a false statement or representation knowing it to be false, including reporting employees on a wage detail report under section 268.044 knowing the employees actually are employed by a different employer, or, (2) has made a false statement or representation without a good faith belief as to correctness of the statement or representation, or (3) who knowingly fails failed to disclose a material fact; but only if the employer's action:~~

(i) was taken to prevent or reduce the payment of unemployment benefits to any applicant ~~or;~~

(ii) was taken to reduce or avoid any payment required from an employer under this chapter or section 116L.20; ~~the employer shall be penalized; or~~

(iii) caused an overpayment of unemployment benefits to an applicant.

The penalty is \$500, or 50 percent of the overpaid or reduced unemployment benefits or payment required, whichever is greater.

(c) ~~If The commissioner finds shall penalize an employer if that an~~ employer failed or refused to honor a subpoena issued under section 268.105, subdivision 4, or section 268.188, ~~the employer shall be penalized. The penalty is~~ \$500 and any costs of enforcing the subpoena, including attorney fees.

(d) Penalties under this subdivision ~~shall be~~ are in addition to any other penalties and subject to the same collection procedures that apply to past due taxes. Penalties ~~shall must~~ be paid ~~to the department~~ within 30 calendar days of assessment and credited to the contingent account.

(e) The assessment of the penalty ~~shall be~~ is final unless the employer files an appeal within ~~30~~ 20 calendar days after the sending of notice of the penalty to the employer by mail or electronic transmission. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section is effective for notices of penalties sent on or after September 30, 2007.

Sec. 17. Minnesota Statutes 2006, section 268.184, subdivision 1a, is amended to read:

Subd. 1a. **Notification and misreporting penalties.** (a) If the commissioner finds that any employer or agent of an employer failed to meet the notification requirements of section 268.051, subdivision 4, the employer ~~shall~~ must be assessed a penalty of \$5,000 or two percent of the first full quarterly payroll acquired, whichever is higher. Payroll is wages paid as defined in section 268.035, subdivision 30. The penalty under this paragraph ~~shall~~ must be canceled if the commissioner determines that the failure occurred because of ignorance or inadvertence.

(b) If the commissioner finds that any individual advised an employer to violate the employer's notification requirements under section 268.051, subdivision 4, the individual, and that individual's employer, ~~shall~~ must each be assessed the penalty in paragraph (a).

(c) If the commissioner finds that any person or agent of a person violated the reporting requirements of section 268.0435 or 268.046, the person ~~shall~~ must be assessed a penalty of \$5,000 or two percent of the quarterly payroll reported in violation of section 268.0435 or 268.046, whichever is higher. Payroll is wages paid as defined in section 268.035, subdivision 30.

(d) Penalties under this subdivision ~~shall be~~ are in addition to any other penalties and subject to the same collection procedures that apply to past due amounts from an employer. Penalties must be paid within 30 calendar days after sending of the notice of penalty.

(e) The assessment of a penalty ~~shall be~~ is final unless the person assessed files an appeal within ~~30~~ 20 calendar days after sending of the notice of the penalty by mail or electronic transmission. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

EFFECTIVE DATE. This section applies to assessments done on or after September 30, 2007.

Sec. 18. **[268.215] DAY OF THE WEEK AND DATE REQUIREMENT.**

(a) Every determination issued under this chapter that is subject to an appeal to an unemployment law judge must indicate the day of the week and the date, for example, Tuesday, August 1, 2006, that the determination is final and no longer subject to an appeal.

(b) Every decision issued by an unemployment law judge under section 268.105, subdivision 1, must indicate the day of the week and the date, for example, Tuesday, August 1, 2006, that the decision is final and no longer subject to reconsideration.

EFFECTIVE DATE. This section is effective September 30, 2007.

ARTICLE 3

HOUSEKEEPING PROVISIONS

Section 1. Minnesota Statutes 2006, section 268.035, subdivision 1, is amended to read:

Subdivision 1. **Scope.** ~~Unless the language or context clearly indicates that a different meaning is intended,~~ The words, terms, and phrases in this section ~~shall~~, for the purposes of the Minnesota Unemployment Insurance Law, have the meaning stated.

Sec. 2. Minnesota Statutes 2006, section 268.035, subdivision 14, is amended to read:

Subd. 14. **Employer.** "Employer" means any person ~~which~~ that has had one or more employees during the current or the prior calendar year including any person that has elected, under section 268.042, to be subject to the Minnesota Unemployment Insurance Law and a joint venture composed of one or more employers.

An employee leasing company, professional employer organization, or similar person that has been assigned a tax ~~or reimbursable~~ account under section 268.046 is an employer for purposes of this chapter.

Sec. 3. Minnesota Statutes 2006, section 268.035, subdivision 24, is amended to read:

Subd. 24. **Taxable wages.** (a) "Taxable wages" means those wages paid to an employee in covered employment each calendar year up to an amount equal to 60 percent of the state's average annual wage, rounded to the nearest \$1,000.

(b) Taxable wages includes the amount of wages paid for covered employment by the employer's predecessor when there has been an experience rating history transfer under section 268.051, subdivision 4.

Sec. 4. Minnesota Statutes 2006, section 268.044, subdivision 1, is amended to read:

Subdivision 1. **Wage detail report.** (a) Each employer ~~that has employees in covered employment shall~~ must submit, under the account provided for in section 268.045 or 268.046, a quarterly wage detail report by electronic transmission, in a format prescribed by the commissioner. The report ~~shall~~ must include for each employee in covered employment during the calendar quarter, the employee's name, Social Security number, the total wages paid to the employee, and total number of paid hours worked. For employees exempt from the definition of employee in section 177.23, subdivision 7, clause (6), the employer ~~shall~~ must report 40 hours worked for each week any duties were performed by a full-time employee and ~~shall~~ must report a reasonable estimate of the hours worked for each week duties were performed by a part-time employee. In addition, the wage detail report ~~shall~~ must include the number of employees employed ~~on~~ during the payroll period that includes the 12th day of each calendar month and, if required by the commissioner, the report ~~shall~~ must be broken down by business location and, if section 268.046, subdivision 1, paragraph (b), or subdivision 2, paragraph (b), applies, by separate unit. ~~If the information required is not submitted in a manner and format prescribed by the commissioner, it shall not be considered a wage detail report.~~ The report is due and must be received by the commissioner on or before the last day of the month following the end of the calendar quarter. The commissioner may delay the due date on a specific calendar quarter in the event the department is unable to accept wage detail reports electronically.

(b) The employer may report the wages paid to the next lower whole dollar amount.

(c) An employer need not include the name of the employee or other required information on the wage detail report if disclosure is specifically exempted from being reported by federal law.

(d) A wage detail report must be submitted for each calendar quarter even though no wages were paid, unless the employer has notified the commissioner, under section 268.042, subdivision 1, paragraph (c), of termination of business.

Sec. 5. Minnesota Statutes 2006, section 268.044, subdivision 3, is amended to read:

Subd. 3. **Missing or erroneous information.** (a) Any employer that submits the wage detail report, but fails to include all employee information or enters erroneous information, ~~shall be~~ is subject to an administrative service fee of \$25 for each employee for whom the information is partially missing or erroneous.

(b) Any employer that submits the wage detail report, but fails to include an employee, ~~shall be~~ is subject to an administrative service ~~penalty fee~~ fee equal to two percent of the total wages for each employee for whom the information is completely missing.

(c) An administrative service fee ~~or penalty~~ under this subdivision ~~shall~~ must be canceled if the commissioner determines that the failure or error by the employer occurred because of ignorance or inadvertence.

Sec. 6. Minnesota Statutes 2006, section 268.051, subdivision 2, is amended to read:

Subd. 2. **Computation of tax rates; additional assessments.** (a) For each calendar year the commissioner shall compute the tax rate of each taxpaying employer that qualifies for an experience rating by adding the base tax rate to the employer's experience rating along with assigning any appropriate additional assessment under paragraph (d).

(b) The base tax rate for the calendar year and any additional assessments under this subdivision ~~shall be~~ are determined based upon the amount in the trust fund on March 31 of the prior year as a percentage of total wages paid in covered employment. The base tax rate ~~shall be~~ is:

- (1) one-tenth of one percent if the trust fund is equal to or more than 0.75 percent;
- (2) two-tenths of one percent if the trust fund is less than 0.75 percent but equal to or more than 0.65 percent;
- (3) three-tenths of one percent if the trust fund is less than 0.65 percent but equal to or more than 0.55 percent; or
- (4) four-tenths of one percent if the trust fund is less than 0.55 percent.

(c) There ~~shall be~~ is a "falling trust fund adjustment" to the base tax rate for the calendar year if the amount in the trust fund on March 31 of the prior year is less than 0.75 percent of total wages paid in covered employment and:

(1) the amount in the trust fund on March 31 of the prior year is ten percent or more below the amount in the trust fund on March 31 of the year ~~prior to~~ before that; or

(2) the amount in the trust fund on March 31 of the prior year is greater than the amount in the trust fund on June 30 of that same year.

If a "falling trust fund adjustment" is applicable, then the base tax rate ~~shall be 0.4~~ is one-tenth of one percent greater than otherwise provided for under paragraph (b).

(d) In addition to the base tax rate ~~under paragraph (b)~~, there ~~shall be~~ is an additional assessment for the calendar year on ~~all the~~ quarterly unemployment taxes due from every taxpaying employer if the amount in the trust fund on March 31 of the prior year is less than ~~.55~~ 0.55 percent of total wages paid in covered employment. The assessment ~~shall be~~ is as follows:

- (1) a five percent assessment if the trust fund is less than 0.55 percent but equal to or more than 0.45 percent;
- (2) a ten percent assessment if the trust fund is less than 0.45 percent but equal to or more than 0.35 percent; or
- (3) a 14 percent assessment if the trust fund is less than 0.35 percent.

(e) For the purposes of this subdivision, the trust fund ~~shall~~ does not include any money borrowed from the federal unemployment trust fund ~~pursuant to provided for in~~ section 268.194, subdivision 6.

(f) For the purposes of this subdivision, total wages paid in covered employment ~~shall be~~ are those wages paid to all employees in covered employment during the calendar year ~~prior to~~ before the March 31 date used in paragraph (b).

~~(g) The commissioner may compute any assessment under this subdivision, and any assessment under subdivision 8, as a percentage of the employer's experience rating and the base tax rate, rounded to the nearest hundredth of a percent.~~

~~On tax rate notices sent under subdivision 6, any assessments under this subdivision may be combined with any special assessments for interest on federal loans provided for in subdivision 8 into a single combined assessment.~~

(g) The base tax rate and any additional assessments are assessed on all taxpaying employers to cover a portion of the costs to the trust fund for unemployment benefits paid that do not affect any single employer's future experience rating because:

(1) the employer's experience rating is limited by the maximum under subdivision 3, paragraph (b);

(2) the employer has ceased doing business; or

(3) the unemployment benefits paid have been determined not to be used in computing the employer's experience rating under section 268.047, subdivision 2 or 3.

Sec. 7. Minnesota Statutes 2006, section 268.051, subdivision 3, is amended to read:

Subd. 3. **Computation of a taxpaying employer's experience rating.** (a) On or before each December 15, the commissioner shall compute an experience rating for each taxpaying employer who has been ~~subject required~~ to ~~paying unemployment taxes~~ file wage detail reports for the 12 calendar months ending on the prior June 30. The experience rating computed ~~shall be~~ is applicable for the following calendar year.

The experience rating ~~shall be~~ is the ratio obtained by dividing 125 percent of the total unemployment benefits required under section 268.047 to be used in computing the employer's tax rate during the 48 calendar months ending on the prior June 30, by the employer's total taxable payroll for that same period.

(b) The experience rating ~~shall be~~ is computed to the nearest one-hundredth of a percent, to a maximum of 8.90 percent.

(c) The use of 125 percent of unemployment benefits paid under paragraph (a), rather than 100 percent of the amount of unemployment benefits paid, is done in order for the trust fund to recover from all taxpaying employers a portion of the costs of unemployment benefits paid that do not affect any individual employer's future experience rating because of the reasons set out in subdivision 2, paragraph (g).

Sec. 8. Minnesota Statutes 2006, section 268.051, subdivision 4, is amended to read:

Subd. 4. **Experience rating history transfer.** (a) When:

(1) a taxpaying employer acquires all of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the experience rating history of the predecessor employer ~~shall be~~ is transferred ~~as of the date of acquisition~~ to the successor employer.

(b) When:

(1) a taxpaying employer acquires a portion, but less than all, of the organization, trade or business, or workforce of another taxpaying employer; and

(2) there is 25 percent or more common ownership or there is substantially common management or control between the predecessor and successor, the successor employer ~~shall acquire~~ acquires, as of the date of acquisition, the experience rating history attributable to the portion it acquired, and the predecessor employer ~~shall retain~~ retains the experience rating history attributable to the portion that it has retained. If the commissioner determines that sufficient information is not available to substantiate that a distinct severable portion was acquired and to assign the

appropriate distinct severable portion of the experience rating history, the commissioner shall assign the successor employer that percentage of the predecessor employer's experience rating history equal to that percentage of the employment positions it has obtained, and the predecessor employer ~~shall retain~~ retains that percentage of the experience rating history equal to the percentage of the employment positions it has retained.

(c) The term "common ownership" for purposes of this subdivision includes ownership by a spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, nephew, or first cousin, by birth or by marriage.

(d) Each successor employer that is subject to paragraph (a) or (b) must notify the commissioner of the acquisition by electronic transmission, in a format prescribed by the commissioner, within 30 calendar days of the date of acquisition. Any successor employer that fails to notify the commissioner is subject to the penalties under section 268.184, subdivision 1a, if the successor's experience rating was lower than the predecessor's experience rating at the time of the acquisition. Payments made toward the penalties shall be ~~are~~ credited to the administration account to be used to ensure integrity in the unemployment insurance program.

(e) If the successor employer under paragraphs (a) and (b) had an experience rating at the time of the acquisition, the transferred experience rating history of the predecessor ~~shall be~~ is combined with the successor's experience rating history, ~~as of the date of acquisition,~~ for purposes of recomputing a tax rate.

(f) If there has been a transfer of an experience rating history under paragraph (a) or (b), employment with a predecessor employer ~~shall is~~ is not be considered to have been terminated if similar employment is offered by the successor employer and accepted by the employee.

(g) The commissioner, upon notification of an employer, or upon the commissioner's own motion if the employer fails to provide the required notification, shall determine if an employer is a successor within the meaning of this subdivision. The commissioner shall, after determining the issue of succession or nonsuccession, recompute the tax rate under subdivision 6 of all employers affected. The commissioner shall send the recomputed tax rate to all affected employers by mail or electronic transmission. Any affected employer may ~~protest~~ appeal the recomputed tax rate in accordance with the procedures in subdivision 6, paragraph (c).

(h) The "experience rating history" for purposes of this subdivision and subdivision 4a means ~~those factors set out in subdivision 3, paragraph (b), that make up an experience rating~~ the amount of unemployment benefits paid and the taxable wages that are being used and would be used in computing the current and any future experience rating.

For purposes of this chapter, an "acquisition" means anything that results in the obtaining by the successor employer, in any way or manner, of the organization, trade or business, or workforce of the predecessor employer.

A "distinct severable portion" in paragraph (b) means a location or unit separately identifiable within the employer's wage detail report under section 268.044.

(i) Regardless of the ownership, management, or control requirements of paragraph (a), if there is an acquisition or merger of a publicly held corporation by or with another publicly held corporation the experience rating histories of the corporations ~~shall be~~ are combined as of the date of acquisition or merger for the purpose of recomputing a tax rate.

Sec. 9. Minnesota Statutes 2006, section 268.051, subdivision 7, is amended to read:

Subd. 7. **Tax rate buydown.** (a) Any taxpaying employer ~~who that~~ has been assigned a tax rate based upon an experience rating, and has no amounts past due under this chapter, may, upon the ~~voluntary~~ payment of an amount equivalent to any portion or all of the unemployment benefits used in computing the experience rating plus a

surcharge of 25 percent, obtain a cancellation of unemployment benefits used equal to the payment made, less the surcharge. Upon the payment, the commissioner shall compute a new experience rating for the employer, and compute a new tax rate.

(b) ~~Voluntary~~ Payments for a tax rate buydown may be made only by electronic payment and must be received within 120 calendar days from the beginning of the calendar year for which the tax rate is effective.

Sec. 10. Minnesota Statutes 2006, section 268.051, subdivision 8, is amended to read:

Subd. 8. **Special assessment for interest on federal loan.** (a) If on October 31 of any year, the commissioner, in consultation with the commissioner of finance, determines that an interest payment will be due during the following calendar year on any loan from the federal unemployment trust fund under section 268.194, subdivision 6, a special assessment on taxpaying employers will be in effect for the following calendar year. The legislature authorizes the commissioner, in consultation with the commissioner of finance, to determine the appropriate level of the assessment, from two percent to eight percent of the total quarterly unemployment taxes due based upon determined rates and assigned assessments under subdivision 2, that will be necessary to pay the interest due on the loan.

(b) The special assessment ~~shall~~ must be placed into a special account from which the commissioner shall pay any interest that has accrued on any loan from the federal unemployment trust fund provided for under section 268.194, subdivision 6. If, at the end of each calendar quarter, the commissioner, in consultation with the commissioner of finance, determines that the balance in this special account, including interest earned on the special account, is more than is necessary to pay the interest ~~which that~~ has accrued on any loan as of that date, or will accrue over the following calendar quarter, the commissioner shall immediately pay to the trust fund the amount in excess of that necessary to pay the interest on any loan.

Sec. 11. Minnesota Statutes 2006, section 268.066, is amended to read:

268.066 CANCELLATION OF AMOUNTS DUE FROM AN EMPLOYER.

(a) The commissioner shall cancel as uncollectible any amounts due from an employer under this chapter or section 116L.20, ~~which that~~ remain unpaid six years after the amounts have been first determined due, except where the delinquent amounts are secured by a notice of lien, a judgment, are in the process of garnishment, or are under a payment plan.

(b) The commissioner may cancel at any time as uncollectible any amount due, or any portion of an amount due, from an employer under this chapter or section 116L.20, that (1) are uncollectible due to death or bankruptcy, (2) the ~~Minnesota Collection Enterprise Division of the Department of Revenue~~ under section 16D.04 was unable to collect, or (3) the commissioner determines that it is not in the public interest to pursue collection of the amount due.

Sec. 12. Minnesota Statutes 2006, section 268.07, subdivision 3b, is amended to read:

Subd. 3b. **Limitations on applications and benefit accounts.** (a) ~~A benefit account shall be established. An application for unemployment benefits is effective the Sunday of the calendar week that the application for unemployment benefits was filed. Upon specific request of an applicant, an application for unemployment benefits may be backdated one calendar week prior to before the Sunday of the week the application was actually filed. An application shall may be backdated only if the applicant was unemployed throughout the period of the backdating. If an individual attempted to file an application for unemployment benefits, but was prevented from filing an application by the department, the benefit account shall be application is effective the Sunday of the calendar week the individual first attempted to file an application.~~

(b) A benefit account established under subdivision 2 is effective the date the application for unemployment benefits was effective.

(c) A benefit account, once established, may later be withdrawn only if:

(1) a new application for unemployment benefits is filed and a new benefit account is established at the time of the withdrawal; and

(2) the applicant has not served ~~a~~ the nonpayable waiting week under section 268.085, subdivision 1, clause (5).

A determination or amended determination ~~pursuant to under~~ section 268.101, that was issued before the withdrawal of the benefit account, ~~shall remain~~ remains in effect and ~~shall is not be~~ voided by the withdrawal of the benefit account. A determination of ~~disqualification, ineligibility~~ requiring subsequent earnings to satisfy the ~~disqualification period of ineligibility~~ under section 268.095, subdivision 10, ~~shall apply~~ applies to the weekly unemployment benefit amount on the new benefit account.

~~(e)~~ (d) An application for unemployment benefits ~~shall is not be~~ allowed ~~prior to before~~ the Sunday following the expiration of the benefit year on a prior benefit account. Except as allowed under paragraph (b), ~~a~~ an applicant may establish only one benefit account each 52 calendar weeks.

Sec. 13. Minnesota Statutes 2006, section 268.085, subdivision 1, is amended to read:

Subdivision 1. **Eligibility conditions.** An applicant ~~shall~~ may be eligible to receive unemployment benefits for any week if:

(1) the applicant has an active benefit account and has filed a continued ~~biweekly~~ request for unemployment benefits for that week ~~pursuant to under~~ section 268.086;

(2) the week for which unemployment benefits are requested is in the applicant's benefit year;

(3) the applicant was unemployed as defined in section 268.035, subdivision 26;

(4) the applicant was able to work and was available for suitable employment, and was actively seeking suitable employment. The applicant's weekly unemployment benefit amount ~~shall be is~~ reduced one-fifth for each day the applicant is unable to work or is unavailable for suitable employment. If the computation of the reduced unemployment benefits is not a whole dollar, it ~~shall be is~~ rounded down to the next lower whole dollar.

This clause ~~shall~~ does not apply to an applicant who is in reemployment assistance training, or each day the applicant is on jury duty or serving as an election judge;

(5) the applicant has served a nonpayable waiting period of one week that the applicant is otherwise entitled to some amount of unemployment benefits. This clause ~~shall~~ does not apply if the applicant would have been entitled to federal disaster unemployment assistance because of a disaster in Minnesota, but for the applicant's establishment of a benefit account under section 268.07; and

(6) the applicant has been participating in reemployment assistance services, such as job search and resume writing classes, if the applicant has been determined in need of reemployment assistance services by the commissioner, unless ~~there is the applicant has~~ the applicant has good cause for ~~the applicant's failure~~ failing to participate.

Sec. 14. Minnesota Statutes 2006, section 268.085, subdivision 9, is amended to read:

Subd. 9. **Business owners.** Wage credits from an employer may not be used for unemployment benefit purposes by any applicant who:

(1) individually, jointly, or in combination with the applicant's spouse, parent, or child owns or controls directly or indirectly 25 percent or more interest in the employer, or is the spouse, parent, or minor child of any individual who owns or controls directly or indirectly 25 percent or more interest in the employer; and

(2) is temporarily, seasonally, or indefinitely unemployed and not permanently separated from the employment.

This subdivision is effective when the applicant has been paid four times the applicant's weekly unemployment benefit amount in the current benefit year.

Sec. 15. Minnesota Statutes 2006, section 268.085, subdivision 13c, is amended to read:

Subd. 13c. **Offers of suitable employment.** (a) An applicant ~~shall be~~ is ineligible for all unemployment benefits for eight calendar weeks if the applicant, without good cause:

(1) failed to apply for available, suitable employment of which the applicant was advised by the commissioner or an employer;

(2) failed to accept suitable employment when offered; or

(3) avoided an offer of suitable employment.

(b) "Good cause" is a reason that would cause a reasonable individual who wants suitable employment to fail to apply for, accept, or avoid suitable employment. Good cause includes:

(1) the applicant is employed in other suitable employment;

(2) the applicant is in reemployment assistance training;

(3) the applicant formerly worked for the employer and the loss of employment occurred prior to the commencement of a labor dispute, was permanent or for an indefinite period, and the applicant failed to apply for or accept the employment because a labor dispute was in progress at the establishment; or

(4) the applicant formerly worked for the employer and quit that employment because of a good reason caused by the employer.

(c) This subdivision only applies to offers of suitable employment with a new or a former employer and does not apply to any type of job transfers, position reassignments, or changes in job duties or responsibilities during the course of employment with an employer.

(d) The period of ineligibility under this subdivision ~~and section 268.095 shall begin~~ begins the Sunday of the week the applicant failed to apply for, failed to accept, or avoided suitable employment without good cause.

(e) This subdivision ~~and section 268.095 shall apply~~ applies to offers of suitable employment that occur ~~prior to~~ before the effective date of the benefit account and that occur during the benefit year.

(f) This subdivision ~~and section 268.095 shall only apply~~ applies to offers of suitable employment that are considered covered employment under section 268.035, subdivision 12.

Sec. 16. Minnesota Statutes 2006, section 268.086, subdivision 2, is amended to read:

Subd. 2. **Continued ~~biweekly~~ request for unemployment benefits defined.** A continued ~~biweekly~~ request for unemployment benefits is a certification by an applicant, done on a weekly or biweekly basis ~~as the commissioner designates~~, that the applicant is unemployed and meets the ongoing eligibility requirements for unemployment benefits under section 268.085 for a specific week or two-week period. A continued ~~biweekly~~ request ~~shall~~ must include information on possible issues of ~~eligibility and disqualification~~ ineligibility in accordance with section 268.101, subdivision 1, paragraph (c).

Sec. 17. Minnesota Statutes 2006, section 268.086, subdivision 7, is amended to read:

Subd. 7. **In-person continued ~~biweekly~~ request for unemployment benefits.** The commissioner may require any applicant who has been designated to make a continued ~~biweekly~~ request for unemployment benefits by ~~telephone, by~~ electronic transmission, or by mail to appear for a personal interview at a place, time, and date designated, during which a written continued ~~biweekly~~ request for unemployment benefits form ~~shall~~ must be completed and submitted by the applicant.

An applicant ~~shall be~~ is ineligible for unemployment benefits for the week or biweekly period covered by a continued ~~biweekly~~ request and the benefit account ~~shall be~~ is considered inactive if the applicant fails, without good cause, to comply with the requirement that the applicant appear for a personal interview and at that time complete and submit a written continued ~~biweekly~~ request form.

Sec. 18. Minnesota Statutes 2006, section 268.105, subdivision 4, is amended to read:

Subd. 4. **~~Testimonial powers~~ Oaths; subpoenas.** An unemployment law judge ~~may~~ has authority to administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of documents and other personal property considered necessary as evidence in connection with the subject matter of an evidentiary hearing. The subpoenas ~~shall be~~ are enforceable through the district court in ~~the district that the subpoena is issued~~ Ramsey County. Witnesses subpoenaed, other than an involved applicant or involved employer or officers and employees of an involved employer, ~~shall~~ must be paid by the department the same witness fees as in a civil action in district court.

Sec. 19. Minnesota Statutes 2006, section 268.188, is amended to read:

268.188 SUBPOENAS; OATHS.

(a) The commissioner ~~shall have power~~ has authority to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in connection with the administration of the Minnesota unemployment insurance program.

(b) Individuals subpoenaed, other than applicants or officers and employees of an employer that is the subject of the inquiry, ~~shall be allowed~~ are paid witness fees the same as witness fees in civil actions in district court. The fees need not be paid in advance.

(c) The subpoena ~~shall be~~ is enforceable through the district court in ~~the district that the subpoena is issued~~ Ramsey County.

Sec. 20. Minnesota Statutes 2006, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as ~~otherwise~~ provided by this section, data gathered from any person ~~pursuant to~~ under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except ~~pursuant~~ according to a district court order or section 13.05. A subpoena ~~shall is~~ is not ~~be~~ considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;
- (3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
- (4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;
- ~~(4)~~ (5) human rights agencies within Minnesota that have enforcement powers;
- ~~(5)~~ (6) the Department of Revenue ~~only~~ to the extent necessary for its duties under Minnesota laws;
- ~~(6)~~ (7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
- ~~(7)~~ (8) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce ~~on an interchangeable basis with the department~~ for uses consistent with the administration of their duties under Minnesota law;
- ~~(8)~~ (9) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;
- ~~(9)~~ (10) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;
- ~~(10)~~ (11) local, state, and federal law enforcement agencies for the ~~sole~~ purpose of ascertaining the last known address and employment location of ~~a person~~ an individual who is the subject of a criminal investigation;
- ~~(11)~~ (12) the federal Bureau of Citizenship and Immigration and Naturalization Service ~~shall have~~ Services has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency; and
- ~~(12)~~ (13) the Department of Health ~~solely~~ for the purposes of epidemiologic investigations.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation ~~pursuant to under~~ section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except ~~pursuant to under~~ statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department ~~pursuant to in~~ the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 21. Minnesota Statutes 2006, section 268.194, subdivision 2, is amended to read:

Subd. 2. **Commissioner of finance to be custodian; separate accounts.** (a) The commissioner of finance ~~shall~~ be the treasurer and custodian of the trust fund, and shall administer the trust fund in accordance with the directions of the commissioner, ~~and issue warrants upon it.~~ The commissioner of finance shall maintain within the trust fund three separate accounts:

- (1) a clearing account;
- (2) an unemployment trust fund account; and
- (3) an unemployment benefit payment account.

All money payable to the trust fund, upon receipt by the commissioner, ~~shall~~ must be forwarded to the commissioner of finance who shall immediately deposit the money in the clearing account. All money in the clearing account, after clearance, ~~shall~~ must be deposited to the credit of Minnesota's account in the federal unemployment trust fund. Tax refunds payable ~~pursuant to under~~ section 268.057 may be paid from the clearing account or the unemployment benefit payment account.

(b) The unemployment benefit payment account ~~shall consist~~ consists of all money requisitioned from Minnesota's account in the federal unemployment trust fund for the payment of unemployment benefits. Money in the clearing and unemployment benefit payment accounts may be deposited by the commissioner of finance, under the direction of the commissioner, in any depository bank that general funds of Minnesota may be deposited, but no public deposit insurance charge or premium ~~shall may~~ be paid out of the trust fund. Money in the clearing and unemployment benefit payment accounts ~~shall must~~ be maintained in separate accounts on the books of the depository bank. This money ~~shall must~~ be secured by the depository bank to the same extent and in the same manner as required by the general depository law of Minnesota.

Sec. 22. Minnesota Statutes 2006, section 268.194, subdivision 3, is amended to read:

Subd. 3. **Exclusive use.** (a) Money requisitioned from Minnesota's account in the federal unemployment trust fund ~~shall must~~ be used exclusively for the payment of unemployment benefits and for tax refunds ~~pursuant to under~~ section 268.057, except that money credited to Minnesota's account ~~pursuant to under~~ United States Code, title 42, section 1103 of the Social Security Act, also known as the Reed Act, may be used for the payment of expenses of administration. The commissioner ~~shall from time to time may~~ requisition from the federal unemployment trust fund the amounts necessary for the payment of unemployment benefits and tax refunds for a reasonable future period. Upon receipt the commissioner of finance shall deposit the money in the unemployment benefit payment account ~~and issue warrants for the payment of unemployment benefits solely from the unemployment benefit payment account.~~

(b) Expenditures of money in the unemployment benefit payment account and tax refunds from the clearing account ~~shall~~ are not be subject to any provisions of law requiring specific appropriations or other formal release by state officers.

~~(c) All warrants issued for the payment of unemployment benefits and tax refunds shall bear the signature of the commissioner of finance and the counter signature of the commissioner.~~

Sec. 23. Minnesota Statutes 2006, section 268.196, subdivision 3, is amended to read:

Subd. 3. **Contingent account.** (a) There is ~~hereby~~ created in the state treasury a special account, to be known as the contingent account, that ~~shall does~~ not lapse nor revert to any other ~~trust fund or account~~. This account ~~shall consist~~ consists of all money appropriated ~~therefor~~ by the legislature, all money ~~in the form of interest and penalties collected pursuant to sections 268.057, 268.18, and 268.184, all money received in the form of voluntary contributions to this account~~ under this chapter that is required to be placed in this account, and any interest earned on the account. All money in this account ~~shall be~~ is supplemental to all federal money available to the commissioner. Money in this account is ~~hereby~~ appropriated to the commissioner and ~~shall be~~ is available to the commissioner for ~~those expenditures the commissioner considers necessary in connection with the administration of the Minnesota unemployment insurance program.~~

~~(b) Whenever the commissioner spends money from the contingent account for the administration of the Minnesota unemployment insurance program for which money will later be made available by the federal government, the contingent account shall, when money is available, be reimbursed from the administration account. The commissioner shall certify to the commissioner of finance the amount of the reimbursement and the commissioner of finance shall transfer that amount from the administration account to the contingent account.~~

~~(c) All money in this account shall must~~ must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for the other special accounts in the state treasury. On June 30 of each year, all amounts in excess of \$300,000 in this account ~~shall must~~ must be paid over to the ~~unemployment insurance~~ trust fund.

Sec. 24. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall change the word "attorney" to "attorney licensed to practice law in Minnesota" in Minnesota Statutes, sections 268.067 and 268.105, subdivision 7.

(b) The revisor of statutes shall change the term "common law burden of proof" to "burden of proof" in Minnesota Statutes, section 268.069.

(c) The revisor of statutes shall change the term "continued biweekly request" to "continued request" in Minnesota Statutes, chapter 268.

(d) The revisor of statutes shall change the term "14 days" to "14 calendar days" in Minnesota Statutes, section 268.086.

(e) The revisor of statutes shall change the term "electronic mail address" to "electronic mail address or telephone number" in Minnesota Statutes, section 268.086.

Sec. 25. **EFFECTIVE DATE.**

Sections 1 to 7 and 9 to 24 are effective September 30, 2007, except for section 24, paragraph (e), which is effective the day following final enactment. Section 8 is effective the day following final enactment.

ARTICLE 4

ADMINISTRATIVE RULES INCORPORATED INTO STATUTES

Section 1. **STATEMENT OF INTENT.**

This article incorporates long-standing administrative rules into the statute. This incorporation is not intended to affect the application or interpretation of any provision.

Sec. 2. Minnesota Statutes 2006, section 268.035, subdivision 15, is amended to read:

Subd. 15. **Employment.** (a) "Employment" means service performed by:

(1) an individual who is considered an employee under the common law of employer-employee and not considered an independent contractor;

(2) an officer of a corporation;

(3) a member of a limited liability company who is considered an employee under the common law of employer-employee; ~~or~~

(4) product demonstrators in retail stores or other locations to aid in the sale of products. The person that pays the wages is considered the employer; or

(5) an individual who performs services for a person for compensation, as:

(i) an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, beverages, or laundry or dry cleaning services; or

(ii) a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged full-time in the solicitation on behalf of the person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

This clause ~~shall apply~~ applies only if the contract of service provides that substantially all of the services are to be performed personally by the individual, and the services are part of a continuing relationship with the person for whom the services are performed, and the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than facilities for transportation.

(b) Employment does not include service as a juror.

Sec. 3. Minnesota Statutes 2006, section 268.035, is amended by adding a subdivision to read:

Subd. 25b. **Trucking industry/independent contractors.** In the trucking industry, an owner-operator of a vehicle that is licensed and registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory agency is an independent contractor, and is not considered an employee, while performing services in the operation of the truck only if each of the following factors is present:

(1) the individual owns the equipment or holds it under a bona fide lease arrangement;

(2) the individual is responsible for the maintenance of the equipment;

(3) the individual bears the principal burdens of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road;

(4) the individual is responsible for supplying the necessary personal services to operate the equipment;

(5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended; and

(6) the individual enters into a written contract that specifies the relationship to be that of an independent contractor and not that of an employee.

Sec. 4. Minnesota Statutes 2006, section 268.035, subdivision 29, is amended to read:

Subd. 29. **Wages.** (a) "Wages" means all compensation for services, including commissions; bonuses, awards, and prizes; severance payments; standby pay; vacation and holiday pay; back pay as of the date of payment; tips and gratuities paid to an employee by a customer of an employer and accounted for by the employee to the employer; sickness and accident disability payments, except as otherwise provided in this subdivision; and the cash value of ~~all compensation in any medium other than cash~~ housing, utilities, meals, exchanges of services, and any other goods and services provided to compensate for an employee's services, except:

(1) the amount of any payment made to, or on behalf of, an employee under a plan established by an employer that makes provision for employees generally or for a class or classes of employees, including any amount paid by an employer for insurance or annuities, or into a plan, to provide for a payment, on account of (i) retirement or (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(2) the payment by an employer of the tax imposed upon an employee under United States Code, title 26, section 3101 of the Federal Insurance Contribution Act, with respect to compensation paid to an employee for domestic employment in a private household of the employer or for agricultural employment;

(3) any payment made to, or on behalf of, an employee or beneficiary (i) from or to a trust described in United States Code, title 26, section 401(a) of the federal Internal Revenue Code, that is exempt from tax under section 501(a) at the time of the payment unless the payment is made to an employee of the trust as compensation for services as an employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan that, at the time of the payment, is a plan described in section 403(a);

(4) the value of any special discount or markdown allowed to an employee on goods purchased from or services supplied by the employer where the purchases are optional and do not constitute regular or systematic payment for services;

(5) customary and reasonable directors' fees paid to individuals who are not otherwise employed by the corporation of which they are directors;

(6) the payment to employees for reimbursement of meal expenses when employees are required to perform work after their regular hours;

(7) the payment into a trust or plan for purposes of providing legal or dental services if provided for all employees generally or for a class or classes of employees;

(8) the value of parking facilities provided or paid for by an employer, in whole or in part, if provided for all employees generally or for a class or classes of employees;

(9) royalties to an owner of a franchise, license, copyright, patent, oil, mineral, or other right;

(10) advances or reimbursements for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer. Traveling and other reimbursed expenses must be identified either by making separate payments or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment;

(11) residual payments to radio, television, and similar artists that accrue after the production of television commercials, musical jingles, spot announcements, radio transcriptions, film sound tracks, and similar activities;

(12) supplemental unemployment benefits paid under a plan established by an employer, that makes provisions for employees generally or for a class or classes of employees for the supplementing of unemployment benefits under the written terms of an agreement, contract, trust arrangement, or other instrument if the plan provides benefits that are only supplemental to, and does not replace or duplicate any state or federal unemployment benefits. The plan must provide that funds are paid solely for the supplementing of state or federal unemployment benefits. The plan must provide that any supplemental benefits are payable only if the applicant has applied for all unemployment benefits available. The plan must provide that supplemental benefits, when combined with the applicant's weekly unemployment benefits available, may not exceed the applicant's regular weekly pay. The plan must not allow the assignment of supplemental benefits or payment upon the employee's withdrawal from the plan, or quitting of employment or the termination of the plan. The plan must not require any consideration from the applicant and must not be designed for the purpose of avoiding the payment of Social Security obligations, or unemployment taxes on money disbursed from the plan;

(13) sickness or accident disability payments made by the employer after the expiration of six calendar months following the last calendar month that the individual worked for the employer;

~~(5)~~ (14) disability payments made under the provisions of any workers' compensation law;

~~(6)~~ (15) sickness or accident disability payments made by a third party payer such as an insurance company; or

~~(7)~~ (16) payments made into a trust fund, or for the purchase of insurance or an annuity, to provide for sickness or accident disability payments to employees pursuant to under a plan or system established by the employer that provides for the employer's employees generally or for a class or classes of employees; or.

~~(8)~~ (b) Nothing in this subdivision shall exclude excludes from the term "wages" any payment made under any type of salary reduction agreement, including payments made under a cash or deferred arrangement and cafeteria plan, as defined in United States Code, title 26, sections 401(k) and 125 of the federal Internal Revenue Code, to the extent that the employee has the option to receive the payment in cash.

(c) Wages includes payments made for services as a caretaker. Unless there is a contract or other proof to the contrary, compensation is considered as being equally received by a married couple where the employer makes payment to only one spouse, or by all tenants of a household who perform services where two or more individuals share the same dwelling and the employer makes payment to only one individual.

(d) Wages includes payments made for services by a migrant family. Where services are performed by a married couple or a family and an employer makes payment to only one individual, each worker is considered as having received an equal share of the compensation unless there is a contract or other proof to the contrary.

(e) Wages includes advances or draws against future earnings, when paid, unless the payments are designated as a loan or return of capital on the books of the employer at the time of payment.

(f) Wages includes payments made by a subchapter "S" corporation, as organized under the Internal Revenue Code, to or on behalf of officers and shareholders that are reasonable compensation for services performed for the corporation.

For a subchapter "S" corporation, wages does not include:

(1) a loan for business purposes to an officer or shareholder evidenced by a promissory note signed by an officer before the payment of the loan proceeds and recorded on the books and records of the corporation as a loan to an officer or shareholder;

(2) a repayment of a loan or payment of interest on a loan made by an officer to the corporation and recorded on the books and records of the corporation as a liability;

(3) a reimbursement of reasonable corporation expenses incurred by an officer and documented by a written expense voucher and recorded on the books and records of the corporation as corporate expenses; and

(4) a reasonable lease or rental payment to an officer who owns property that is leased or rented to the corporation.

Sec. 5. Minnesota Statutes 2006, section 268.042, subdivision 1, is amended to read:

Subdivision 1. **Employer registration.** (a) Each employer ~~shall~~ must, upon or before the submission of its first wage detail report under section 268.044, register with the commissioner for a tax account or a reimbursable account, by electronic transmission in a format prescribed by the commissioner. The employer must provide all required information for registration, including the actual physical street and city address of the employer.

(b) Within 30 calendar days, each employer must notify the commissioner by electronic transmission, in a format prescribed, of a change in legal entity, of the transfer, sale, or acquisition of a business conducted in Minnesota, in whole or in part, if the transaction results in the creation of a new or different employer or affects the establishment of employer accounts, the assignment of tax rates, or the transfer of experience rating history.

(c) Except as provided in subdivision 3, any person that is or becomes an employer subject to the Minnesota Unemployment Insurance Law because of the application of section 268.035, subdivision 20, clause (14), (17), or (33), within any calendar year ~~shall be~~ is considered to be subject to this chapter the entire calendar year.

~~(e) Upon~~ (d) Within 30 calendar days of the termination of business, an employer that has been assigned a tax account or reimbursable account ~~shall~~ must notify the commissioner by electronic transmission, in a format prescribed by the commissioner, that the employer no longer has employees and does not intend or expect to pay wages to any employees in the next calendar year and into the foreseeable future. Upon ~~such~~ notification, ~~the commissioner shall not require~~ the employer is no longer required to file wage detail reports under section 268.044, subdivision 1, paragraph (d).

(e) An employer that has terminated business regains its previous tax account under section 268.045, with the experience rating history of that account, if the employer again commences business and if:

(1) less than 14 calendar quarters have elapsed in which no wages were paid for covered employment;

(2) the experience rating history regained contains taxable wages; and

(3) the experience rating history has not been transferred to a successor under section 268.051, subdivision 4.

Sec. 6. **REPEALER.**

Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530, subparts 2, 3, 4, 5, and 6; 3315.0540; 3315.0550; 3315.0910, subparts 1, 2, 3, 4, 5, 6, 7, and 8; 3315.1005, subparts 1 and 3; 3315.1315, subpart 4; 3315.2010; and 3315.2810, subparts 2 and 4, are repealed.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective September 30, 2007.

ARTICLE 5

TERMINOLOGY CHANGE

Section 1. **STATEMENT OF INTENT.**

This article substitutes the term "disqualify" or similar terms with the term "ineligible" or similar terms in Minnesota Statutes, chapter 268. Both terms are currently used throughout the unemployment insurance law. This substitution is not intended as a substantive change. It is done for simplification, to achieve consistency and avoid confusion, as the terms have the same common meaning and the same effect under the statute.

Sec. 2. Minnesota Statutes 2006, section 268.035, subdivision 12, is amended to read:

Subd. 12. **Covered employment.** "Covered employment" means the following unless excluded as "noncovered employment" under subdivision 20:

(1) an employee's entire employment during the calendar quarter if:

(i) the employment is performed entirely in Minnesota;

(ii) the employment is performed primarily in Minnesota, and the employment performed outside Minnesota is incidental to the employment in Minnesota; or

(iii) the employment is not performed primarily in any one state but some of the employment is performed in Minnesota and the base of operations or the place from which the employment is directed or controlled is in Minnesota; or the base of operations or place from which the employment is directed or controlled is not in any state ~~in which~~ where part of the employment is performed, but the employee's residence is in Minnesota;

(2) an employee's employment during the calendar quarter wherever performed within the United States or Canada, if:

(i) the employment is not covered under the unemployment insurance program of any other state or Canada; and

(ii) the place from which the employment is directed or controlled is in Minnesota;

(3) the employment during the calendar quarter of an employee who is a citizen of the United States, performed outside the United States, except in Canada, in the employ of an American employer if:

(i) the employer's principal place of business in the United States is located in Minnesota;

(ii) the employer has no place of business in the United States, but the employer is an individual who is a resident of Minnesota, or the employer is a corporation that is organized under the laws of Minnesota, or the employer is a partnership or a trust and the number of partners or trustees who are residents of Minnesota is greater than the number who are residents of any one other state;

(iii) none of the criteria of subclauses (i) and (ii) is met but the employer has elected coverage in Minnesota, or the employer having failed to elect coverage in any state, an applicant has made an application for unemployment benefits under section 268.07, based on the employment;

(iv) an "American employer," for the purposes of this subdivision, means an individual who is a resident of the United States, or a partnership if two-thirds or more of the partners are residents of the United States, or a trust, if all of the trustees are residents of the United States, or a corporation organized under the laws of the United States, or of any state; or

(v) as used in this subdivision, the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(4) all employment during the calendar quarter performed by an officer or member of the crew of an American vessel on or in connection with the vessel, if the operating office from which the operations of the vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled is in Minnesota; and

(5) for the purposes of satisfying ~~disqualifications~~ the period of ineligibility under section 268.095, subdivision 10, "covered employment" ~~shall include~~ includes covered employment under an unemployment insurance program of any other state or employment covered under an unemployment insurance program established by an act of Congress.

Sec. 3. Minnesota Statutes 2006, section 268.069, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** The commissioner shall pay unemployment benefits from the trust fund to an applicant who has met each of the following requirements:

(1) the applicant has filed an application for unemployment benefits and established a benefit account in accordance with section 268.07;

(2) the applicant ~~is has not subject to a disqualification from~~ has not been held ineligible for unemployment benefits under section 268.095 because of a quit or discharge;

(3) the applicant has met all of the ongoing eligibility requirements under sections 268.085 and 268.086;

(4) the applicant does not have an outstanding overpayment of unemployment benefits, including any penalties or interest; and

(5) the applicant ~~is has not~~ has not been held ineligible for unemployment benefits under section 268.182 because of a false representation or concealment of facts.

Sec. 4. Minnesota Statutes 2006, section 268.095, subdivision 4, is amended to read:

Subd. 4. **Discharge.** An applicant who was discharged from employment by an employer ~~shall be disqualified from~~ is ineligible for all unemployment benefits according to subdivision 10 only if:

(1) the applicant was discharged because of employment misconduct as defined in subdivision 6; or

(2) the applicant was discharged because of aggravated employment misconduct as defined in subdivision 6a.

Sec. 5. Minnesota Statutes 2006, section 268.095, subdivision 7, is amended to read:

Subd. 7. **Act or omissions after separation.** An applicant ~~shall~~ may not be ~~disqualified from~~ held ineligible for unemployment benefits under ~~section 268.085, subdivision 13e, and~~ this section for any acts or omissions occurring after the applicant's separation from employment with the employer. A layoff ~~due to~~ because of lack of work is considered a separation from employment.

Sec. 6. Minnesota Statutes 2006, section 268.095, subdivision 10, is amended to read:

Subd. 10. **Disqualification Ineligibility duration.** (a) ~~A disqualification~~ Ineligibility from the payment of all unemployment benefits under subdivisions 1 and 4 ~~shall be~~ is for the duration of the applicant's unemployment and until the end of the calendar week that the applicant had total earnings in subsequent covered employment of eight times the applicant's weekly unemployment benefit amount.

(b) ~~Any disqualification~~ Ineligibility imposed under subdivisions 1 and 4 ~~shall begin~~ begins on the Sunday of the week that the applicant became separated from employment.

(c) In addition to paragraph (a), if the applicant was discharged from employment because of aggravated employment misconduct, wage credits from that employment ~~shall be~~ are canceled.

Sec. 7. Minnesota Statutes 2006, section 268.101, is amended to read:

268.101 DETERMINATIONS ON ISSUES OF DISQUALIFICATION AND ELIGIBILITY INELIGIBILITY.

Subdivision 1. **Notification.** (a) In an application for unemployment benefits, each applicant ~~shall~~ must report the name and the reason for no longer working for the applicant's most recent employer, as well as the names of all employers and the reasons for no longer working for all employers during the six calendar months ~~prior to~~ before the date of the application. If the reason reported for no longer working for any of those employers is other than a layoff ~~due to~~ because of lack of work, that ~~shall raise~~ raises an issue of ~~disqualification~~ ineligibility that the department ~~shall~~ must determine. An applicant ~~shall~~ must report any offers of employment refused during the eight calendar weeks ~~prior to~~ before the date of the application for unemployment benefits and the name of the employer that made the offer. An applicant's failure to report the name of an employer, or giving an incorrect reason for no longer working for an employer, or failing to disclose an offer of employment that was refused, ~~shall be considered~~ is a violation of section 268.182, subdivision 2.

In an application, the applicant ~~shall~~ must also provide all information necessary to determine the applicant's eligibility for unemployment benefits under ~~section 268.085~~ this chapter. If the applicant fails or refuses to provide information necessary to determine the applicant's eligibility for unemployment benefits ~~under section 268.085~~, the applicant ~~shall be~~ is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

(b) Upon establishment of a benefit account under section 268.07, subdivision 2, the commissioner shall notify, by mail or electronic transmission, all employers the applicant was required to report on the application and all base period employers and determined successors to those employers under section 268.051, subdivision 4, in order to provide the employer an opportunity to raise, in a manner and format prescribed by the commissioner, any issue of ~~disqualification or any issue of eligibility~~ ineligibility. An employer ~~shall~~ must be informed of the effect that failure to raise an issue of ~~disqualification~~ ineligibility as a result of a quit or discharge of the applicant, within ten calendar days after sending of the notice, as provided for under subdivision 2, paragraph (b), may have on the employer under section 268.047.

(c) Each applicant ~~shall~~ must report any employment, and loss of employment, and offers of employment refused, during those weeks the applicant filed continued ~~biweekly~~ requests for unemployment benefits ~~pursuant to~~ under section 268.086. Each applicant who stops filing continued ~~biweekly~~ requests during the benefit year and later begins filing continued ~~biweekly~~ requests during that same benefit year ~~shall~~ must report the name of any employer the applicant worked for during the period between the filing of continued ~~biweekly~~ requests and the reason the applicant stopped working for the employer. The applicant ~~shall~~ must report any offers of employment refused during the period between the filing of continued ~~biweekly~~ requests for unemployment benefits. Those employers from which the applicant has reported a loss of employment ~~pursuant to~~ under this paragraph ~~shall~~ must be notified by mail or electronic transmission and provided an opportunity to raise, in a manner prescribed by the commissioner, any issue of ~~disqualification or any issue of eligibility~~ ineligibility. An employer ~~shall~~ must be informed of the effect that failure to raise an issue of ineligibility as a result of a quit or a discharge of the applicant may have on the employer under section 268.047.

(d) The purpose for requiring the applicant to report the name of employers and the reason for no longer working for those employers, or offers of employment refused, under paragraphs (a) and (c) is for the commissioner to obtain information from an applicant raising all issues that may ~~have the potential of disqualifying result in~~ the applicant ~~from being ineligible for~~ unemployment benefits under section 268.095, because of a quit or discharge, or the applicant being ineligible for unemployment benefits under section 268.085, subdivision 13c. If the reason given by the applicant for no longer working for an employer is other than a layoff ~~due to~~ because of lack of work, that ~~shall~~ raise ~~raises~~ an issue of ~~disqualification~~ ineligibility and the applicant ~~shall be~~ is required, as part of the determination process under subdivision 2, paragraph (a), to state all the facts about the cause for no longer working for the employer, if known. If the applicant fails or refuses to provide any required information, the applicant ~~shall be~~ is ineligible for unemployment benefits under section 268.085, subdivision 2, until the applicant provides this required information.

Subd. 2. **Disqualification Determination.** (a) The commissioner shall determine any issue of ~~disqualification~~ ineligibility raised by information required from an applicant under subdivision 1, paragraph (a) or (c), and send to the applicant and any involved employer, by mail or electronic transmission, a determination of ~~disqualification~~ eligibility or a determination of ~~nondisqualification~~ ineligibility, as is appropriate. The determination ~~shall on an~~ issue of ineligibility as a result of a quit or a discharge of the applicant must state the effect on the employer under section 268.047. A determination ~~shall must~~ be made ~~pursuant to~~ in accordance with this paragraph even if a notified employer has not raised the issue of ~~disqualification~~ ineligibility.

(b) The commissioner shall determine any issue of ~~disqualification~~ ineligibility raised by an employer and send to the applicant and that employer, by mail or electronic transmission, a determination of ~~disqualification~~ eligibility or a determination of ~~nondisqualification~~ ineligibility as is appropriate. The determination ~~shall on an~~ issue of ineligibility as a result of a quit or discharge of the applicant must state the effect on the employer under section 268.047.

If a base period employer:

- (1) was not the applicant's most recent employer ~~prior to~~ before the application for unemployment benefits;
- (2) did not employ the applicant during the six calendar months ~~prior to~~ before the application for unemployment benefits; and
- (3) did not raise an issue of ~~disqualification~~ ineligibility as a result of a quit or discharge of the applicant within ten calendar days of notification under subdivision 1, paragraph (b);

then any exception under section 268.047, subdivisions 2 and 3, ~~shall begin~~ begins the Sunday two weeks following the week that the issue of ~~disqualification~~ ineligibility as a result of a quit or discharge of the applicant was raised by the employer.

A communication from an employer must specifically set out why the applicant should be determined ineligible for unemployment benefits for that communication to be considered to have raised an issue of ineligibility for purposes of this section. A statement of "protest" or a similar term without more information does not constitute raising an issue of ineligibility for purposes of this section.

~~(c) If any time within 24 months from the establishment of a benefit account the commissioner finds that an applicant failed to report any employment, or loss of employment that was required to be provided by the applicant under this section, the commissioner shall determine any issue of disqualification on that loss of employment and send to the applicant and involved employer, by mail or electronic transmission, a determination of disqualification or a determination of nondisqualification, as is appropriate. The determination shall state the effect on the employer under section 268.047.~~

~~This paragraph shall not prevent the imposition of any penalty under section 268.18, subdivision 2, or 268.182.~~

~~(d)~~ (c) An issue of ~~disqualification~~ ineligibility is determined based upon that information required of an applicant, any information that may be obtained from an applicant or employer, and information from any other source, without regard to any ~~common law~~ burden of proof.

~~(e) A determination of disqualification or a determination of nondisqualification shall be final unless an appeal is filed by the applicant or notified employer within 30 calendar days after sending. The determination shall contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.~~

~~(f) An issue of disqualification for purposes of this section shall include any reason for no longer working for an employer other than a layoff due to lack of work, any question of a disqualification from unemployment benefits under section 268.095, any question of an exception to disqualification under section 268.095, any question of effect on an employer under section 268.047, and any question of an otherwise imposed disqualification that an applicant has satisfied under section 268.095, subdivision 10.~~

~~(g)~~ (d) Regardless of the requirements of this subdivision, the commissioner is not required to send to an applicant a copy of the determination where the applicant has satisfied any otherwise ~~potential disqualification~~ period of ineligibility because of a quit or a discharge under section 268.095, subdivision 10.

(e) The commissioner may issue a determination on an issue of ineligibility at any time within 24 months from the establishment of a benefit account based upon information from any source, even if the issue of ineligibility was not raised by the applicant or an employer.

This paragraph does not prevent the imposition of a penalty under section 268.18, subdivision 2, or 268.182.

(f) A determination of eligibility or determination of ineligibility is final unless an appeal is filed by the applicant or notified employer within 20 calendar days after sending. The determination must contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal are conducted in accordance with section 268.105.

(g) An issue of ineligibility required to be determined under this section includes any question regarding the denial or allowing of unemployment benefits under this chapter except for issues under section 268.07. An issue of ineligibility for purposes of this section includes any question of effect on an employer under section 268.047.

(h) Except for issues of ineligibility as a result of a quit or discharge of the applicant, the employer will be (1) sent a copy of the determination of eligibility or a determination of ineligibility, or (2) considered an involved employer for purposes of an appeal under section 268.105, only if the employer raised the issue of ineligibility.

~~Subd. 3. **Eligibility determination.** (a) The commissioner shall determine any issue of eligibility raised by an employer, and send to the applicant and that employer, by mail or electronic transmission, a determination of eligibility or a determination of ineligibility, as is appropriate.~~

~~(b) The commissioner shall determine any issue of eligibility raised by information obtained from an applicant and send to the applicant, by mail or electronic transmission, a determination of eligibility or a determination of ineligibility, as is appropriate. A determination shall be made pursuant to this paragraph even if a notified employer has not raised the issue of eligibility.~~

~~(c) If any time within 24 months from the establishment of a benefit account the commissioner finds the applicant failed to provide, on an application for unemployment benefits or on a continued biweekly request for unemployment benefits, requested information on an issue of eligibility, the commissioner shall determine the issue of eligibility and send to the applicant, by mail or electronic transmission, a determination of eligibility or a determination of ineligibility, as is appropriate.~~

~~This paragraph shall not prevent the imposition of a penalty under section 268.18, subdivision 2, or 268.182.~~

~~(d) A determination of eligibility or determination of ineligibility shall be final unless an appeal is filed by the applicant or notified employer within 30 calendar days after sending. The determination shall contain a prominent statement indicating the consequences of not appealing. Proceedings on the appeal shall be conducted in accordance with section 268.105.~~

~~(e) An issue of eligibility for purposes of this section shall include any question regarding the denial or allowing of unemployment benefits under sections 268.085, 268.086, 268.115, 268.125, 268.135, and 268.155.~~

~~(f) Only if an employer raised the issue of eligibility shall the employer be: (1) sent the determination of eligibility or a determination of ineligibility, or (2) considered an involved employer for purposes of an appeal under section 268.105.~~

Subd. 3a. **Direct hearing.** Regardless of any provision of the Minnesota Unemployment Insurance Law, the commissioner or an unemployment law judge may, prior to before a determination being made under this chapter, refer ~~any issue of disqualification~~, any issue of eligibility ineligibility, or any other issue under this chapter, directly for hearing in accordance with section 268.105, subdivision 1. The status of the issue ~~shall be~~ is the same as if a determination had been made and an appeal filed.

Subd. 4. **Amended determination.** Unless an appeal has been filed, the commissioner, on the commissioner's own motion, may reconsider a determination ~~of disqualification or nondisqualification or a determination~~ of eligibility or ineligibility that has not become final and issue an amended determination. Any amended determination ~~shall~~ must be sent to the applicant and any involved employer by mail or electronic transmission. Any amended determination ~~shall be~~ is final unless an appeal is filed by the applicant or notified employer within ~~30~~ 20 calendar days after sending. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

Subd. 5. **Unemployment benefit payment.** If a determination or amended determination allows unemployment benefits to an applicant, the unemployment benefits ~~shall~~ must be paid regardless of any appeal period or any appeal having been filed.

Subd. 6. **Overpayment.** A determination or amended determination that holds an applicant ~~disqualified or~~ ineligible for unemployment benefits for periods an applicant has been paid benefits is considered an overpayment of those unemployment benefits under section 268.18, subdivision 1.

Sec. 8. Minnesota Statutes 2006, section 268.125, subdivision 3, is amended to read:

Subd. 3. **Eligibility conditions.** An applicant is eligible to receive additional unemployment benefits for any week during the applicant's benefit year if:

(1) the applicant was laid off from employment as a result of a reduction under subdivision 1 or was laid off ~~due to because of~~ lack of work from that employer during the three-month period before, or the three-month period after, the month of the reduction under subdivision 1;

(2) the applicant meets the eligibility requirements under section 268.085;

(3) the applicant is not ~~subject to a disqualification, ineligible under section 268.095 because of a quit or a discharge; for the purpose of this subdivision, the disqualifying conditions in section 268.095, and the requalifying requirements, apply to the receipt of additional unemployment benefits;~~

(4) the applicant has exhausted regular unemployment benefits under section 268.07, is not entitled to receive extended unemployment benefits under section 268.115, and is not entitled to receive unemployment benefits under any other state or federal law for that week; and

(5) a majority of the applicant's wage credits were from the employer that had a reduction in operations under subdivision 1.

Sec. 9. **REVISOR'S INSTRUCTION.**

In the headnote of Minnesota Statutes, section 268.095, the revisor of statutes shall change the term "DISQUALIFICATION" to "INELIGIBILITY."

Sec. 10. **EFFECTIVE DATE.**

This article applies to all department determinations, appeal decisions, and other actions done on or after September 30, 2007.

ARTICLE 6

STYLE CHANGES

Section 1. **STATEMENT OF INTENT.**

This article makes style changes that conform to preferred modern statutory drafting conventions for the use of clear, concise, and plain language.

Sec. 2. Minnesota Statutes 2006, section 268.001, is amended to read:

268.001 CITATION; MINNESOTA UNEMPLOYMENT INSURANCE LAW.

This chapter ~~shall~~ will be known and may be cited as the "Minnesota Unemployment Insurance Law."

Sec. 3. Minnesota Statutes 2006, section 268.03, subdivision 1, is amended to read:

Subdivision 1. **Statement.** The public purpose of this chapter is: Economic insecurity ~~due to~~ because of involuntary unemployment of workers in Minnesota is a subject of general concern that requires appropriate action by the legislature. The public good ~~will be~~ is promoted by providing workers who are unemployed through no fault of their own a temporary partial wage replacement to assist the unemployed worker to become reemployed. This program ~~will be known as~~ is the "Minnesota unemployment insurance program."

Sec. 4. Minnesota Statutes 2006, section 268.03, subdivision 2, is amended to read:

Subd. 2. **Standard of proof.** All issues of fact under the Minnesota Unemployment Insurance Law ~~shall be~~ are determined by a preponderance of the evidence. Preponderance of the evidence means evidence in substantiation of a fact that, when weighed against the evidence opposing the fact, is more convincing and has a greater probability of truth.

Sec. 5. Minnesota Statutes 2006, section 268.035, subdivision 9, is amended to read:

Subd. 9. **Construction/independent contractor.** A worker doing commercial or residential building construction or improvement, in the public or private sector, performing services in the course of the trade, business, profession, or occupation of the employer, ~~shall be~~ is considered an employee and not an "independent contractor" unless the worker meets all the following conditions:

(1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;

(2) holds or has applied for a federal employer identification number or has filed business or self-employment income tax returns with the federal Internal Revenue Service based on that work or service in the previous year;

(3) operates under contracts to perform specific services or work for specific amounts of money under which the independent contractor controls the means of performing the services or work;

(4) incurs the main expenses related to the service or work that the independent contractor performs under contract;

(5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;

(6) receives compensation for work or service performed under a contract on a commission or per job or competitive bid basis and not on any other basis;

(7) may realize a profit or suffer a loss under contracts to perform work or service;

(8) has continuing or recurring business liabilities or obligations; and

(9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

Sec. 6. Minnesota Statutes 2006, section 268.035, subdivision 10, is amended to read:

Subd. 10. **Corporation.** "Corporation" includes associations, joint-stock companies, and insurance companies. This definition ~~shall~~ is not ~~be~~ exclusive.

Sec. 7. Minnesota Statutes 2006, section 268.035, subdivision 11, is amended to read:

Subd. 11. **Covered agricultural employment.** "Covered agricultural employment" means agricultural employment where:

(1) The employment is performed for a person who:

(i) during any calendar quarter in either the current or the prior calendar year paid wages of \$20,000 or more to employees in agricultural employment; or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not the weeks were consecutive, in either the current or prior calendar year employed in agricultural employment four or more employees, regardless of whether they were employed at the same time.

(2) Any employee who is a member of a crew furnished by a crew leader to be employed in agricultural employment for any other person ~~shall be~~ is treated as an employee of the crew leader:

(i) if the crew leader holds a valid certificate of registration under United States Code, title 29, section 1802, the Migrant and Seasonal Agricultural Worker Protection Act; or substantially all of the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, that is provided by the crew leader; and

(ii) if the employee is not an employee of another person.

(3) Any employee who is furnished by a crew leader to be employed in agricultural employment for any other person and who is not treated as an employee of the crew leader under clause (2):

(i) the other person and not the crew leader ~~shall be~~ is treated as the employer of the employee; and

(ii) the other person ~~shall be~~ is treated as having paid wages to the employee in an amount equal to the amount of wages paid to the employee by the crew leader (either on the crew leader's behalf or on behalf of the other person) for the agricultural employment performed for the other person.

(4) The term "crew leader" means an individual who:

(i) furnishes employees to be employed in agricultural employment for any other person;

(ii) pays (either on the crew leader's own behalf or on behalf of the other person) the employees furnished by the crew leader for the agricultural employment performed by them; and

(iii) has not entered into a written agreement with the other person under which the furnished employee is designated as an employee of the other person.

(5) Employment of an officer or shareholder of a family farm corporation ~~shall be~~ is excluded from covered agricultural employment unless the corporation is an employer under United States Code, title 26, section 3306(a)(2) of the Federal Unemployment Tax Act.

(6) Employment of an individual 16 years of age or under ~~shall be~~ is excluded from covered agricultural employment unless the employer is an employer under United States Code, title 26, section 3306(a)(2) of the Federal Unemployment Tax Act.

Sec. 8. Minnesota Statutes 2006, section 268.035, subdivision 13, is amended to read:

Subd. 13. **Employee.** "Employee" means:

(1) every individual who is performing or has performed services for an employer in employment; or

(2) each individual employed to perform or assist in performing the work of any agent or employee of the employer ~~shall be~~ is considered to be an employee of that employer whether the individual was hired or paid directly by that employer or by the agent or employee, provided the employer had actual or constructive knowledge of the work.

Sec. 9. Minnesota Statutes 2006, section 268.035, subdivision 20, is amended to read:

Subd. 20. **Noncovered employment.** "Noncovered employment" means:

(1) employment for the United States government or an instrumentality thereof, including military service;

(2) employment for a state, other than Minnesota, or a political subdivision or instrumentality thereof;

(3) employment for a foreign government;

(4) employment for an instrumentality wholly owned by a foreign government, if the employment is of a character similar to that performed in foreign countries by employees of the United States government or an instrumentality thereof and the United States Secretary of State has certified that the foreign government grants an equivalent exemption to similar employment performed in the foreign country by employees of the United States government and instrumentalities thereof;

(5) employment covered under United States Code, title 45, section 351, the Railroad Unemployment Insurance Act;

(6) employment covered by a reciprocal arrangement between the commissioner and another state or the federal government ~~which that~~ provides that all employment performed by an individual for an employer during the period covered by the reciprocal arrangement is considered performed entirely within another state;

(7) employment for a church or convention or association of churches, or an organization operated primarily for religious purposes that is operated, supervised, controlled, or principally supported by a church or convention or association of churches described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(8) employment of a duly ordained or licensed minister of a church in the exercise of a ministry or by a member of a religious order in the exercise of duties required by the order, for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a);

(9) employment of an individual receiving rehabilitation of "sheltered" work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or a program providing "sheltered" work for individuals who because of an impaired physical or mental capacity cannot be readily absorbed in the competitive labor market. This clause applies only to services performed for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a) in a facility certified by the Rehabilitation Services Branch of the department or in a day training or habilitation program licensed by the Department of Human Services;

(10) employment of an individual receiving work relief or work training as part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof. This clause applies only to employment for Minnesota or a political subdivision or an organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code and exempt from income tax under section 501(a). This clause ~~shall~~ does not apply to programs that require unemployment benefit coverage for the participants;

(11) employment for Minnesota or a political subdivision as an elected official, a member of a legislative body, or a member of the judiciary;

(12) employment as a member of the Minnesota National Guard or Air National Guard;

(13) employment for Minnesota, a political subdivision, or instrumentality thereof, as an employee serving only on a temporary basis in case of fire, flood, tornado, or similar emergency;

(14) employment as an election official or election worker for Minnesota or a political subdivision, but only if the compensation for that employment was less than \$1,000 in a calendar year;

(15) employment for Minnesota that is a major policy making or advisory position in the unclassified service, including those positions established ~~pursuant to~~ under section 43A.08, subdivision 1a;

(16) employment for a political subdivision of Minnesota that is a nontenured major policy making or advisory position;

(17) domestic employment in a private household, local college club, or local chapter of a college fraternity or sorority performed for a person, only if the wages paid in any calendar quarter in either the current or ~~preceding~~ prior calendar year to all individuals in domestic employment totaled less than \$1,000.

"Domestic employment" includes all service in the operation and maintenance of a private household, for a local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade or business;

(18) employment of an individual by a son, daughter, or spouse, and employment of a child under the age of 18 by the child's father or mother;

(19) employment of an inmate of a custodial or penal institution;

(20) employment for a school, college, or university by a student who is enrolled and is regularly attending classes at the school, college, or university;

(21) employment of an individual who is enrolled as a student in a full-time program at a nonprofit or public educational institution that maintains a regular faculty and curriculum and has a regularly organized body of students in attendance at the place where its educational activities are carried on, taken for credit at the institution, that combines academic instruction with work experience, if the employment is an integral part of the program, and the institution has so certified to the employer, except that this clause ~~shall~~ does not apply to employment in a program established for or on behalf of an employer or group of employers;

(22) employment of university, college, or professional school students in an internship or other training program with the city of St. Paul or the city of Minneapolis ~~pursuant to~~ under Laws 1990, chapter 570, article 6, section 3;

(23) employment for a hospital by a patient of the hospital. "Hospital" means an institution that has been licensed by the Department of Health as a hospital;

(24) employment as a student nurse for a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in an accredited nurses' training school;

(25) employment as an intern for a hospital by an individual who has completed a four-year course in an accredited medical school;

(26) employment as an insurance salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission. The word "insurance" ~~shall include~~ includes an annuity and an optional annuity;

(27) employment as an officer of a township mutual insurance company or farmer's mutual insurance company operating ~~pursuant to~~ under chapter 67A;

(28) employment of a corporate officer, if the officer owns 25 percent or more of the employer corporation, and employment of a member of a limited liability company, if the member owns 25 percent or more of the employer limited liability company;

(29) employment as a real estate salesperson, by other than a corporate officer, if all the wages from the employment is solely by way of commission;

(30) employment as a direct seller as defined in United States Code, title 26, section 3508;

(31) employment of an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(32) casual employment performed for an individual, other than domestic employment under clause (17), that does not promote or advance that employer's trade or business;

(33) employment in "agricultural employment" unless considered "covered agricultural employment" under subdivision 11; or

(34) if employment during one-half or more of any pay period was covered employment, all the employment for the pay period ~~shall be~~ is considered covered employment; but if during more than one-half of any pay period the employment was noncovered employment, then all of the employment for the pay period ~~shall be~~ is considered noncovered employment. "Pay period" means a period of not more than a calendar month for which a payment or compensation is ordinarily made to the employee by the employer.

Sec. 10. Minnesota Statutes 2006, section 268.035, subdivision 21a, is amended to read:

Subd. 21a. **Reemployment assistance training.** (a) An applicant is in "reemployment assistance training" when:

(1) reasonable and suitable employment for the applicant does not exist in the labor market area and it is necessary that the applicant receive training in order to obtain suitable employment;

(2) the curriculum, facilities, staff, and other essentials are adequate to achieve the training objective;

(3) the training is vocational in nature or short term academic training vocationally directed to an occupation or skill for which there are reasonable employment opportunities available to the applicant;

(4) the training course is considered full time by the training provider; and

(5) the applicant is making satisfactory progress in the training.

(b) Full-time training provided through the dislocated worker program, the Trade Act of 1974, as amended, or the North American Free Trade Agreement ~~shall be~~ is considered "reemployment assistance training," if that training course is in accordance with the requirements of that program.

(c) An applicant ~~will be~~ is considered in reemployment assistance training only if the training course has actually started or is scheduled to start within 30 calendar days.

Sec. 11. Minnesota Statutes 2006, section 268.035, subdivision 23a, is amended to read:

Subd. 23a. **Suitable employment.** (a) Suitable employment means employment in the applicant's labor market area that is reasonably related to the applicant's qualifications. In determining whether any employment is suitable for an applicant, the degree of risk involved to the health and safety, physical fitness, prior training, experience, length of unemployment, prospects for securing employment in the applicant's customary occupation, and the distance of the employment from the applicant's residence ~~shall be~~ is considered.

(b) In determining what is suitable employment, primary consideration ~~shall be~~ is given to the temporary or permanent nature of the applicant's separation from employment and whether the applicant has favorable prospects of finding employment in the applicant's usual or customary occupation at the applicant's past wage level within a reasonable period of time.

If prospects are unfavorable, employment at lower skill or wage levels is suitable if the applicant is reasonably suited for the employment considering the applicant's education, training, work experience, and current physical and mental ability.

The total compensation must be considered, including the wage rate, hours of employment, method of payment, overtime practices, bonuses, incentive payments, and fringe benefits.

(c) When potential employment is at a rate of pay lower than the applicant's former rate, consideration must be given to the length of the applicant's unemployment and the proportion of difference in the rates. Employment that may not be suitable because of lower wages during the early weeks of the applicant's unemployment may become suitable as the duration of unemployment lengthens.

(d) For an applicant seasonally unemployed, suitable employment includes temporary work in a lower skilled occupation that pays average gross weekly wages equal to or more than 150 percent of the applicant's weekly unemployment benefit amount.

(e) If a majority of the applicant's wage credits were earned from part-time employment, part-time employment in a position with comparable skills and comparable hours that pays average gross weekly wages equal to or more than 150 percent of the applicant's weekly unemployment benefit amount ~~shall be~~ is considered suitable employment.

(f) To determine suitability of employment in terms of shifts, the arrangement of hours in addition to the total number of hours is to be considered. Employment on a second, third, rotating, or split shift is suitable employment if it is customary in the occupation in the labor market area.

(g) Employment ~~shall~~ is not ~~be~~ considered suitable if:

(1) the position offered is vacant because of a labor dispute;

(2) the wages, hours, or other conditions of employment are substantially less favorable than those prevailing for similar employment in the labor market area; or

(3) as a condition of becoming employed, the applicant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Sec. 12. Minnesota Statutes 2006, section 268.035, subdivision 26, is amended to read:

Subd. 26. **Unemployed.** An applicant ~~shall be~~ is considered "unemployed" (1) in any week that the applicant performs less than 32 hours of service in employment, covered employment, noncovered employment, self-employment, or volunteer work; and (2) any earnings with respect to that week are less than the applicant's weekly unemployment benefit amount.

Sec. 13. Minnesota Statutes 2006, section 268.035, subdivision 30, is amended to read:

Subd. 30. **Wages paid.** (a) "Wages paid" means the amount of wages that have been actually paid or that have been credited to or set apart so that payment and disposition is under the control of the employee. Wage payments delayed beyond the regularly scheduled pay date are considered "wages paid" on the missed pay date. Back pay ~~shall be~~ is considered "wages paid" on the date of actual payment. Any wages earned but not paid with no scheduled date of payment ~~shall be~~ is considered "wages paid" on the last day of employment.

(b) Wages paid ~~shall~~ does not include wages earned but not paid except as provided for in this subdivision.

Sec. 14. Minnesota Statutes 2006, section 268.042, subdivision 3, is amended to read:

Subd. 3. **Election to have noncovered employment considered covered employment.** (a) Any employer that has employment performed for it that is noncovered employment under section 268.035, subdivision 20, may file with the commissioner, by electronic transmission in a format prescribed by the commissioner, an election that all ~~such~~ employment, in one or more distinct establishments or places of business, ~~shall be~~ is considered covered employment for not less than two calendar years. The commissioner ~~shall have~~ has discretion on the approval of any election. Upon the approval of the commissioner, sent by mail or electronic transmission, the employment ~~shall constitute~~ constitutes covered employment beginning the calendar quarter after the date of approval or beginning a later calendar quarter if requested by the employer. The employment ~~shall cease~~ ceases to be considered covered employment as of the first day of January of any calendar year only if at least 30 calendar days ~~prior to~~ before the first day of January the employer has filed with the commissioner, by electronic transmission in a format prescribed by the commissioner, a notice to that effect.

(b) The commissioner must terminate any election agreement under this subdivision upon 30 calendar days' notice sent by mail or electronic transmission, if the employer is delinquent on any taxes due or reimbursements due the trust fund.

Sec. 15. Minnesota Statutes 2006, section 268.042, subdivision 4, is amended to read:

Subd. 4. **Authorization.** The commissioner is authorized to enter into reciprocal arrangements with other states and the federal government, or both, whereby employment by an employee or employees for a single employer that is customarily performed in more than one state ~~shall be~~ is considered performed entirely within any one of the states:

(1) where any part of the employee's employment is performed, or

(2) where the employee has a residence, or

(3) where the employer maintains a place of business; provided, there is in effect, as to the employment, an election, approved by the state, ~~pursuant to~~ under which all the employment by the employee or employees for the employer is considered to be performed entirely within that state.

Sec. 16. Minnesota Statutes 2006, section 268.0435, is amended to read:

268.0435 SINGLE MEMBER LIMITED LIABILITY COMPANIES.

If the only member of a limited liability company is a corporation, and the limited liability company is disregarded for purposes of filing federal corporate income tax, all the workers performing services for the limited liability company must be reported on the corporation's wage detail report under section 268.044. A corporation that violates this section ~~shall be~~ is subject to the penalties under section 268.184, subdivision 1a. Penalties ~~shall be~~ are credited to the administration account to be used to ensure integrity in the unemployment insurance program.

Sec. 17. Minnesota Statutes 2006, section 268.044, subdivision 1a, is amended to read:

Subd. 1a. **Electronic transmission of report required.** Each employer must submit the quarterly wage detail report by electronic transmission in a format prescribed by the commissioner. The commissioner ~~shall have~~ has the discretion to accept wage detail reports that are submitted by any other means or the commissioner may return the report submitted by other than electronic transmission to the employer, and reports returned ~~shall be~~ are considered as not submitted and the late fees under subdivision 2 may be imposed.

Sec. 18. Minnesota Statutes 2006, section 268.044, subdivision 2, is amended to read:

Subd. 2. **Failure to timely file report; late fees.** (a) Any employer that fails to submit the quarterly wage detail report when due ~~shall must~~ pay a late fee of \$10 per employee, computed based upon the highest of:

(1) the number of employees reported on the last wage detail report submitted;

(2) the number of employees reported in the corresponding quarter of the prior calendar year; or

(3) if no wage detail report has ever been submitted, the number of employees listed at the time of employer registration.

The late fee ~~shall be~~ is waived if the wage detail report is received within 30 calendar days after a demand for the report is sent to the employer by mail or electronic transmission. A late fee assessed an employer may not be waived more than twice each 12 months. The amount of the late fee assessed ~~shall may~~ shall not be less than \$250.

(b) If the wage detail report is not received in a manner and format prescribed by the commissioner within 30 calendar days after demand is sent under paragraph (a), the late fee assessed under paragraph (a) ~~shall double~~ doubles and a renewed demand notice and notice of the increased late fee ~~shall will~~ shall be sent to the employer by mail or electronic transmission.

(c) Late fees due under this subdivision may be compromised under section 268.067 where good cause for late submission is found by the commissioner.

Sec. 19. Minnesota Statutes 2006, section 268.044, subdivision 4, is amended to read:

Subd. 4. **Fees.** The fees provided for in subdivisions 2 and 3 are in addition to interest and other penalties imposed by this chapter and ~~shall be~~ are collected in the same manner as delinquent taxes and ~~shall be~~ credited to the contingent account.

Sec. 20. Minnesota Statutes 2006, section 268.045, subdivision 1, is amended to read:

Subdivision 1. **Account for each employer.** The commissioner shall maintain (1) a tax account for each taxpaying employer and (2) a reimbursable account for each nonprofit or government employer that has elected under section 268.052 or 268.053 to be liable for reimbursements, except as provided in section 268.046. The commissioner shall assess the tax account for all the taxes due under section 268.051 and credit the tax account with all taxes paid. The commissioner shall charge the reimbursable account for any unemployment benefits determined chargeable under section 268.047 and ~~shall~~ credit the reimbursable account with the payments made.

Sec. 21. Minnesota Statutes 2006, section 268.046, is amended to read:

268.046 TAX AND REIMBURSABLE ACCOUNTS ASSIGNED TO EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER ORGANIZATIONS, OR SIMILAR PERSON.

Subdivision 1. **Tax accounts assigned.** (a) Any person that contracts with a taxpaying employer to have that person obtain the taxpaying employer's workforce and provide workers to the taxpaying employer for a fee ~~shall is~~, as of the effective date of the contract, ~~be~~ assigned for the duration of the contract the taxpaying employer's account under section 268.045. That tax account must be maintained by the person separate and distinct from every other tax account held by the person and identified in a manner prescribed by the commissioner. The tax account ~~shall is~~, for the duration of the contract, ~~be~~ considered that person's account for all purposes of this chapter. The workers obtained from the taxpaying employer and any other workers provided by that person to the taxpaying employer must, under section 268.044, be reported on the wage detail report under that tax account, and that person ~~shall~~ must pay any taxes due at the tax rate computed for that account under section 268.051, subdivision 2.

(b) Any workers of the taxpaying employer who are not covered by the contract under paragraph (a) must be reported by the taxpaying employer as a separate unit on the wage detail report under the tax account assigned under paragraph (a). Taxes and any other amounts due on the wages reported by the taxpaying employer under this paragraph may be paid directly by the taxpaying employer.

(c) If the taxpaying employer that contracts with a person under paragraph (a) does not have a tax account at the time of the execution of the contract, an account must be registered for the taxpaying employer under section 268.042 and the new employer tax rate under section 268.051, subdivision 5, must be assigned. The tax account ~~shall is~~ then ~~be~~ assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a taxpaying employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner by electronic transmission, in a format prescribed by the commissioner, of that execution or termination. The taxpaying employer's name, the account number assigned, and any other information required by the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the taxpaying employer of the assignment of the tax account under this section and the taxpaying employer's obligation under paragraph (b). If there is a termination of the contract, the tax account ~~shall is~~, as of the date of termination, immediately ~~be~~ assigned to the taxpaying employer.

Subd. 2. **Nonprofit and government reimbursable accounts assigned.** (a) Any person that contracts with a nonprofit or government employer that is a reimbursing employer to have that person obtain the nonprofit or government employer's workforce and provide workers to the nonprofit or government employer for a fee, ~~shall is~~, as of the effective date of the contract, ~~be~~ assigned for the duration of the contract the nonprofit or government employer's account under section 268.045. That reimbursable account must be maintained by the person separate and distinct from every other account held by the person and identified in a manner prescribed by the commissioner. That reimbursable account ~~shall is~~, for the duration of the contract, ~~be~~ considered that person's account for all purposes of this chapter. The workers obtained from the nonprofit or government employer and any other workers provided by that person to the nonprofit or government employer must, under section 268.044, be reported on the wage detail report under that reimbursable account, and that person ~~shall~~ must pay any reimbursements due.

(b) Any workers of the nonprofit or government employer who are not covered by the contract under paragraph (a) must be reported by the nonprofit or government employer as a separate unit on the wage detail report under the reimbursable account assigned under paragraph (a). Reimbursements and any other amounts due on the wages reported by the nonprofit or government employer under this paragraph may be paid directly by the nonprofit or government employer.

(c) If the nonprofit or government employer that contracts with a person under paragraph (a) does not have an account at the time of the execution of the contract, an account must be registered for the nonprofit or government employer under section 268.042. The reimbursable account ~~shall is~~ then ~~be~~ assigned to the person as provided for in paragraph (a).

(d) A person that contracts with a nonprofit or government employer under paragraph (a) must, within 30 calendar days of the execution or termination of a contract, notify the commissioner of that execution or termination by electronic transmission, in a format prescribed by the commissioner. The nonprofit or government employer's name, the account number assigned, and any other information required by the commissioner must be provided by that person.

(e) Any contract subject to paragraph (a) must specifically inform the nonprofit or government employer of the assignment of the reimbursable account under this section and the nonprofit or government employer's obligation under paragraph (b). If there is a termination of the contract, the reimbursable account ~~shall is~~, as of the date of termination, immediately ~~be~~ assigned to the nonprofit or government employer.

Subd. 3. **Penalties; application.** (a) Any person that violates the requirements of this section and any taxpaying employer that violates subdivision 1, paragraph (b), or any nonprofit or government employer that violates subdivision 2, paragraph (b), ~~shall be is~~ subject to the penalties under section 268.184, subdivision 1a. Penalties ~~shall be are~~ credited to the administration account to be used to ensure integrity in the unemployment insurance program.

(b) Section 268.051, subdivision 4, does not apply to contracts under this section. This section ~~shall does~~ not limit or prevent the application of section 268.051, subdivision 4, to any other transactions or acquisitions involving the taxpaying employer. This section ~~shall does~~ not limit or prevent the application of section 268.051, subdivision 4a.

(c) An assignment of an account upon the execution of a contract under this section and a termination of a contract with the corresponding assignment of the account ~~shall is not be~~ considered a separation from employment of any worker covered by the contract. Nothing under this subdivision ~~shall cause causes~~ the person to be liable for any amounts past due under this chapter from the taxpaying employer or the nonprofit or government employer.

(d) This section applies to, but is not limited to, persons registered under section 79.255, but does not apply to persons that obtain an exemption from registration under section 79.255, subdivision 9.

Sec. 22. Minnesota Statutes 2006, section 268.047, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Unemployment benefits paid to an applicant, including extended, additional, and shared work benefits, ~~shall will~~ be used in computing the future tax rate of a taxpaying base period employer or charged to the reimbursable account of a base period nonprofit or government employer that has elected to be liable for reimbursements except as provided in subdivisions 2 and 3. The amount of unemployment benefits used in computing the future tax rate of taxpaying employers or charged to the reimbursable account of a nonprofit or government employer that has elected to be liable for reimbursements ~~shall be~~ is the same percentage of the total amount of unemployment benefits paid as the percentage of wage credits from the employer is of the total amount of wage credits from all the applicant's base period employers.

In making computations under this subdivision, the amount of wage credits, if not a whole dollar, ~~shall must~~ be computed to the nearest whole dollar.

Sec. 23. Minnesota Statutes 2006, section 268.047, subdivision 3, is amended to read:

Subd. 3. **Exceptions for taxpaying employers.** Unemployment benefits paid ~~shall will~~ not be used in computing the future tax rate of a taxpaying base period employer when:

- (1) the applicant's wage credits from that employer are less than \$500;
- (2) the applicant quit the employment, unless it was determined under section 268.095, to have been because of a good reason caused by the employer or because the employer notified the applicant of discharge within 30 calendar days. This exception ~~shall apply~~ applies only to unemployment benefits paid for periods after the applicant's quitting the employment; or
- (3) the employer discharged the applicant from employment because of employment misconduct as determined under section 268.095. This exception ~~shall apply~~ applies only to unemployment benefits paid for periods after the applicant's discharge from employment.

Sec. 24. Minnesota Statutes 2006, section 268.051, subdivision 4a, is amended to read:

Subd. 4a. **Actions that avoid taxes.** (a) If the commissioner determines that any action was done, in whole or in part, to avoid:

- (1) an experience rating history;
 - (2) the transfer of an experience rating history; or
 - (3) the assignment of a tax rate for new employers under subdivision 5, paragraph (a) or (b), the commissioner, to insure that the trust fund receives all the taxes that would have been received had the action not occurred, may, effective the date of the action, transfer all or part of an experience rating history and recompute the tax rate or assign the appropriate new employer tax rate.
- (b) This subdivision ~~shall apply~~ applies to any action between persons regardless of whether there is any commonality of ownership, management, or control between the persons. The authority granted to the commissioner under this subdivision is in addition to any other authority granted to the commissioner.

Sec. 25. Minnesota Statutes 2006, section 268.051, subdivision 9, is amended to read:

Subd. 9. **Assessments, fees, and surcharges; treatment.** Any assessment, fee, or surcharge imposed under the Minnesota Unemployment Insurance Law ~~shall be~~ is treated the same as, and considered as, a tax. Any assessment, fee, or surcharge ~~shall be~~ is subject to the same collection procedures that apply to past due taxes.

Sec. 26. Minnesota Statutes 2006, section 268.052, subdivision 1, is amended to read:

Subdivision 1. **Payments.** In lieu of taxes payable on a quarterly basis, the state of Minnesota or its political subdivisions ~~shall must~~ reimburse the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047. Reimbursements in the amount of unemployment benefits charged to the reimbursable account during a calendar quarter must be received by the department on or before the last day of the month following the month that the notice of unemployment benefits paid is sent ~~pursuant to~~ under section 268.047, subdivision 5. Past due reimbursements ~~shall be~~ are subject to the same interest charges and collection procedures that apply to past due taxes.

Sec. 27. Minnesota Statutes 2006, section 268.052, subdivision 2, is amended to read:

Subd. 2. **Election by state or political subdivision to be a taxpaying employer.** (a) The state or political subdivision may elect to be a taxpaying employer for any calendar year if a notice of election is filed within 30 calendar days following January 1 of that calendar year. Upon election, the state or political subdivision ~~shall must~~ be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the election and until it qualifies for an experience rating under section 268.051, subdivision 3.

(b) An election ~~shall be~~ is for a minimum period of two calendar years following the effective date of the election and continue unless a notice terminating the election is filed not later than 30 calendar days before the beginning of the calendar year. The termination ~~shall be~~ is effective at the beginning of the next calendar year. Upon election, the commissioner shall establish a reimbursable account for the state or political subdivision. A termination of election ~~shall be~~ is allowed only if the state or political subdivision has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period ~~shall be~~ are transferred to the new reimbursable account of the state or political subdivision. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess ~~shall be~~ is applied against any unemployment benefits paid after the experience rating period.

(c) The method of payments to the trust fund under subdivisions 3 and 4 ~~shall apply~~ applies to all taxes paid by or due from the state or political subdivision that elects to be taxpaying employers under this subdivision.

(d) A notice of election or a notice terminating election ~~shall must~~ be filed by electronic transmission in a format prescribed by the commissioner.

Sec. 28. Minnesota Statutes 2006, section 268.052, subdivision 3, is amended to read:

Subd. 3. **Method of payment by state.** To discharge its liability, the state and its wholly owned instrumentalities ~~shall must~~ pay the trust fund as follows:

(1) Every self-sustaining department, institution and wholly owned instrumentality ~~shall must~~ pay the trust fund in accordance with subdivision 1. For the purposes of this clause a "self-sustaining department, institution or wholly owned instrumentality" is one where the dedicated income and revenue substantially offsets its cost of operation.

(2) Every partially self-sustaining department, institution and wholly owned instrumentality ~~shall~~ must pay the trust fund that same proportion of the amount that has been charged to its employer account as the proportion of the total of its income and revenue is to its annual cost of operation.

(3) Every department, institution or wholly owned instrumentality that is not self-sustaining ~~shall~~ must pay the trust fund to the extent funds are available from appropriated funds.

(4) The departments, institutions and wholly owned instrumentalities, including the University of Minnesota, that have money available ~~shall~~ must pay the trust fund in accordance with subdivision 1. If an applicant was paid during the base period from a special account provided by law, the payment to the trust fund ~~shall~~ must be made from the special account with the approval of the Department of Administration and the amounts are ~~hereby~~ appropriated.

(5) For those departments, institutions and wholly owned instrumentalities that cannot pay the trust fund, the commissioner shall certify on November 1 of each calendar year to the commissioner of finance the unpaid balances. Upon receipt of the certification, the commissioner of finance shall include the unpaid balances in the biennial budget submitted to the legislature.

Sec. 29. Minnesota Statutes 2006, section 268.052, subdivision 4, is amended to read:

Subd. 4. **Method of payment by political subdivision.** A political subdivision or instrumentality thereof is authorized and directed to pay its liabilities by money collected from taxes or other revenues. Every political subdivision authorized to levy taxes except school districts may include in its tax levy the amount necessary to pay its liabilities. School districts may levy according to section 126C.43, subdivision 2. If the taxes authorized to be levied cause the total amount of taxes levied to exceed any limitation upon the power of a political subdivision to levy taxes, the political subdivision may levy taxes in excess of the limitations in the amounts necessary to meet its liability. The expenditures authorized ~~shall~~ must not be included in computing the cost of government as defined in any home rule charter. The governing body of a municipality, for the purpose of meeting its liabilities, in the event of a deficit, may issue its obligations payable in not more than two years, in an amount that may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes in the manner provided in section 475.61.

Sec. 30. Minnesota Statutes 2006, section 268.052, subdivision 5, is amended to read:

Subd. 5. **Considered an election.** If the state of Minnesota or its political subdivisions choose not to be a taxpaying employer under subdivision 2, the state or its political subdivision ~~shall be~~ are considered, for purposes of the Minnesota unemployment insurance program, to have elected to be liable for reimbursements under subdivision 1.

Sec. 31. Minnesota Statutes 2006, section 268.0525, is amended to read:

268.0525 INDIAN TRIBES.

(a) An Indian tribe, as defined under United States Code, title 25, section 450b(e) of the Indian Self-Determination and Education Assistance Act, and any subdivision, subsidiary, or business enterprise owned by the Indian tribe, ~~shall~~ must be treated the same as the state of Minnesota, or a political subdivision of the state, for all purposes of the Minnesota Unemployment Insurance Law.

(b) The Indian tribe may make separate elections under section 268.052, subdivision 2, for itself and each subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe.

(c) If an Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the tribe, which has elected to be liable for reimbursements, fails to make the required payments within 90 calendar days of the notice of delinquency, the commissioner shall terminate the election to make reimbursements as of the beginning of the next calendar year, unless all past due reimbursements, and any interest and penalties, have been paid before the beginning of the next calendar year.

An Indian tribe, subdivision, subsidiary, or business enterprise wholly owned by the tribe that has its election terminated under this paragraph ~~shall~~ must become a taxpaying employer and assigned the new employer tax rate under section 268.051, subdivision 5, until the tribe, subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe qualifies for an experience rating under section 268.051, subdivision 3.

Sec. 32. Minnesota Statutes 2006, section 268.053, subdivision 1, is amended to read:

Subdivision 1. **Election.** (a) Any nonprofit organization that has employees in covered employment ~~shall~~ must pay taxes on a quarterly basis ~~pursuant to in accordance with~~ section 268.051 unless it elects to make reimbursements to the trust fund the amount of unemployment benefits charged to its reimbursable account under section 268.047.

The organization may elect to make reimbursements for a period of not less than two calendar years beginning with the date that the organization was determined to be an employer with covered employment by filing a notice of election not later than 30 calendar days after the date of the determination.

(b) Any nonprofit organization that makes an election will continue to be liable for reimbursements until it files a notice terminating its election not later than 30 calendar days before the beginning of the calendar year the termination is to be effective.

(c) A nonprofit organization that has been making reimbursements that files a notice of termination of election ~~shall~~ must be assigned the new employer tax rate under section 268.051, subdivision 5, for the calendar year of the termination of election and until it qualifies for an experience rating under section 268.051, subdivision 3.

(d) Any nonprofit organization that has been paying taxes may elect to make reimbursements by filing no less than 30 calendar days before January 1 of any calendar year a notice of election. Upon election, the commissioner shall establish a reimbursable account for the nonprofit organization. An election ~~shall be~~ is allowed only if the nonprofit organization has, since the beginning of the experience rating period under section 268.051, subdivision 3, paid taxes equal to or more than 125 percent of the unemployment benefits used in computing the experience rating. In addition, any unemployment benefits paid after the experience rating period ~~shall be~~ are transferred to the new reimbursable account of the nonprofit organization. If the amount of taxes paid since the beginning of the experience rating period exceeds 125 percent of the amount of unemployment benefits paid during the experience rating period, that amount in excess ~~shall be~~ is applied against any unemployment benefits paid after the experience rating period. The election ~~shall~~ is not be terminable by the organization for that and the next calendar year.

(e) The commissioner may for good cause extend the period that a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive.

(f) A notice of election or notice terminating election ~~shall~~ must be filed by electronic transmission in a format prescribed by the commissioner.

Sec. 33. Minnesota Statutes 2006, section 268.053, subdivision 3, is amended to read:

Subd. 3. **Payments.** (a) Reimbursements, in the amount of unemployment benefits charged to the reimbursable account, during a calendar quarter, must be received by the department on or before the last day of the month following the month that the notice of unemployment benefits paid is sent ~~pursuant to~~ under section 268.047, subdivision 5.

(b) Past due reimbursements ~~shall be~~ are subject to the same interest charges and collection procedures that apply to past due taxes.

(c) If any nonprofit organization is delinquent in making reimbursements, the commissioner may terminate the organization's election to make reimbursements as of the beginning of the next calendar year, and the termination ~~shall be~~ is effective for that and the following calendar year. A nonprofit organization that has its election terminated under this paragraph ~~shall~~ must be assigned the new employer tax rate under section 268.051, subdivision 5, until the organization qualifies for an experience rating under section 268.051, subdivision 3.

Sec. 34. Minnesota Statutes 2006, section 268.057, subdivision 1, is amended to read:

Subdivision 1. **Amount computed presumed correct.** Any amount due from an employer, as computed by the commissioner, ~~shall be~~ is presumed to be correctly determined and assessed, and the burden ~~shall be~~ is upon the employer to show its incorrectness. A statement by the commissioner of the amount due ~~shall be~~ is admissible in evidence in any court or administrative proceeding and ~~shall be~~ is prima facie evidence of the facts in the statement.

Sec. 35. Minnesota Statutes 2006, section 268.057, subdivision 2, is amended to read:

Subd. 2. **Priority of payments.** (a) Any payment received from a taxpaying employer ~~shall~~ must be applied in the following order:

- (1) unemployment insurance taxes; then
- (2) special assessment for interest on any federal loan; then
- (3) workforce development fee; then
- (4) interest on past due taxes; then
- (5) penalties, late fees, administrative service fees, and costs.

(b) Paragraph (a) ~~shall be~~ is the priority used for all payments received from a taxpaying employer, regardless of how the employer may designate the payment to be applied, except when:

(1) there is an outstanding lien and the employer designates that the payment made should be applied to satisfy the lien;

(2) the payment is for back pay withheld from an applicant ~~pursuant to~~ under section 268.085, subdivision 6, paragraph (b);

(3) the payment is specifically designated by the employer to be applied to an outstanding overpayment of unemployment benefits of an applicant;

(4) a court or administrative order directs that the payment be applied to a specific obligation;

(5) a preexisting payment plan provides for the application of payment; or

(6) the commissioner, under the compromise authority of section 268.067, agrees to apply the payment to a different priority.

Sec. 36. Minnesota Statutes 2006, section 268.057, subdivision 3, is amended to read:

Subd. 3. **Estimating the tax due.** Only if an employer fails to make all necessary records available for an audit ~~pursuant to~~ under section 268.186, paragraph (b), and the commissioner has reason to believe the employer has not reported all the required wages on the quarterly wage detail reports under section 268.044, may the commissioner then estimate the amount of tax due and assess the employer the estimated amount due.

Sec. 37. Minnesota Statutes 2006, section 268.057, subdivision 4, is amended to read:

Subd. 4. **Costs.** Any person that fails to pay any amount when due under this chapter is liable for any filing fees, recording fees, sheriff fees, costs incurred by referral to any public or private collection agency, or litigation costs, including attorney fees, incurred in the collection of the amounts due.

If any tendered payment of any amount due, is not honored when presented to a financial institution for payment, any costs assessed the department by the financial institution and a fee of \$25 ~~shall must~~ be assessed to the person.

Costs and fees collected under this subdivision ~~shall be~~ are credited to the administration account to be used by the commissioner to ensure integrity in the administration of the unemployment insurance program.

Sec. 38. Minnesota Statutes 2006, section 268.057, subdivision 5, is amended to read:

Subd. 5. **Interest on amounts past due.** If any amounts due from an employer under this chapter or section 116L.20, except late fees under section 268.044, are not received on the date due the unpaid balance ~~shall bear~~ bears interest at the rate of one and one-half percent per month or any part thereof. Interest assessed, if not a whole dollar amount, ~~shall be~~ is rounded down to the next lower whole dollar. Interest collected ~~shall be~~ is credited to the contingent account. Interest may be compromised under section 268.067.

Sec. 39. Minnesota Statutes 2006, section 268.057, subdivision 6, is amended to read:

Subd. 6. **Interest on judgments.** Regardless of section 549.09, if judgment is entered upon any past due amounts from an employer under this chapter or section 116L.20, the unpaid judgment ~~shall bear~~ bears interest at the rate specified in subdivision 5 until the date of payment.

Sec. 40. Minnesota Statutes 2006, section 268.057, subdivision 10, is amended to read:

Subd. 10. **Priorities under legal dissolutions or distributions.** In the event of any distribution of an employer's assets ~~pursuant~~ according to an order of any court, including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceeding, taxes then or thereafter due ~~shall must~~ be paid in full ~~prior to~~ before all other claims except claims for wages of not more than \$1,000 per former employee, earned within six months of the commencement of the proceedings. In the event of an employer's adjudication in bankruptcy under federal law, taxes then or thereafter due ~~shall be~~ are entitled to the priority provided in that law for taxes due any state.

Sec. 41. Minnesota Statutes 2006, section 268.058, is amended to read:

268.058 LIEN, LEVY, SETOFF, AND CIVIL ACTION.

Subdivision 1. **Lien.** (a) Any amount due under this chapter or section 116L.20, from an applicant or an employer, ~~shall become~~ becomes a lien upon all the property, within this state, both real and personal, of the person liable, from the date of assessment. The term "date of assessment" means the date the obligation was due.

(b) The lien is not enforceable against any purchaser, mortgagee, pledgee, holder of a Uniform Commercial Code security interest, mechanic's lien, or judgment lien creditor, until a notice of lien has been filed with the county recorder of the county where the property is situated, or in the case of personal property belonging to a nonresident person in the Office of the Secretary of State. When the notice of lien is filed with the county recorder, the fee for filing and indexing ~~shall be~~ is as provided in sections 272.483 and 272.484.

(c) Notices of liens, lien renewals, and lien releases, in a form prescribed by the commissioner, may be filed with the county recorder or the secretary of state by mail, personal delivery, or by electronic transmission into the computerized filing system of the secretary of state. The secretary of state shall, on any notice filed with that office, transmit the notice electronically to the appropriate county recorder. The filing officer, whether the county recorder or the secretary of state, shall endorse and index a printout of the notice as if the notice had been mailed or delivered.

(d) County recorders and the secretary of state shall enter information on lien notices, renewals, and releases into the central database of the secretary of state. For notices filed electronically with the county recorders, the date and time of receipt of the notice and county recorder's file number, and for notices filed electronically with the secretary of state, the secretary of state's recording information, must be entered into the central database before the close of the working day following the day of the original data entry by the commissioner.

(e) The lien imposed on personal property, even though properly filed, is not enforceable against a purchaser of tangible personal property purchased at retail or personal property listed as exempt in sections 550.37, 550.38, and 550.39.

(f) A notice of lien filed has priority over any security interest arising under chapter 336, article 9, that is perfected prior in time to the lien imposed by this subdivision, but only if:

(1) the perfected security interest secures property not in existence at the time the notice of lien is filed; and

(2) the property comes into existence after the 45th calendar day following the day the notice of lien is filed, or after the secured party has actual notice or knowledge of the lien filing, whichever is earlier.

(g) The lien ~~shall be~~ is enforceable from the time the lien arises and for ten years from the date of filing the notice of lien. A notice of lien may be renewed before expiration for an additional ten years.

(h) The lien ~~shall be~~ is enforceable by levy under subdivision 2 or by judgment lien foreclosure under chapter 550.

(i) The lien may be imposed upon property defined as homestead property in chapter 510 but may be enforced only upon the sale, transfer, or conveyance of the homestead property.

(j) The commissioner may sell and assign to a third party the commissioner's right of redemption in specific real property for liens filed under this subdivision. The assignee ~~shall be~~ is limited to the same rights of redemption as the commissioner, except that in a bankruptcy proceeding, the assignee does not obtain the commissioner's priority. Any proceeds from the sale of the right of redemption ~~shall be~~ are credited to the contingent account.

Subd. 2. **Levy.** (a) If any amount due under this chapter or section 116L.20, from an applicant or an employer, is not paid when due, the amount may be collected by the commissioner by direct levy upon all property and rights of property of the person liable for the amount due except that exempt from execution under section 550.37. The term "levy" includes the power of distraint and seizure by any means.

(b) In addition to a direct levy, the commissioner may issue a warrant to the sheriff of any county who shall proceed within 60 calendar days to levy upon the property or rights to property of the delinquent person within the county, except that exempt under section 550.37. The sheriff shall sell that property necessary to satisfy the total amount due, together with the commissioner's and sheriff's costs. The sales ~~shall be~~ are governed by the law applicable to sales of like property on execution of a judgment.

(c) Notice and demand for payment of the total amount due ~~shall~~ must be mailed to the delinquent person at least ten calendar days ~~prior to~~ before action being taken under paragraphs (a) and (b).

(d) If the commissioner has reason to believe that collection of the amount due is in jeopardy, notice and demand for immediate payment may be made. If the total amount due is not paid, the commissioner may proceed to collect by direct levy or issue a warrant without regard to the ten calendar day period.

(e) In executing the levy, the commissioner shall have all of the powers provided in chapter 550 or any other law that provides for execution against property in this state. The sale of property levied upon and the time and manner of redemption ~~shall be~~ is as provided in chapter 550. The seal of the court ~~shall~~ is not ~~be~~ required. The levy may be made whether or not the commissioner has commenced a legal action for collection.

(f) Where any assessment has been made by the commissioner, the property seized for collection of the total amount due ~~shall~~ must not be sold until any determination of liability has become final. No sale ~~shall~~ may be made unless a portion of the amount due remains unpaid for a period of more than 30 calendar days after the determination of liability becomes final. Seized property may be sold at any time if:

(1) the delinquent person consents in writing to the sale; or

(2) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense.

(g) Where a levy has been made to collect the amount due and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, the property ~~shall~~ may not be sold until the probate proceedings are completed or until the court orders.

(h) The property seized ~~shall~~ must be returned if the owner:

(1) gives a surety bond equal to the appraised value of the owner's interest in the property, as determined by the commissioner, or

(2) deposits with the commissioner security in a form and amount the commissioner considers necessary to insure payment of the liability.

(i) If a levy or sale would irreparably injure rights in property that the court determines superior to rights of the state, the court may grant an injunction to prohibit the enforcement of the levy or to prohibit the sale.

(j) Any person who fails or refuses to surrender without reasonable cause any property or rights to property subject to levy ~~shall be~~ is personally liable in an amount equal to the value of the property or rights not so surrendered, but not exceeding the amount due.

(k) If the commissioner has seized the property of any individual, that individual may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property upon terms and conditions the court considers equitable.

(l) Any person in control or possession of property or rights to property upon which a levy has been made who surrenders the property or rights to property, or who pays the amount due ~~shall be~~ is discharged from any obligation or liability to the person liable for the amount due with respect to the property or rights to property.

(m) The notice of any levy may be served personally or by mail.

(n) The commissioner may release the levy upon all or part of the property or rights to property levied upon if the commissioner determines that the release will facilitate the collection of the liability, but the release ~~shall~~ does not prevent any subsequent levy. If the commissioner determines that property has been wrongfully levied upon, the commissioner shall return:

(1) the specific property levied upon, at any time; or

(2) an amount of money equal to the amount of money levied upon, at any time before the expiration of nine months from the date of levy.

(o) Regardless of section 52.12, a levy upon a person's funds on deposit in a financial institution located in this state, ~~shall have~~ has priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the person to the financial institution. A claim by the financial institution that it exercised its right to setoff ~~prior to~~ before the levy must be substantiated by evidence of the date of the setoff, and verified by an affidavit from a corporate officer of the financial institution. For purposes of determining the priority of any levy under this subdivision, the levy ~~shall be~~ is treated as if it were an execution under chapter 550.

Subd. 3. **Right of setoff.** (a) Upon certification by the commissioner to the commissioner of finance, or to any state agency that disburses its own funds, that a person, applicant, or employer has a liability under this chapter or section 116L.20, and that the state has purchased personal services, supplies, contract services, or property from that person, the commissioner of finance or the state agency shall set off and pay to the commissioner an amount sufficient to satisfy the unpaid liability from funds appropriated for payment of the obligation of the state otherwise due the person. No amount ~~shall may~~ be set off from any funds exempt under section 550.37 or funds due an individual who receives assistance under chapter 256.

(b) All funds, whether general or dedicated, ~~shall be~~ are subject to setoff.

Regardless of any law to the contrary, the commissioner ~~shall have~~ has first priority to setoff from any funds otherwise due from the department to a delinquent person.

Subd. 4. **Collection by civil action.** (a) Any amount due under this chapter or section 116L.20, from an applicant or employer, may be collected by civil action in the name of the state of Minnesota. Civil actions brought under this subdivision ~~shall must~~ be heard as provided under section 16D.14. In any action, judgment ~~shall must~~ be entered in default for the relief demanded in the complaint without proof, together with costs and disbursements, upon the filing of an affidavit of default.

(b) Any person that is not a resident of this state and any resident person removed from this state, ~~shall be~~ is considered to appoint the secretary of state as its agent for the acceptance of process in any civil action. The commissioner shall file process with the secretary of state, together with a payment of a fee of \$15 and that service ~~shall be~~ is considered sufficient service and ~~shall have~~ has the same force and validity as if served personally within this state. Notice of the service of process, together with a copy of the process, ~~shall must~~ be sent by certified mail to the person's last known address. An affidavit of compliance with this subdivision, and a copy of the notice of service ~~shall must~~ be appended to the original of the process and filed in the court.

(c) No court filing fees, docketing fees, or release of judgment fees may be assessed against the state for actions ~~pursuant to~~ under this subdivision.

Subd. 5. **Injunction forbidden.** No injunction or other legal action to prevent the determination, assessment, or collection of any amounts due under this chapter or section 116L.20, from an applicant or employer, ~~shall be~~ are allowed.

Sec. 42. Minnesota Statutes 2006, section 268.059, is amended to read:

268.059 GARNISHMENT FOR DELINQUENT TAXES AND UNEMPLOYMENT BENEFIT OVERPAYMENTS.

Subdivision 1. **Notice.** The commissioner may give notice to any employer that an employee owes any amounts due under this chapter or section 116L.20, and that the obligation should be withheld from the employee's wages. The commissioner may proceed only if the amount due is uncontested or if the time for any appeal has expired. The commissioner ~~shall~~ may not proceed until 30 calendar days after sending to the debtor employee, by mail or electronic transmission, a notice of intent to garnish wages and exemption notice. That notice ~~shall~~ must list:

- (1) the amount due from the debtor;
- (2) demand for immediate payment; and
- (3) the intention to serve a garnishment notice on the debtor's employer.

The notice ~~shall expire~~ expires 180 calendar days after it has been sent to the debtor provided that the notice may be renewed by sending a new notice that is in accordance with this section. The renewed notice ~~shall have~~ has the effect of reinstating the priority of the original notice. The exemption notice ~~shall~~ must be in substantially the same form as in section 571.72. The notice ~~shall~~ must inform the debtor of the right to claim exemptions contained in section 550.37, subdivision 14. If no claim of exemption is received by the commissioner within 30 calendar days after sending of the notice, the commissioner may proceed with the garnishment. The notice to the debtor's employer may be served by mail or electronic transmission and ~~shall~~ must be in substantially the same form as in section 571.75.

Subd. 2. **Employer action.** (a) Upon receipt of the garnishment notice, the employer ~~shall~~ must withhold from the earnings due or to become due to the employee, the amount shown on the notice plus accrued interest, subject to section 571.922. The employer ~~shall~~ must continue to withhold each pay period the amount shown on the notice plus accrued interest until the garnishment notice is released by the commissioner. Upon receipt of notice by the employer, the claim of the commissioner ~~shall have~~ has priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown on the notice plus accrued interest has been withheld.

The "earnings due" any employee is as defined in section 571.921.

(b) The maximum garnishment allowed for any one pay period shall be decreased by any amounts payable ~~pursuant to~~ under any other garnishment action served ~~prior to~~ before the garnishment notice, and any amounts covered by any irrevocable and previously effective assignment of wages; the employer ~~shall~~ must give notice to the commissioner of the amounts and the facts relating to the assignment within ten calendar days after the service of the garnishment notice on the form provided by the commissioner.

(c) Within ten calendar days after the expiration of the pay period, the employer ~~shall~~ must remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during each pay period.

Subd. 3. **Discharge or discipline prohibited.** (a) If the employee ceases to be employed by the employer before the full amount set forth on the garnishment notice plus accrued interest has been withheld, the employer ~~shall~~ must immediately notify the commissioner in writing or by electronic transmission, as prescribed by the commissioner, of the termination date of the employee and the total amount withheld. No employer may discharge or discipline any employee because the commissioner has proceeded under this section. If an employer discharges an employee in violation of this section, the employee ~~shall have~~ has the same remedy as provided in section 571.927, subdivision 2.

(b) This section ~~shall apply~~ applies if the employer is the state of Minnesota or any political subdivision.

(c) The commissioner shall refund to the employee any excess amounts withheld from the employee.

(d) An employer that fails or refuses to comply with this section ~~shall be~~ is jointly and severally liable for the total amount due from the employee. Any amount due from the employer under this paragraph may be collected in the same manner as any other amounts due from an employer under this chapter.

Sec. 43. Minnesota Statutes 2006, section 268.0625, subdivision 5, is amended to read:

Subd. 5. **Licensing authority; duties.** Upon request, the licensing authority ~~shall~~ must provide the commissioner with a list of all licensees, including the name, address, business name and address, Social Security number, and business identification number. The commissioner may request a list of the licensees no more than once each calendar year. Regardless of section 268.19, the commissioner may release information necessary to accomplish this section.

Sec. 44. Minnesota Statutes 2006, section 268.064, is amended to read:

268.064 LIABILITY FOR DEBTS UPON ACQUISITION.

Subdivision 1. **Acquisition of organization, trade, business, or assets.** Any person who acquires all or part of the organization, trade, business or assets from an employer, is jointly and severally liable, in an amount not to exceed the reasonable value of that part of the organization, trade, business or assets acquired, for any amounts due and unpaid by the employer. The amount of liability ~~shall be~~ is, in addition, ~~be~~ a lien against the property or assets acquired and ~~shall be prior to~~ is before all other unrecorded liens. This section does not apply to sales in the normal course of the employer's business.

Subd. 2. **Reasonable value.** The commissioner, upon the commissioner's own motion or upon application of the acquiring person, shall determine the reasonable value of the organization, trade, business or assets acquired based on available information. The determination ~~shall be~~ is final unless the acquiring person, within ~~30~~ 20 calendar days after being sent the determination by mail or electronic transmission, files an appeal. Proceedings on the appeal ~~shall be~~ are conducted in accordance with section 268.105.

Subd. 3. **Statement of amount due.** ~~Prior to~~ Before the date of acquisition, the commissioner ~~shall~~ must furnish the acquiring person with a statement of the amounts due and unpaid under this chapter or section 116L.20 upon the request of the potential acquiring person and the release of the obligor. No release is required after the date of acquisition.

Sec. 45. Minnesota Statutes 2006, section 268.065, subdivision 1, is amended to read:

Subdivision 1. **Subcontractors.** A contractor who contracts with any subcontractor ~~shall~~ must guarantee the payment of all amounts that are due or become due from the subcontractor with respect to taxable wages paid on the contract by:

- (1) withholding sufficient money on the contract; or
- (2) requiring the subcontractor to provide a sufficient bond guaranteeing the payment of all amounts that may become due.

The contractor may make a request for verification that the subcontractor has paid the taxes due 60 calendar days after the due date for filing the wage detail report that includes the final wages paid for employment performed under the contract. If the subcontractor has paid the amounts due for the period covered by the contract, the commissioner may release the contractor from its liability.

The words "contractor" and "subcontractor" include individuals, partnerships, firms, or corporations, or other association of persons engaged in the construction industry.

Sec. 46. Minnesota Statutes 2006, section 268.067, is amended to read:

268.067 COMPROMISE.

(a) The commissioner may compromise in whole or in part any action, determination, or decision that affects only an employer and not an applicant, and that has occurred during the prior 24 months. This paragraph may apply if it is determined by a court of law, or a confession of judgment, that an applicant, while employed, wrongfully took from the employer \$500 or more in money or property.

(b) The commissioner may at any time compromise any amount due from an employer under this chapter or section 116L.20.

(c) Any compromise involving an amount over \$2,500 ~~shall~~ must be authorized by an attorney who is an employee of the department designated by the commissioner for that purpose.

(d) Any compromise must be in the best interest of the state of Minnesota.

Sec. 47. Minnesota Statutes 2006, section 268.0675, is amended to read:

268.0675 NO ELECTION OF REMEDY.

Use of any remedy under this chapter for the collection of any amount due from an employer or an applicant ~~shall~~ does not constitute an election of remedy to the exclusion of any other available remedy.

Sec. 48. Minnesota Statutes 2006, section 268.068, is amended to read:

268.068 NOTICE TO WORKERS.

Each employer ~~shall~~ must post and maintain printed statements of an individual's right to apply for unemployment benefits in places readily accessible to workers in the employer's service. The printed statements ~~shall~~ must be supplied by the commissioner at no cost to an employer.

Sec. 49. Minnesota Statutes 2006, 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 ~~shall~~ are not be considered paid from any special insurance plan, nor as paid by an employer. An application for unemployment benefits ~~shall~~ is not be considered a claim against an employer but ~~shall be~~ 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 ~~shall~~ must be determined based upon that information available without regard to any common law burden of proof, and any agreement between an applicant and an employer ~~shall~~ is not be binding on the commissioner in determining an applicant's entitlement. There ~~shall be~~ is no presumption of entitlement or nonentitlement to unemployment benefits.

Sec. 50. Minnesota Statutes 2006, section 268.069, subdivision 3, is amended to read:

Subd. 3. **Common law.** There ~~shall be~~ is no equitable or common law denial or allowance of unemployment benefits.

Sec. 51. Minnesota Statutes 2006, section 268.084, is amended to read:

268.084 PERSONAL IDENTIFICATION NUMBER; PRESUMPTION.

(a) Each applicant ~~shall~~ must be issued a personal identification number (PIN) for the purpose of filing continued biweekly requests for unemployment benefits, accessing information, and engaging in other transactions with the department.

(b) If a PIN assigned to an applicant is used in the filing of a continued biweekly request for unemployment benefits under section 268.086 or any other type of transaction, the applicant ~~shall be~~ is presumed to have been the individual using that PIN and presumed to have received any unemployment benefit payment issued. This presumption may be rebutted by a preponderance of the evidence showing that the applicant assigned the PIN was not the individual who used that PIN in the transaction.

(c) The commissioner shall notify each applicant of this section.

Sec. 52. Minnesota Statutes 2006, section 268.085, subdivision 3a, is amended to read:

Subd. 3a. **Workers' compensation and disability insurance offset.** (a) An applicant is not eligible to receive unemployment benefits for any week in which the applicant is receiving or has received compensation for loss of wages equal to or in excess of the applicant's weekly unemployment benefit amount under:

- (1) the workers' compensation law of this state;
- (2) the workers' compensation law of any other state or similar federal law; or
- (3) any insurance or trust fund paid in whole or in part by an employer.

(b) This subdivision ~~shall~~ does not apply to an applicant who has a claim pending for loss of wages under paragraph (a); however, before unemployment benefits may be paid when a claim is pending, the issue of the applicant being able to work, as required under subdivision 1, clause (2), ~~shall be~~ is determined under section 268.101, subdivision 3. If the applicant later receives compensation as a result of the pending claim, the applicant is subject to the provisions of paragraph (a) and the unemployment benefits paid ~~shall be~~ are subject to recoupment by the commissioner to the extent that the compensation constitutes overpaid unemployment benefits.

(c) If the amount of compensation described under paragraph (a) for any week is less than the applicant's weekly unemployment benefit amount, unemployment benefits requested for that week ~~shall be~~ are reduced by the amount of that compensation payment.

Sec. 53. Minnesota Statutes 2006, section 268.085, subdivision 6, is amended to read:

Subd. 6. **Receipt of back pay.** (a) Back pay received by an applicant with respect to any week occurring in the 104 weeks ~~prior to~~ before the payment of the back pay ~~shall~~ must be deducted from unemployment benefits paid for that week.

If the back pay is not paid with respect to a specific period, the back pay ~~shall~~ must be applied to the period immediately following the last day of employment.

(b) If the back pay is reduced by the amount of unemployment benefits that have been paid, the amount of back pay withheld ~~shall~~ must be:

(1) paid by the employer to the trust fund within 30 calendar days and subject to the same collection procedures that apply to past due taxes;

(2) applied to unemployment benefit overpayments resulting from the payment of the back pay; and

(3) credited to the maximum amount of unemployment benefits available to the applicant in a benefit year that includes the weeks for which back pay was deducted.

(c) Unemployment benefits paid the applicant ~~shall~~ must be removed from the computation of the tax rate for taxing employers and removed from the reimbursable account for nonprofit and government employers that have elected to be liable for reimbursements in the calendar quarter the trust fund receives payment.

(d) Payments to the trust fund under this subdivision ~~shall be~~ are considered as made by the applicant.

Sec. 54. Minnesota Statutes 2006, section 268.085, subdivision 7, is amended to read:

Subd. 7. **School employees.** (a) No wage credits in any amount from any employment with any educational institution or institutions earned in any capacity may be used for unemployment benefit purposes for any week during the period between two successive academic years or terms if:

(1) the applicant had employment for any educational institution or institutions in the prior academic year or term; and

(2) there is a reasonable assurance that the applicant will have employment for any educational institution or institutions in the following academic year or term, unless that subsequent employment is substantially less favorable than the employment of the prior academic year or term.

(b) Paragraph (a) ~~shall~~ does not apply to an applicant who, at the end of the prior academic year or term, had an agreement for a definite period of employment between academic years or terms in other than an instructional, research, or principal administrative capacity and the educational institution or institutions failed to provide that employment.

(c) If unemployment benefits are denied to any applicant under paragraph (a) who was employed in the prior academic year or term in other than an instructional, research, or principal administrative capacity and who was not offered an opportunity to perform the employment in the following academic year or term, the applicant ~~shall be~~ is

entitled to retroactive unemployment benefits for each week during the period between academic years or terms that the applicant filed a timely continued biweekly request for unemployment benefits, but unemployment benefits were denied solely because of paragraph (a).

(d) An educational assistant ~~shall is~~ not be considered to be in an instructional, research, or principal administrative capacity.

(e) Paragraph (a) ~~shall apply~~ applies to any vacation period or holiday recess if the applicant was employed immediately before the vacation period or holiday recess, and there is a reasonable assurance that the applicant will be employed immediately following the vacation period or holiday recess.

(f) This subdivision ~~shall apply~~ applies to employment with an educational service agency if the applicant performed the services at an educational institution or institutions. "Educational service agency" means a governmental agency or entity established and operated exclusively for the purpose of providing services to one or more educational institutions. This subdivision ~~shall also apply~~ applies to employment with Minnesota or a political subdivision, or a nonprofit organization, if the services are provided to or on behalf of an educational institution or institutions.

(g) Paragraphs (a) and (e) ~~shall~~ apply beginning the Sunday of the week that there is a reasonable assurance of employment.

(h) Employment with multiple education institutions ~~shall~~ must be aggregated for purposes of application of this subdivision.

(i) If all of the applicant's employment with any educational institution or institutions during the prior academic year or term consisted of on-call employment, and the applicant has a reasonable assurance of any on-call employment with any educational institution or institutions for the following academic year or term, it ~~shall is~~ not be considered substantially less favorable employment.

(j) Paragraph (a) ~~shall also apply~~ applies to the period between two regular but not successive terms.

(k) A "reasonable assurance" may be written, oral, implied, or established by custom or practice.

(l) An "educational institution" is an educational entity operated by Minnesota or a political subdivision or an instrumentality thereof, or an educational organization described in United States Code, title 26, section 501(c)(3) of the federal Internal Revenue Code, and exempt from income tax under section 501(a).

Sec. 55. Minnesota Statutes 2006, section 268.085, subdivision 8, is amended to read:

Subd. 8. **Services for school contractors.** (a) Wage credits from an employer are subject to subdivision 7, if:

(1) the employment was provided ~~pursuant to~~ under a contract between the employer and an elementary or secondary school; and

(2) the contract was for services that the elementary or secondary school could have had performed by its employees.

(b) Wage credits from an employer are not subject to subdivision 7 if:

(1) those wage credits were earned by an employee of a private employer performing work ~~pursuant to~~ under a contract between the employer and an elementary or secondary school; and

(2) the employment was related to food services provided to the school by the employer.

Sec. 56. Minnesota Statutes 2006, section 268.085, subdivision 11, is amended to read:

Subd. 11. **Athletes and coaches.** Unemployment benefits ~~shall~~ must not be paid to an applicant on the basis of any wage credits from employment that consists of coaching or participating in sports or athletic events or training or preparing to participate for any week during the period between two successive sport seasons, or similar periods, if:

- (1) the applicant was so employed in the prior season or similar period, and
- (2) there is a reasonable assurance that the applicant will be so employed in the following season or similar period.

Sec. 57. Minnesota Statutes 2006, section 268.085, subdivision 12, is amended to read:

Subd. 12. **Aliens.** (a) An alien ~~shall be~~ is ineligible for unemployment benefits for any week the alien is not authorized to work in the United States under federal law. Information from the Bureau of Citizenship and Immigration Services ~~shall be~~ is considered conclusive, absent specific evidence that the information was erroneous. ~~Pursuant to~~ Under the existing agreement between the United States and Canada, this paragraph ~~shall~~ does not apply to an applicant who is a Canadian citizen and has returned to and is living in Canada each week unemployment benefits are requested.

(b) Unemployment benefits ~~shall~~ must not be paid on the basis of wage credits earned by an alien unless the alien (1) was lawfully admitted for permanent residence at the time of the employment, (2) was lawfully present for the purposes of the employment, or (3) was permanently residing in the United States under color of law at the time of the employment.

(c) Any information required of applicants applying for unemployment benefits to determine eligibility because of their alien status ~~shall~~ must be required from all applicants.

Sec. 58. Minnesota Statutes 2006, section 268.085, subdivision 13, is amended to read:

Subd. 13. **Suspension from employment.** (a) An applicant who has been suspended from employment without pay for 30 calendar days or less, as a result of employment misconduct as defined under section 268.095, subdivision 6, ~~shall be~~ is ineligible for unemployment benefits beginning the Sunday of the week that the applicant was suspended and continuing for the duration of the suspension.

(b) A suspension from employment without pay for more than 30 calendar days ~~shall be~~ is considered a discharge from employment under section 268.095, subdivision 5.

(c) A suspension from employment with pay, regardless of duration, ~~shall~~ is not ~~be~~ considered a separation from employment and the applicant ~~shall be~~ is ineligible for unemployment benefits for the duration of the suspension with pay.

Sec. 59. Minnesota Statutes 2006, section 268.085, subdivision 13a, is amended to read:

Subd. 13a. **Leave of absence.** (a) An applicant on a voluntary leave of absence ~~shall be~~ is ineligible for unemployment benefits for the duration of the leave of absence. An applicant on an involuntary leave of absence ~~shall~~ is not ~~be~~ ineligible under this subdivision.

A leave of absence is voluntary when work that the applicant can then perform is available with the applicant's employer but the applicant chooses not to work. A medical leave of absence ~~shall be~~ is not ~~be~~ presumed to be voluntary.

(b) A period of vacation requested by the applicant, paid or unpaid, ~~shall be~~ is considered a voluntary leave of absence. A vacation period assigned by an employer under: (1) a uniform vacation shutdown; (2) a collective bargaining agreement; or (3) an established employer policy, ~~shall be~~ is considered an involuntary leave of absence.

(c) A voluntary leave of absence ~~shall be~~ is not ~~be~~ considered a quit and an involuntary leave of absence ~~shall be~~ is not ~~be~~ considered a discharge from employment for purposes of section 268.095.

(d) An applicant who is on a paid leave of absence, whether the leave of absence is voluntary or involuntary, ~~shall be~~ is ineligible for unemployment benefits for the duration of the leave.

(e) This subdivision ~~shall apply~~ applies to a leave of absence from a base period employer, an employer during the period between the end of the base period and the effective date of the benefit account, or an employer during the benefit year.

Sec. 60. Minnesota Statutes 2006, section 268.085, subdivision 13b, is amended to read:

Subd. 13b. **Labor dispute.** (a) An applicant who has stopped working because of a labor dispute at the establishment where the applicant is employed ~~shall be~~ is ineligible for unemployment benefits:

(1) until the end of the calendar week that the labor dispute was in active progress if the applicant is participating in or directly interested in the labor dispute; or

(2) until the end of the calendar week that the labor dispute began if the applicant is not participating in or directly interested in the labor dispute.

Participation includes any failure or refusal by an applicant, voluntarily or involuntarily, to accept and perform available and customary work at the establishment.

(b) An applicant who has stopped working because of a jurisdictional controversy between two or more labor organizations at the establishment where the applicant is employed ~~shall be~~ is ineligible for unemployment benefits until the end of the calendar week that the jurisdictional controversy was in progress.

(c) An applicant ~~shall be~~ is not ~~be~~ ineligible for unemployment benefits under this subdivision if:

(1) the applicant stops working because of an employer's intentional failure to observe the terms of the safety and health section of a union contract or failure to comply with an official citation for a violation of federal or state laws involving occupational safety and health;

(2) the applicant stops working because of a lockout; or

(3) the applicant is discharged ~~prior to~~ before the beginning of a labor dispute.

(d) A quit from employment by the applicant during the time that the labor dispute is in active progress at the establishment ~~shall does~~ not terminate the applicant's participation in or direct interest in the labor dispute for purposes of this subdivision.

(e) For the purpose of this subdivision, the term "labor dispute" ~~shall have~~ has the same definition as provided in section 179.01, subdivision 7.

Sec. 61. Minnesota Statutes 2006, section 268.085, subdivision 16, is amended to read:

Subd. 16. **Actively seeking suitable employment defined.** (a) "Actively seeking suitable employment" means those reasonable, diligent efforts an individual in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. Limiting the search to positions that are not available or are above the applicant's training, experience, and qualifications is not "actively seeking suitable employment."

(b) To be considered "actively seeking suitable employment" an applicant ~~shall~~ must, when reasonable, contact those employers from whom the applicant was laid off ~~due to~~ because of lack of work and request suitable employment.

(c) If reasonable prospects of suitable employment in the applicant's usual or customary occupation do not exist, the applicant must actively seek other suitable employment to be considered "actively seeking suitable employment." This applies to an applicant who is seasonally unemployed.

(d) An applicant who is seeking employment only through a union is not actively seeking suitable employment unless the applicant is in an occupation where it is required by union rule that all the hiring in that locality is done through the union or that all members are restricted to obtaining employment among signatory contractors in the construction industry. The applicant must be a union member in good standing, registered with the union for employment, and in compliance with other union rules to be considered "actively seeking suitable employment."

Sec. 62. Minnesota Statutes 2006, section 268.086, subdivision 1, is amended to read:

Subdivision 1. **Active benefit account.** (a) A benefit account ~~shall be~~ is considered active only when an applicant files continued biweekly requests for unemployment benefits in the manner and within the time periods prescribed. A benefit account ~~shall be~~ is considered inactive if an applicant stops filing a continued biweekly request or fails to file a continued biweekly request within the time period required. The benefit account ~~shall be~~ is considered inactive as of the Sunday following the last week or biweekly period for which a continued biweekly request has been timely filed.

(b) A benefit account that is inactive ~~shall be~~ is reactivated the Sunday of the week that the applicant makes a contact with the department to do so, in the manner prescribed by the commissioner for reactivating that applicant's benefit account. Upon specific request of an applicant, a benefit account may be reactivated effective up to two weeks ~~prior to~~ before the week the applicant made contact with the department to reactivate.

Sec. 63. Minnesota Statutes 2006, section 268.086, subdivision 3, is amended to read:

Subd. 3. **Methods for filing continued biweekly requests for unemployment benefits.** (a) The commissioner shall designate to each applicant one of the following methods for filing a continued biweekly request:

- (1) by electronic transmission under subdivision 5;
- (2) by mail under subdivision 6; or
- (3) by in-person interview under subdivision 7.

(b) The method designated by the commissioner ~~shall be~~ is the only method allowed for filing a continued biweekly request by that applicant. An applicant may ask that one of the other allowed methods be designated and the commissioner shall consider inconvenience to the applicant as well as administrative capacity in determining whether to allow an applicant to change the designated method for filing a continued biweekly request for unemployment benefits.

Sec. 64. Minnesota Statutes 2006, section 268.086, subdivision 5, is amended to read:

Subd. 5. **Continued biweekly request for unemployment benefits by electronic transmission.** (a) A continued biweekly request for unemployment benefits by electronic transmission ~~shall~~ must be filed to that electronic mail address or Internet address prescribed by the commissioner for that applicant. In order to constitute a continued biweekly request, all information asked for, including information authenticating that the applicant is sending the transmission, must be provided in the format required. If all of the information asked for is not provided, the communication ~~shall~~ does not constitute a continued biweekly request for unemployment benefits.

The electronic transmission communication must be filed on the date required for the applicant for filing a continued biweekly request by electronic transmission.

(b) If the electronic transmission continued biweekly request is not filed on the date required, a continued biweekly request by electronic transmission ~~shall~~ must be accepted if the applicant files the continued biweekly request by electronic transmission within 14 days following the week in which the date required occurred. If the continued biweekly request by electronic transmission is not filed within 14 days following the week in which the date required occurred, the electronic continued biweekly request ~~shall~~ must not be accepted and the applicant ~~shall be~~ is ineligible for unemployment benefits for the period covered by the continued biweekly request and the benefit account ~~shall be~~ is considered inactive, unless the applicant shows good cause for failing to file the continued biweekly request by electronic transmission within the time period required.

Sec. 65. Minnesota Statutes 2006, section 268.086, subdivision 6, is amended to read:

Subd. 6. **Continued biweekly request for unemployment benefits by mail.** (a) A continued biweekly request for unemployment benefits by mail ~~shall~~ must be on a form prescribed by the commissioner. The form, in order to constitute a continued biweekly request, must be totally completed and signed by the applicant.

The form must be filed on the date required for the applicant for filing a continued biweekly request by mail, in an envelope with postage prepaid thereon, and sent to the address required by the commissioner for that applicant.

(b) If the mail continued biweekly request for unemployment benefits is not filed on the date required, a continued biweekly request ~~shall~~ must be accepted if the form is filed by mail within 14 days following the week in which the date required occurred. If the form is not filed within 14 days following the week in which the date required occurred, the form ~~shall~~ will not be accepted and the applicant ~~shall be~~ is ineligible for unemployment benefits for the period covered by the continued biweekly request for unemployment benefits and the benefit account ~~shall be~~ is considered inactive, unless the applicant shows good cause for failing to file the form by mail within the time period required.

(c) If the applicant has been designated to file a continued biweekly request for unemployment benefits by mail, an applicant may submit the form by facsimile transmission on the day otherwise required for mailing, or within 14 days following the week in which the date required occurred. A form submitted by facsimile transmission ~~shall~~ must be sent only to the telephone number assigned for that purpose.

(d) An applicant who has been designated to file a continued biweekly request by mail may personally deliver a continued biweekly request form only to the location to which the form was otherwise required to be mailed.

Sec. 66. Minnesota Statutes 2006, section 268.086, subdivision 8, is amended to read:

Subd. 8. **Good cause.** A continued biweekly request for unemployment benefits that is not filed within the time periods required by this section ~~shall may~~ be accepted only for those weeks that the applicant has "good cause" for not filing within the time periods required.

Sec. 67. Minnesota Statutes 2006, section 268.086, subdivision 9, is amended to read:

Subd. 9. **Good cause defined.** "Good cause" for purposes of this section is a compelling substantial reason that would have prevented a reasonable person acting with due diligence from filing a continued biweekly request for unemployment benefits within the time periods required.

"Good cause" ~~shall does~~ not include forgetfulness, loss of the continued biweekly request form, having returned to work, or inability to file a continued biweekly request for unemployment benefits by the method designated if the applicant was aware of the inability and did not make diligent effort to have the method of filing a continued biweekly request changed by the commissioner. "Good cause" ~~shall does~~ not include having previously made an attempt to file a continued biweekly request for unemployment benefits but where the communication was not considered a continued biweekly request because the applicant failed to submit all required information.

Sec. 68. Minnesota Statutes 2006, section 268.087, is amended to read:

268.087 UNEMPLOYMENT BENEFITS DUE DECEASED PERSONS.

If unemployment benefits are due and payable at the time of an applicant's death, those benefits ~~may must~~, upon application, be paid to the personal representative of the estate of the deceased. In the event that no personal representative is appointed, the unemployment benefits ~~may must~~, upon application be paid in the following order: (1) the surviving spouse, (2) the surviving child or children, or (3) the surviving parent or parents.

An individual seeking payment ~~shall must~~ complete an application prescribed by the commissioner and the payment of unemployment benefits ~~shall discharge discharges~~ the obligations to the applicant and no other individual ~~shall may~~ claim or assert any right to those unemployment benefits.

Sec. 69. Minnesota Statutes 2006, section 268.095, subdivision 2, is amended to read:

Subd. 2. **Quit defined.** (a) A quit from employment occurs when the decision to end the employment was, at the time the employment ended, the employee's.

(b) An employee who has been notified that the employee will be discharged in the future, who chooses to end the employment while employment in any capacity is still available, ~~shall be is~~ considered to have quit the employment.

(c) An employee who seeks to withdraw a previously submitted notice of quitting ~~shall be is~~ considered to have quit the employment if the employer does not agree that the notice may be withdrawn.

(d) An applicant who, within five calendar days after completion of a suitable temporary job assignment from a staffing service employer, (1) fails without good cause to affirmatively request an additional job assignment, or (2) refuses without good cause an additional suitable job assignment offered, ~~shall be is~~ considered to have quit employment.

This paragraph ~~shall apply~~ applies only if, at the time of beginning of employment with the staffing service employer, the applicant signed and was provided a copy of a separate document written in clear and concise language that informed the applicant of this paragraph and that unemployment benefits may be affected.

For purposes of this paragraph, "good cause" ~~shall be~~ is a reason that is significant and would compel an average, reasonable worker, who would otherwise want an additional temporary job assignment with the staffing service employer, (1) to fail to contact the staffing service employer, or (2) to refuse an offered assignment.

For purposes of this paragraph, a "staffing service employer" is an employer whose business involves employing individuals directly for the purpose of furnishing temporary job assignment workers to clients of the staffing service.

Sec. 70. Minnesota Statutes 2006, section 268.095, subdivision 3, is amended to read:

Subd. 3. **Good reason caused by the employer defined.** (a) A good reason caused by the employer for quitting is a reason:

(1) that is directly related to the employment and for which the employer is responsible;

(2) that is adverse to the worker; and

(3) that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment.

(b) The analysis required in paragraph (a) must be applied to the specific facts of each case.

(c) If an applicant was subjected to adverse working conditions by the employer, the applicant must complain to the employer and give the employer a reasonable opportunity to correct the adverse working conditions before that may be considered a good reason caused by the employer for quitting.

(d) A reason for quitting employment ~~shall~~ is not ~~be~~ considered a good reason caused by the employer for quitting if the reason for quitting occurred because of the applicant's employment misconduct.

(e) Notification of discharge in the future, including a layoff ~~due to~~ because of lack of work, ~~shall~~ is not ~~be~~ considered a good reason caused by the employer for quitting.

(f) An applicant has a good reason caused by the employer for quitting if it results from sexual harassment of which the employer was aware, or should have been aware, and the employer failed to take timely and appropriate action. Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when:

(1) the applicant's submission to the conduct or communication is made a term or condition of the employment;

(2) the applicant's submission to or rejection of the conduct or communication is the basis for decisions affecting employment; or

(3) the conduct or communication has the purpose or effect of substantially interfering with an applicant's work performance or creating an intimidating, hostile, or offensive working environment.

(g) The definition of a good reason caused by the employer for quitting employment provided by this subdivision ~~shall be~~ is exclusive and no other definition ~~shall apply~~ applies.

Sec. 71. Minnesota Statutes 2006, section 268.095, subdivision 5, is amended to read:

Subd. 5. **Discharge defined.** (a) A discharge from employment occurs when any words or actions by an employer would lead a reasonable employee to believe that the employer will no longer allow the employee to work for the employer in any capacity. A layoff ~~due to~~ because of lack of work ~~shall be~~ is considered a discharge. A suspension from employment without pay of more than 30 calendar days ~~shall be~~ is considered a discharge.

(b) An employee who gives notice of intention to quit the employment and is not allowed by the employer to work the entire notice period ~~shall be~~ is considered discharged from the employment as of the date the employer will no longer allow the employee to work. If the discharge occurs within 30 calendar days ~~prior to~~ before the intended date of quitting, then, as of the intended date of quitting, the separation from employment ~~shall be~~ is considered a quit from employment subject to subdivision 1.

Sec. 72. Minnesota Statutes 2006, section 268.095, subdivision 6a, is amended to read:

Subd. 6a. **Aggravated employment misconduct defined.** (a) For the purpose of this section, "aggravated employment misconduct" means:

(1) the commission of any act, on the job or off the job, that would amount to a gross misdemeanor or felony if the act substantially interfered with the employment or had a significant adverse effect on the employment; or

(2) for an employee of a facility as defined in section 626.5572, aggravated employment misconduct includes an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section 626.5572 and applicable rules.

(b) If an applicant is convicted of a gross misdemeanor or felony for the same act for which the applicant was discharged, it is aggravated employment misconduct if the act substantially interfered with the employment or had a significant adverse effect on the employment.

(c) The definition of aggravated employment misconduct provided by this subdivision ~~shall be~~ is exclusive and no other definition ~~shall apply~~ applies.

Sec. 73. Minnesota Statutes 2006, section 268.095, subdivision 11, is amended to read:

Subd. 11. **Application.** (a) Section 268.085, subdivision 13c, and this section ~~shall apply~~ applies to all covered employment, full time or part time, temporary or of limited duration, permanent or of indefinite duration, that occurred in Minnesota during the base period, the period between the end of the base period and the effective date of the benefit account, or the benefit year, except as provided for in subdivision 1, clause (5).

(b) Paragraph (a) ~~shall~~ also apply applies to employment covered under an unemployment insurance program of any other state or established by an act of Congress.

Sec. 74. Minnesota Statutes 2006, section 268.103, subdivision 1, is amended to read:

Subdivision 1. **In commissioner's discretion.** The commissioner shall have the discretion to allow an appeal to be filed by electronic transmission. If the commissioner allows an appeal to be filed by electronic transmission, that ~~shall~~ must be clearly set out on the determination or decision subject to appeal.

The commissioner may restrict the manner, format, and conditions under which an appeal by electronic transmission may be filed. Any restrictions as to days, hours, telephone number, electronic address, or other conditions, ~~shall~~ must be clearly set out on the determination or decision subject to appeal.

All information requested by the commissioner when an appeal is filed by electronic transmission must be supplied or the communication ~~shall~~ does not constitute an appeal.

Sec. 75. Minnesota Statutes 2006, section 268.103, subdivision 2, is amended to read:

Subd. 2. **Applicant's appeal by mail.** (a) The commissioner must allow an applicant to file an appeal by mail even if an appeal by electronic transmission is allowed.

(b) A written statement delivered or mailed to the department that could reasonably be interpreted to mean that an involved applicant is in disagreement with a specific determination or decision ~~shall be~~ is considered an appeal. No specific words need be used for the written statement to be considered an appeal.

Sec. 76. Minnesota Statutes 2006, section 268.105, subdivision 3, is amended to read:

Subd. 3. **Withdrawal of appeal.** (a) Any appeal that is pending before an unemployment law judge may be withdrawn by the appealing person, or an authorized representative of that person, upon filing of a notice of withdrawal.

(b) The appeal ~~shall must~~, by order, be dismissed if a notice of withdrawal is filed, unless an unemployment law judge directs that further adjudication is required for a proper result.

(c) A notice of withdrawal may be filed by mail or by electronic transmission.

Sec. 77. Minnesota Statutes 2006, section 268.105, subdivision 5, is amended to read:

Subd. 5. **Use of evidence; data privacy.** (a) All testimony at any evidentiary hearing conducted ~~pursuant to~~ under subdivision 1 ~~shall must~~ be recorded. A copy of any recorded testimony and exhibits offered or received into evidence at the hearing ~~shall must~~, upon request, be furnished to a party at no cost during the time period for filing a request for reconsideration or while a request for reconsideration is pending.

(b) Regardless of any provision of law to the contrary, if recorded testimony and exhibits received into evidence at the evidentiary hearing are not requested during the time period for filing a request for reconsideration, or while a request for reconsideration is pending, that testimony and other evidence ~~shall may~~ later be made available only ~~pursuant to~~ under a district court order. A subpoena ~~shall is not be~~ considered a district court order.

(c) Testimony obtained under subdivision 1, may not be used or considered for any purpose, including impeachment, in any civil, administrative, or contractual proceeding, except by a local, state, or federal human rights agency with enforcement powers, unless the proceeding is initiated by the department.

Sec. 78. Minnesota Statutes 2006, section 268.105, subdivision 6, is amended to read:

Subd. 6. **Representation; fees.** (a) In any proceeding under subdivision 1 or 2, an applicant or involved employer may be represented by any agent.

(b) Except for services provided by an attorney-at-law, an applicant ~~shall may not~~ be charged fees, costs, or disbursements of any kind in a proceeding before an unemployment law judge, the Minnesota Court of Appeals, or the Supreme Court of Minnesota.

Sec. 79. Minnesota Statutes 2006, section 268.105, subdivision 7, is amended to read:

Subd. 7. **Judicial review.** (a) The Minnesota Court of Appeals shall, by writ of certiorari to the department, review the unemployment law judge's decision, provided a petition for the writ is filed with the court and a copy is served upon the unemployment law judge or the commissioner and any other involved party within 30 calendar days of the sending of the unemployment law judge's order under subdivision 2.

(b) Any employer petitioning for a writ of certiorari ~~shall~~ must pay to the court the required filing fee and upon the service of the writ ~~shall~~ must furnish a cost bond to the department in accordance with the Rules of Civil Appellate Procedure. If the employer requests a written transcript of the testimony received at the evidentiary hearing conducted ~~pursuant to~~ under subdivision 1, the employer ~~shall~~ must pay to the department the cost of preparing the transcript. That money ~~shall be~~ is credited to the administration account.

(c) Upon issuance by the Minnesota Court of Appeals of a writ of certiorari as a result of an applicant's petition, the department ~~shall~~ must furnish to the applicant at no cost a written transcript of any testimony received at the evidentiary hearing conducted ~~pursuant to~~ under subdivision 1, and, if requested, a copy of all exhibits entered into evidence. No filing fee or cost bond ~~shall be~~ is required of an applicant petitioning the Minnesota Court of Appeals for a writ of certiorari.

(d) The Minnesota Court of Appeals may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

(e) The department ~~shall be~~ is considered the primary responding party to any judicial action involving an unemployment law judge's decision. The department may be represented by an attorney who is an employee of the department.

Sec. 80. Minnesota Statutes 2006, section 268.115, is amended to read:

268.115 EXTENDED UNEMPLOYMENT BENEFITS.

Subdivision 1. **Definitions.** The terms used in this section ~~shall~~ have the following meaning:

- (1) "Extended unemployment benefit period" means a period that lasts for a minimum of 13 weeks and that:
 - (i) Begins with the third week after there is a state "on" indicator; and
 - (ii) Ends with the third week after there is a state "off" indicator.

No extended unemployment benefit period may begin before the 14th week following the end of a prior extended unemployment benefit period.

(2) There is a "state 'on' indicator" for a week if:

(i) for that week and the prior 12 weeks, the rate of insured unemployment:

(a) equaled or exceeded 120 percent of the average of the rates for the corresponding 13-week period ending in each of the prior two calendar years, and was five percent or more; or

(b) equaled or exceeded six percent; or

(ii) The United States Secretary of Labor determines that the average rate of seasonally adjusted total unemployment in Minnesota for the most recent three months for which data is published equals or exceeds 6.5 percent and this rate equals or exceeds 110 percent of the rate of the corresponding three-month period in either of the prior two calendar years.

(3) There is a "state 'off' indicator" for a week if:

(i) under clause (2)(i), for that week and the prior 12 weeks, the requirements for a "state 'on' indicator" are not satisfied; or

(ii) under clause (2)(ii) the requirements for a "state 'on' indicator" are not satisfied.

(4) "Rate of insured unemployment," means the percentage derived by dividing the average weekly number of applicants filing continued biweekly requests for regular unemployment benefits in the most recent 13-week period by the average monthly covered employment for the first four of the last six completed calendar quarters before the end of that 13-week period.

(5) "Regular unemployment benefits" means unemployment benefits available to an applicant other than extended unemployment benefits and additional unemployment benefits.

(6) "Eligibility period" for an applicant means the period consisting of the weeks remaining in the applicant's benefit year within the extended unemployment benefit period and, if the benefit year ends within the extended unemployment benefit period, any weeks in the extended unemployment benefit period.

(7) "Exhaustee" means an applicant who, in the eligibility period:

~~(a)~~ (i) the benefit year having not expired has received the maximum amount of regular unemployment benefits that were available under section 268.07; or

~~(b)~~ (ii) the benefit year having expired, has insufficient wage credits to establish a new benefit account; and

~~(c)~~ has no right to any type of unemployment benefits under the law of any other state or under federal laws and is not receiving unemployment benefits under the law of Canada.

Subd. 3. **Requirements for extended unemployment benefits.** If an extended unemployment benefit period is in effect, an applicant ~~shall be~~ is paid extended unemployment benefits from the trust fund for any week in the applicant's eligibility period if the applicant:

(1) is an "exhaustee";

(2) has satisfied the same requirements as those for regular unemployment benefits under section 268.069;

(3) has wage credits of not less than 40 times the weekly unemployment benefit amount; and

(4) is not subject to a denial of extended unemployment benefits under subdivision 9.

Subd. 4. **Weekly extended unemployment benefit amount.** The weekly extended unemployment benefit amount ~~shall be~~ is the same as the weekly unemployment benefit amount of regular unemployment benefits.

Subd. 5. **Maximum amount of extended unemployment benefits.** The maximum amount of extended unemployment benefits available to an applicant ~~shall be~~ is 50 percent of the maximum amount of regular unemployment benefits available in the benefit year, rounded down to the next lower whole dollar. If the total rate of unemployment computed under subdivision 1, clause (2)(ii), equaled or exceeded eight percent, the maximum amount of extended unemployment benefits available ~~shall be~~ is 80 percent of the maximum amount of regular unemployment benefits available in the benefit year.

Subd. 6. **Public announcement.** Whenever an extended unemployment benefit period is to begin as a result of a state "on" indicator, or an extended unemployment benefit period is to end as a result of a state "off" indicator the commissioner shall make an appropriate public announcement.

Subd. 7. **Federal law.** This section is enacted to conform to the requirements of United States Code, title 26, section 3304, the Federal-State Extended Unemployment Compensation Act of 1970 as amended and the applicable federal regulations.

Subd. 8. **Interstate applicants.** An applicant residing in a state other than Minnesota shall be eligible for only the first two weeks of extended unemployment benefits if the applicant's benefit account was established ~~pursuant to~~ under the interstate benefit payment plan and no extended unemployment benefit period is in effect for the week in that state.

Subd. 9. **Denial provisions.** (a) An applicant ~~shall be~~ is denied extended unemployment benefits for any week in the applicant's eligibility period if during that week the applicant failed to accept any offer of suitable employment, failed to apply for any suitable employment that the applicant was referred to by the commissioner, or failed to actively seek suitable employment.

The denial ~~shall continue~~ continues until the applicant has been employed in covered employment in each of four subsequent weeks, whether or not consecutive, and had earnings from that covered employment of not less than four times the applicant's weekly unemployment benefit amount.

(b) For the purpose of this subdivision "suitable employment" means any employment that is within the applicant's capabilities and that has a gross average weekly wage that exceeds the applicant's weekly unemployment benefit amount. The employment must pay wages not less than the higher of the federal minimum wage without regard to any exemption, or the applicable state minimum wage.

(c) No applicant ~~shall~~ may be denied extended unemployment benefits for failure to accept an offer of or apply for any suitable employment if:

(1) the position was not offered to the applicant in writing;

(2) the position was not listed with the job service; or

(3) the applicant furnishes satisfactory evidence that prospects for obtaining employment in the applicant's customary occupation within a reasonably short period are good. If the evidence is satisfactory, the determination of whether any employment is suitable ~~shall be~~ is made in accordance with the definition of suitable employment in section 268.035, subdivision 23a.

(d) For the purpose of this subdivision an applicant is "actively seeking suitable employment" only if the applicant has engaged in a systematic and sustained effort to obtain employment, and the applicant furnishes tangible evidence of that effort.

Subd. 10. **Job service referral.** The job service ~~shall~~ must refer any applicant who is filing continued biweekly requests for extended unemployment benefits to any employment that is suitable under subdivision 9.

Sec. 81. Minnesota Statutes 2006, section 268.125, subdivision 4, is amended to read:

Subd. 4. **Weekly unemployment benefit amount.** An applicant's weekly additional unemployment benefit amount ~~shall be~~ is the same as the applicant's weekly unemployment benefit amount during the current benefit year under section 268.07.

Sec. 82. Minnesota Statutes 2006, section 268.125, subdivision 5, is amended to read:

Subd. 5. **Maximum amount of unemployment benefits.** The maximum amount of additional unemployment benefits available in the applicant's benefit year ~~shall be~~ is one-half of the applicant's maximum amount of regular unemployment benefits available under section 268.07, subdivision 2, rounded down to the next lower whole dollar. Extended unemployment benefits paid and unemployment benefits paid under any federal law other than regular unemployment benefits ~~shall~~ must be deducted from the maximum amount of additional unemployment benefits available.

Sec. 83. Minnesota Statutes 2006, section 268.135, is amended to read:

268.135 SHARED WORK PLAN.

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

(1) "Affected employee" means an employee who was continuously employed as a member of the affected group, for at least six months, on a full-time basis, ~~prior to~~ before submission of the shared work plan.

(2) "Affected group" means five or more employees designated by the employer to participate in a shared work plan.

(3) "Shared work plan" or "plan" means an employer's plan, submitted in a manner and format prescribed by the commissioner, under which a group of employees whose normal weekly hours of work are reduced, in order to prevent employees from being laid off ~~due to~~ because of lack of work.

(4) "Normal weekly hours of work" means the number of hours in a week that the employee normally would work for the shared work employer or 40 hours, whichever is less.

Subd. 2. **Participation.** (a) An employer wishing to participate in the shared work benefit program ~~shall~~ must submit a shared work plan to the commissioner in a manner and format prescribed for approval. The commissioner may approve a shared work plan only if it:

(1) specifies the employees in the affected group;

(2) applies to only one affected group;

(3) includes a certified statement by the employer that each employee specified in the affected group is an affected employee;

(4) includes a certified statement by the employer that for the duration of the plan the reduction in normal weekly hours of work of the employees in the affected group is instead of layoffs that otherwise would result in at least as large a reduction in the total normal weekly hours of work;

(5) specifies an expiration date that is no more than one year from the date the employer submits the plan for approval;

(6) specifies that fringe benefits, such as health and retirement, available to the employees in the affected group are not reduced beyond the percentage of reduction in hours of work; and

(7) is approved in writing by the collective bargaining agent for each collective bargaining agreement that covers any employee in the affected group.

(b) The commissioner shall set the beginning and ending dates of an approved shared work plan.

(c) The commissioner shall send to the employer a determination, by mail or electronic transmission, approving or disapproving the plan within 15 calendar days of its receipt. Determinations are final.

(d) Disapproval of a plan may be reconsidered at the discretion of the commissioner. Approval of a shared work plan may be revoked if the approval was based, in whole or in part, upon information that was false or misleading.

Subd. 3. **Eligibility.** (a) Regardless of any other provision, an applicant is eligible to receive shared work benefits with respect to any week if:

(1) during the week the applicant is employed as a member of an affected group in a plan that was approved ~~prior to~~ before the week and is in effect for the week; and

(2) during the week the normal weekly hours of work were reduced, in accordance with the plan, at least 20 percent but not more than 40 percent, with a corresponding reduction in wages.

(b) Shared work benefits ~~shall~~ may not be paid to an applicant beyond one benefit year.

(c) The total amount of regular unemployment benefits and shared work benefits paid to an applicant in a benefit year ~~shall~~ may not exceed the maximum amount of regular unemployment benefits available.

(d) An otherwise eligible applicant ~~shall~~ may not be denied shared work benefits because of the application of any provision relating to availability for employment, active search for employment, or refusal to apply for or accept suitable employment from other than the applicant's shared work employer.

Subd. 4. **Weekly benefit amount.** (a) An applicant who is eligible for shared work benefits ~~shall be~~ is paid an amount equal to the regular weekly unemployment benefit amount multiplied by the nearest full percentage of reduction of the applicant's regular weekly hours of work as set in the plan. The benefit payment, if not a whole dollar ~~shall~~ must be rounded down to the next lower whole dollar.

(b) The deductible earnings provisions of section 268.085, subdivision 5, ~~shall~~ must not apply to earnings from the shared work employer of an applicant eligible for shared work benefits unless the resulting amount would be less than the regular weekly unemployment benefit amount the applicant would otherwise be eligible for without regard to shared work benefits.

(c) An applicant ~~shall~~ is not be eligible for shared work benefits for any week that employment is performed for the shared work employer in excess of the reduced hours set forth in the plan.

Sec. 84. Minnesota Statutes 2006, section 268.145, subdivision 1, is amended to read:

Subdivision 1. **Notification.** (a) Upon filing an application for unemployment benefits, the applicant ~~shall~~ must be informed that:

- (1) unemployment benefits are subject to federal and state income tax;
- (2) there are requirements for filing estimated tax payments;
- (3) the applicant may elect to have federal income tax withheld from unemployment benefits;
- (4) if the applicant elects to have federal income tax withheld, the applicant may, in addition, elect to have Minnesota state income tax withheld; and
- (5) at any time during the benefit year the applicant may change a prior election.

(b) If an applicant elects to have federal income tax withheld, the commissioner shall deduct ten percent for federal income tax, rounded down to the next lower whole dollar. If an applicant also elects to have Minnesota state income tax withheld, the commissioner shall make an additional five percent deduction for state income tax, rounded down to the next lower whole dollar. Any amounts deducted or offset ~~pursuant to~~ under sections 268.155, 268.18, and 268.184 have priority over any amounts deducted under this section. Federal income tax withholding has priority over state income tax withholding.

(c) An election to have income tax withheld ~~shall~~ may not be retroactive and ~~shall~~ only apply applies to unemployment benefits paid after the election.

Sec. 85. Minnesota Statutes 2006, section 268.145, subdivision 2, is amended to read:

Subd. 2. **Transfer of funds.** The amount of any unemployment benefits deducted under this section ~~shall remain~~ remains in the trust fund until transferred to the federal Internal Revenue Service, or the Department of Revenue, as an income tax payment on behalf of the applicant.

Sec. 86. Minnesota Statutes 2006, section 268.145, subdivision 3, is amended to read:

Subd. 3. **Correction of errors.** Any error that resulted in underwithholding or overwithholding under this section ~~shall~~ will not be corrected retroactively.

Sec. 87. Minnesota Statutes 2006, section 268.155, is amended to read:

268.155 CHILD SUPPORT DEDUCTED FROM UNEMPLOYMENT BENEFITS.

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

(1) "Child support obligations" means obligations that are being enforced by a child support agency ~~pursuant to~~ in accordance with a plan described in United States Code, title 42, section 454, of the Social Security Act that has been approved by the secretary of health and human services under part D of title IV of the Social Security Act. This ~~shall~~ does not include any type of spousal maintenance or foster care payments; and

(2) "Child support agency" means the public agency responsible for child support enforcement.

Subd. 2. **Notice upon application.** In an application for unemployment benefits, the applicant ~~shall~~ must disclose if child support obligations are owed and, if so, in what state and county. If child support obligations are owed, the commissioner shall, if the applicant establishes a benefit account, notify the child support agency.

Subd. 3. **Withholding of unemployment benefits.** The commissioner shall deduct and withhold from any unemployment benefits payable to an applicant who owes child support obligations:

(1) the amount required ~~pursuant to~~ under a proper order of a court or administrative agency; or

(2) if clause (1) is not applicable, the amount determined ~~pursuant to~~ under an agreement under United States Code, title 42, section 454 (20) (B) (i), of the Social Security Act; or

(3) if clause (1) or (2) is not applicable, the amount specified by the applicant.

Subd. 4. **Payment.** Any amount deducted and withheld ~~shall~~ must be paid to the child support agency, but ~~shall~~ will for all purposes be treated as if it were paid to the applicant as unemployment benefits and paid by the applicant to the child support agency in satisfaction of the applicant's child support obligations.

Subd. 5. **Payment of costs.** The child support agency ~~shall~~ must pay the costs incurred by the commissioner in the implementation and administration of this section and sections 518A.50 and 518A.53.

Sec. 88. Minnesota Statutes 2006, section 268.18, subdivision 5, is amended to read:

Subd. 5. **Remedies.** (a) Any method undertaken to recover an overpayment of unemployment benefits, including any penalties and interest, ~~shall~~ is not ~~be~~ considered an election of a method of recovery.

(b) Intervention or lack thereof, in whole or in part, in a workers' compensation matter under section 176.361 ~~shall~~ is not ~~be~~ considered an election of a remedy and ~~shall~~ does not prevent the commissioner from determining any unemployment benefits overpaid under subdivision 1 or 2 or taking action under section 268.182.

Sec. 89. Minnesota Statutes 2006, section 268.18, subdivision 6, is amended to read:

Subd. 6. **Collection of overpayments.** (a) The commissioner may not compromise the amount that has been determined overpaid under this section including penalties and interest.

(b) The commissioner ~~shall have~~ has discretion regarding the recovery of any overpayment under subdivision 1. Regardless of any law to the contrary, the commissioner ~~shall~~ is not ~~be~~ required to refer any amount determined overpaid under subdivision 1 to a public or private collection agency, including agencies of this state.

(c) Amounts determined overpaid under subdivision 1 ~~shall~~ are not ~~be~~ considered a "debt" to the state of Minnesota for purposes of any reporting requirements to the commissioner of finance.

(d) A pending appeal under section 268.105 ~~shall~~ does not suspend the assessment of interest, penalties, or collection of an overpayment under this section.

(e) Section 16A.626 applies to the repayment by an applicant of any overpayment, penalty, or interest under this section.

Sec. 90. Minnesota Statutes 2006, section 268.182, subdivision 1, is amended to read:

Subdivision 1. **Criminal penalties.** Whoever obtains, or attempts to obtain, or aids or abets any individual to obtain by means of an intentional false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent means, unemployment benefits that the individual is not entitled or unemployment benefits greater than the individual is entitled under this chapter, or under the law of any state or of the federal government, either personally or for any other individual, is guilty of theft and ~~shall~~ must be sentenced ~~pursuant to~~ under section 609.52.

Sec. 91. Minnesota Statutes 2006, section 268.186, is amended to read:

268.186 RECORDS; AUDITS.

(a) Each employer ~~shall~~ must keep true and accurate records for the periods of time and containing the information the commissioner may require by rule. For the purpose of administering this chapter, the commissioner has the power to audit, examine, or cause to be supplied or copied, any books, correspondence, papers, records, or memoranda that are relevant, whether the books, correspondence, papers, records, or memoranda are the property of or in the possession of the employer or any other person at any reasonable time and as often as may be necessary.

(b) Any employer that refuses to allow an audit of its records by the department, or that fails to make all necessary records available for audit in Minnesota upon request of the commissioner, may be assessed an administrative penalty of \$500. The penalty collected ~~shall be~~ is credited to the administration account to be used by the commissioner to ensure integrity in the administration of the unemployment insurance program.

(c) The commissioner may make summaries, compilations, photographs, duplications, or reproductions of any records, or reports that the commissioner considers advisable for the preservation of the information contained therein. Any summaries, compilations, photographs, duplications, or reproductions ~~shall be~~ is admissible in any proceeding under this chapter. The commissioner may duplicate records, reports, summaries, compilations, instructions, determinations, or any other written or recorded matter pertaining to the administration of this chapter.

(d) Regardless of any law to the contrary, the commissioner may provide for the destruction of any records, reports, or reproductions ~~thereof~~, or other papers that are no longer necessary for the administration of this chapter, including any required audit. In addition, the commissioner may provide for the destruction or disposition of any record, report, or other paper from which the information has been electronically captured and stored, or that has been photographed, duplicated, or reproduced.

Sec. 92. Minnesota Statutes 2006, section 268.19, subdivision 1a, is amended to read:

Subd. 1a. **Wage detail data.** (a) Wage and employment data gathered ~~pursuant to~~ under section 268.044 may be disseminated to and used, without the consent of the subject of the data, by an agency of another state that is designated as the performance accountability and consumer information agency for that state ~~pursuant to~~ under Code of Federal Regulations, volume 20, part 663.510(c), in order to carry out the requirements of the Workforce Investment Act of 1998, United States Code, title 29, sections 2842 and 2871.

(b) The commissioner may enter into a data exchange agreement with an employment and training service provider under section 116L.17, or the Workforce Investment Act of 1998, United States Code, title 29, section 2864, under which the commissioner, with the consent of the subject of the data, may furnish data on the quarterly wages paid and number of hours worked on those individuals who have received employment and training services

from the provider. With the initial consent of the subject of the data, this data may be shared for up to three years after termination of the employment and training services provided to the individual without execution of an additional consent. This data ~~shall be~~ is furnished solely for the purpose of evaluating the employment and training services provided. The data subject's ability to receive service is not affected by a refusal to give consent under this paragraph. The consent form must state this fact.

Sec. 93. Minnesota Statutes 2006, section 268.19, subdivision 2, is amended to read:

Subd. 2. **Employer information; absolute privilege.** (a) Regardless of any provision of law to the contrary, an employer may provide the commissioner with information on an applicant so that the commissioner can determine an applicant's entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

(b) The commissioner may disseminate an employer's name and address and the name and address of any employer's unemployment insurance processing agent in order to administer the Minnesota unemployment insurance program.

(c) Information obtained ~~pursuant to~~ under the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, ~~shall be~~ are absolutely privileged and ~~shall~~ may not be made the subject matter or the basis for any civil proceeding, administrative, or judicial.

Sec. 94. Minnesota Statutes 2006, section 268.192, is amended to read:

268.192 PROTECTION OF RIGHTS.

Subdivision 1. **Waiver of rights void.** Any agreement by an individual to waive, release, or commute rights to unemployment benefits or any other rights under the Minnesota Unemployment Insurance Law ~~shall be~~ is void. Any agreement by an employee to pay all or any portion of an employer's taxes, ~~shall be~~ is void. No employer ~~shall~~ may directly or indirectly make or require or accept any deduction from wages to pay the employer's taxes, require or accept any waiver of any right or in any manner obstruct or impede an application or continued biweekly request for unemployment benefits. Any employer or officer or agent of any employer who violates any portion of this subdivision ~~shall~~ is, for each offense, ~~be~~ guilty of a misdemeanor.

Subd. 2. **No assignment of unemployment benefits; exemptions.** Any assignment, pledge, or encumbrance of unemployment benefits ~~shall be~~ is void. Unemployment benefits ~~shall be~~ are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Any waiver of this subdivision ~~shall be~~ is void.

Sec. 95. Minnesota Statutes 2006, section 268.194, subdivision 4, is amended to read:

Subd. 4. **Reimbursements.** The commissioner is authorized to make to other state or federal agencies and to receive from other state or federal agencies, reimbursements from or to the trust fund, in accordance with reciprocal arrangements entered into ~~pursuant to~~ under section 268.131.

Money received ~~pursuant to~~ under a reciprocal agreement ~~shall~~ must be placed directly in the unemployment benefit payment account of the trust fund.

Sec. 96. Minnesota Statutes 2006, section 268.194, subdivision 5, is amended to read:

Subd. 5. **Reed Act money.** (a) Money credited to the account of Minnesota in the federal unemployment trust fund ~~pursuant to~~ under United States Code, title 42, section 1103, of the Social Security Act, also known as the Reed Act, may be requisitioned and used for (1) the payment of unemployment benefits, or (2) expenses incurred for the administration of the Minnesota unemployment insurance program ~~pursuant~~ according to a specific appropriation by the legislature. Any money used for the payment of unemployment benefits may be restored for appropriation and use for administrative expenses upon request of the governor to the United States Secretary of Labor.

(b) Reed Act money may be used for expenses in the administration of the Minnesota unemployment insurance program provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law that:

(1) specifies the amounts and the purposes for which the money is appropriated;

(2) limits the period within which the money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(3) limits the amount that may be obligated to an amount that does not exceed the amount by which the aggregate of the amounts transferred to the account of Minnesota ~~pursuant to~~ under the Reed Act exceeds the aggregate of the amounts used ~~pursuant to~~ under this subdivision and charged against the amounts transferred to the account of Minnesota. For the purposes of this subdivision, amounts used for administration ~~shall be~~ are chargeable against the transferred amounts at the time of the obligation.

(c) Reed Act money requisitioned for the payment of expenses of administration ~~shall~~ remain a part of the ~~unemployment insurance~~ trust fund. The commissioner shall account for the use of this money in accordance with the standards established by the United States Secretary of Labor. If any money is not spent for the purpose for which it was appropriated, or, if it remains unspent at the end of the period specified by the law appropriating the money, it ~~shall~~ must be returned for credit to Minnesota's account in the federal unemployment trust fund.

Sec. 97. Minnesota Statutes 2006, section 268.194, subdivision 6, is amended to read:

Subd. 6. **Borrowing federal funds.** (a) The governor is ~~hereby~~ authorized, if necessary, to borrow funds from the federal unemployment trust fund in accordance with United States Code, title 42, section 1321 of the Social Security Act in order to pay unemployment benefits.

(b) Any amount transferred to the trust fund under the terms of any loan ~~shall~~ must be repayable as provided in United States Code, title 42, sections 1101(d)(1), 1103(b)(2), and 1322 of the Social Security Act.

(c) Interest payable on any loan ~~shall be~~ is paid in accordance with section 268.051, subdivision 8, paragraph (b).

Sec. 98. Minnesota Statutes 2006, section 268.20, is amended to read:

268.20 REPRESENTATION IN COURT.

In any civil action to enforce the provisions of the Minnesota Unemployment Insurance Law, the commissioner ~~shall~~ may be represented by the attorney general.

Sec. 99. Minnesota Statutes 2006, section 268.21, is amended to read:

268.21 NONLIABILITY OF STATE.

(a) Unemployment benefits ~~shall be~~ are payable only to the extent provided in this chapter and to the extent that money is available in the trust fund and neither the state nor the commissioner ~~shall be~~ is liable for any amount in excess of the money available in the trust fund.

(b) No person ~~shall~~ may make any demand, bring any suit, or other proceeding to recover from the state or the commissioner any sum alleged to be due on a benefit account after the expiration of two years from the effective date of the benefit account.

Sec. 100. Minnesota Statutes 2006, section 268.22, is amended to read:

268.22 SAVING CLAUSE.

The legislature reserves the right to amend or repeal all or any part of the Minnesota Unemployment Insurance Law at any time; and there ~~shall be~~ is no vested private right of any kind against ~~such~~ amendment or repeal. All the rights, privileges, ~~or~~ immunities conferred ~~thereby~~, or by acts done ~~pursuant thereto~~, ~~shall~~ exist subject to the power of the legislature to amend or repeal these sections at any time.

Sec. 101. Minnesota Statutes 2006, section 268.23, is amended to read:

268.23 SEVERABLE.

In the event that the United States Department of Labor determines that any provision of the Minnesota Unemployment Insurance Law, or any other provision of Minnesota Statutes relating to the unemployment insurance program, is not in conformity with the requirements of federal law, the provision ~~shall have~~ has no force or effect; but if only a portion of the provision, or the application to any person or circumstances, is held not in conformity, the remainder of the provision and the application of the provision to other persons or circumstances ~~shall~~ are not be affected.

Sec. 102. **EFFECTIVE DATE.**

Sections 1 to 101 are effective September 30, 2007.

ARTICLE 7

EXTRA BENEFITS

Section 1. **LUMBER COMPANY EXTRA BENEFITS.**

Subdivision 1. **Extra benefits; availability.** Extra unemployment benefits are available to an applicant if the applicant was laid off due to lack of work after April 1, 2006, from the Ainsworth Lumber Company plants in Bemidji, Cook, and Grand Rapids, and established a benefit account under Minnesota Statutes, section 268.07, prior to March 1, 2007.

Subd. 2. **Payment from fund; effect on employer.** Extra unemployment benefits are payable from the unemployment insurance trust fund. Extra unemployment benefits paid under this section will not be used in computing the experience rating of Ainsworth Lumber Company under Minnesota Statutes, section 268.047.

Subd. 3. **Eligibility conditions.** An applicant is eligible to receive extra unemployment benefits under this section for any week through December 31, 2007, following the effective date of the applicant's benefit account of regular unemployment benefits, as a result of a layoff described under subdivision 1, if:

(1) a majority of the applicant's wage credits were with Ainsworth Lumber Company or Ainsworth Engineered;

(2) the applicant meets the eligibility requirements of Minnesota Statutes, section 268.085;

(3) the applicant is not subject to a disqualification under Minnesota Statutes, section 268.095;

(4) the applicant is not entitled to regular unemployment benefits and the applicant is not entitled to receive unemployment benefits under any other state or federal law for that week; and

(5) the applicant is enrolled in, or has within the last two weeks successfully completed, a program that qualifies as reemployment assistance training under Minnesota Statutes, section 268.035, subdivision 21a, except that an applicant whose training is scheduled to begin in more than 30 days may be considered to be in training if: (i) the applicant's chosen training program does not offer an available start date within 30 days; (ii) the applicant is scheduled to begin training on the earliest available start date for the chosen training program; and (iii) the applicant is scheduled to begin training in no more than 60 days.

Subd. 4. **Weekly amount of extra benefits.** The weekly extra unemployment benefits amount available to an applicant is the same as the applicant's weekly regular unemployment benefit amount on the benefit account established as a result of a layoff under subdivision 1.

Subd. 5. **Maximum amount of extra unemployment benefits.** (a) The maximum amount of extra unemployment benefits available is equal to 13 weeks at the applicant's weekly extra unemployment benefits amount.

(b) If an applicant qualifies for a new regular benefit account under Minnesota Statutes, section 268.07, at any time after exhausting regular unemployment benefits as a result of the layoff under subdivision 1, the applicant must apply for and exhaust entitlement to those new regular unemployment benefits. The maximum amount of extra unemployment benefits available is reduced by any new regular unemployment benefits available if the majority of wage credits on that new regular benefit account were with Ainsworth Lumber Company or Ainsworth Engineered.

Subd. 6. **Program expiration.** This extra unemployment benefit program expires on December 31, 2007. No extra unemployment benefits may be paid for any week after the expiration of this program.

Subd. 7. **Findings.** The legislature finds that providing extra unemployment benefits to assist laid-off workers of Ainsworth Lumber Company, while in training, is appropriate because:

(1) the unemployment rate in the applicant's county of employment is higher than the statewide average rate of unemployment;

(2) the average weekly wages paid in the applicant's county of employment is below the statewide average weekly wage;

(3) the applicant's weekly wage is higher than the statewide average weekly wage; and

(4) the dislocated worker program has determined that the applicant does not currently possess skills making reemployment in a comparable position likely.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the first Sunday following final enactment.

ARTICLE 8

FILING REQUIREMENT WAIVER

Section 1. **UNEMPLOYMENT BENEFITS; CONTINUED REQUEST TIME PERIOD WAIVER.**

Notwithstanding the requirements of Minnesota Statutes, sections 268.085, subdivision 1, clause (1), and 268.086, the commissioner must accept continued requests for unemployment benefits and pay unemployment benefits to an applicant who:

(1) was employed as a technician or inspector for Northwest Airlines, Inc., prior to August 20, 2005;

(2) stopped working on or about August 20, 2005, because of a labor dispute between the Aircraft Mechanics Fraternal Association (AMFA) and Northwest Airlines, Inc.;

(3) did not file continued requests for unemployment benefits within the time periods required under Minnesota Statutes, section 268.086; and

(4) meets all the other requirements for the payment of unemployment benefits under Minnesota Statutes, section 268.069, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2007."

Delete the title and insert:

"A bill for an act relating to unemployment insurance; making various policy, housekeeping, and style changes to the Minnesota Unemployment Insurance Law; incorporating certain administrative rules into Minnesota Statutes; modifying fraud penalties; providing extra benefits for certain workers laid off from Ainsworth Lumber Company; providing a waiver from certain filing requirements for certain Northwest Airlines workers; amending Minnesota Statutes 2006, sections 268.001; 268.03, subdivisions 1, 2; 268.035, subdivisions 1, 4, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21a, 23, 23a, 24, 26, 29, 30, by adding a subdivision; 268.042, subdivisions 1, 3, 4; 268.043; 268.0435; 268.044, subdivisions 1, 1a, 2, 3, 4; 268.045, subdivision 1; 268.046; 268.047, subdivisions 1, 2, 3, 5; 268.051, subdivisions 1, 1a, 2, 3, 4, 4a, 5, 6, 7, 8, 9; 268.052, subdivisions 1, 2, 3, 4, 5; 268.0525; 268.053, subdivisions 1, 2, 3; 268.057, subdivisions 1, 2, 3, 4, 5, 6, 7, 10; 268.058; 268.059; 268.0625, subdivisions 4, 5; 268.063; 268.064; 268.065, subdivisions 1, 3; 268.066; 268.067; 268.0675; 268.068; 268.069, subdivisions 1, 2, 3; 268.07, subdivisions 1, 2, 3a, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 11, 12, 13, 13a, 13b, 13c, 16; 268.086, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 268.087; 268.095, subdivisions 1, 2, 3, 4, 5, 6, 6a, 7, 10, 11; 268.101; 268.103, subdivisions 1, 2; 268.105, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7; 268.115; 268.125, subdivisions 3, 4, 5; 268.131, subdivision 1; 268.135; 268.145, subdivisions 1, 2, 3; 268.155; 268.18, subdivisions 1, 2, 2b, 4, 5, 6; 268.182, subdivisions 1, 2; 268.184, subdivisions 1, 1a; 268.186; 268.188; 268.19, subdivisions 1, 1a, 2; 268.192; 268.194, subdivisions 1, 2, 3, 4, 5, 6; 268.196, subdivisions 1, 3; 268.20; 268.21; 268.22; 268.23; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2006, sections 268.0435; 268.0511; 268.085, subdivision 10; 268.103, subdivision 4; Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530, subparts 2, 3, 4, 5, 6; 3315.0540; 3315.0550; 3315.0910, subparts 1, 2, 3, 4, 5, 6, 7, 8; 3315.1005, subparts 1, 3; 3315.1315, subpart 4; 3315.2010; 3315.2810, subparts 2, 4."

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

Senate Conferees: DAN SPARKS, JAMES P. METZEN AND JOE GIMSE.

House Conferees: TIM MAHONEY, SCOTT KRANZ AND BOB GUNTHER.

Mahoney moved that the report of the Conference Committee on S. F. No. 167 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 167, A bill for an act relating to unemployment insurance; making various policy, housekeeping, and style changes to the Minnesota Unemployment Insurance Law; incorporating certain administrative rules into Minnesota Statutes; modifying fraud penalties; extending certain unemployment benefits; amending Minnesota

Statutes 2006, sections 268.001; 268.03, subdivisions 1, 2; 268.035, subdivisions 1, 4, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21a, 23, 23a, 24, 26, 29, 30, by adding a subdivision; 268.042, subdivisions 1, 3, 4; 268.043; 268.0435; 268.044, subdivisions 1, 1a, 2, 3, 4; 268.045, subdivision 1; 268.046; 268.047, subdivisions 1, 2, 3, 5; 268.051, subdivisions 1, 1a, 2, 3, 4, 4a, 5, 6, 7, 8, 9; 268.052, subdivisions 1, 2, 3, 4, 5; 268.0525; 268.053, subdivisions 1, 2, 3; 268.057, subdivisions 1, 2, 3, 4, 5, 6, 7, 10; 268.058; 268.059; 268.0625, subdivisions 4, 5; 268.063; 268.064; 268.065, subdivisions 1, 3; 268.066; 268.067; 268.0675; 268.068; 268.069, subdivisions 1, 2, 3; 268.07, subdivisions 1, 2, 3a, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 11, 12, 13, 13a, 13b, 13c, 16; 268.086, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 268.087; 268.095, subdivisions 1, 2, 3, 4, 5, 6, 6a, 7, 10, 11; 268.101; 268.103, subdivisions 1, 2; 268.105, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7; 268.115; 268.125, subdivisions 3, 4, 5; 268.131, subdivision 1; 268.135; 268.145, subdivisions 1, 2, 3; 268.155; 268.18, subdivisions 1, 2, 2b, 4, 5, 6; 268.182, subdivisions 1, 2; 268.184, subdivisions 1, 1a; 268.186; 268.188; 268.19, subdivisions 1, 1a, 2; 268.192; 268.194, subdivisions 1, 2, 3, 4, 5, 6; 268.196, subdivisions 1, 3; 268.20; 268.21; 268.22; 268.23; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 2006, sections 268.0435; 268.0511; 268.085, subdivision 10; 268.103, subdivision 4; Minnesota Rules, parts 3315.0210; 3315.0220; 3315.0515; 3315.0520; 3315.0525; 3315.0530, subparts 2, 3, 4, 5, 6; 3315.0540; 3315.0550; 3315.0910, subparts 1, 2, 3, 4, 5, 6, 7, 8; 3315.1005, subparts 1, 3; 3315.1315, subpart 4; 3315.2010; 3315.2810, subparts 2, 4.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Pursuant to rule 2.05, the Speaker excused Lillie from voting on S. F. No. 167, as amended by Conference.

There were 107 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Hortman	Loeffler	Otremba	Solberg
Anderson, S.	Eken	Hosch	Madore	Ozment	Sviggum
Anzelc	Erhardt	Howes	Mahoney	Paymar	Swails
Atkins	Faust	Huntley	Mariani	Pelowski	Thao
Benson	Fritz	Jaros	Marquart	Peterson, A.	Thissen
Bigham	Gardner	Johnson	Masin	Peterson, N.	Tillberry
Bly	Garofalo	Juhnke	McFarlane	Peterson, S.	Tschumper
Brown	Greiling	Kahn	McNamara	Poppe	Urdahl
Brynaert	Gunther	Kalin	Moe	Rukavina	Wagenius
Bunn	Hamilton	Knuth	Morgan	Ruth	Walker
Carlson	Hansen	Koenen	Morrow	Ruud	Ward
Clark	Hausman	Kranz	Mullery	Sailer	Wardlow
Cornish	Haws	Laine	Murphy, E.	Scalze	Welti
Davnie	Heidgerken	Lanning	Murphy, M.	Sertich	Westrom
Demmer	Hilstrom	Lenczewski	Nelson	Simon	Winkler
Dill	Hilty	Lesch	Nornes	Slawik	Wollschlager
Dittrich	Holberg	Liebling	Norton	Slocum	Spk. Kelliher
Dominguez	Hornstein	Lieder	Olin	Smith	

Those who voted in the negative were:

Anderson, B.	Buesgens	Emmer	Hackbarth	Peppin	Simpson
Beard	Dean	Erickson	Kohls	Seifert	Zellers
Berns	DeLaForest	Finstad	Magnus	Severson	
Brod	Eastlund	Gottwalt	Olson	Shimanski	

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 596.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 596

A bill for an act relating to data practices; clarifying duties and classifications; making technical changes; providing for access to and classifications of data; amending Minnesota Statutes 2006, sections 13.02, subdivisions 8, 11; 13.04, subdivisions 3, 4; 13.05, subdivision 10; 13.072, subdivision 1; 13.08, subdivision 4; 13.32, subdivision 5; 13.35; 13.355, subdivision 1; 13.384, subdivisions 1, 2; 13.39, subdivisions 1, 2, 2a, 3; 13.392, subdivision 1; 13.393; 13.40, subdivisions 1, 3; 13.41, subdivision 3; 13.43, subdivisions 2, 5, 7, 9, 10, 11; 13.435; 13.44, subdivisions 1, 2, 3; 13.462; 13.48; 13.4965, subdivision 3; 13.552, subdivision 3; 13.591, subdivision 4; 13.72, by adding subdivisions; 13.861, subdivision 1; 13.87, subdivisions 1, 2; 84.0274, subdivision 5; 122A.33, subdivision 3; 171.07, subdivision 1a; 270B.01, subdivision 8; 270B.02, subdivision 3; 270B.085, by adding a subdivision; 270B.14, subdivision 3; 273.1315; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 2006, section 13.79, subdivision 2.

May 18, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 596 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 596 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 13.02, subdivision 8, is amended to read:

Subd. 8. **Individual.** "Individual" means a natural person. In the case of a minor or an ~~individual adjudged mentally incompetent~~ incapacitated person as defined in section 524.5-102, subdivision 6, "individual" includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

Sec. 2. Minnesota Statutes 2006, section 13.02, subdivision 11, is amended to read:

Subd. 11. **Political subdivision.** "Political subdivision" means any county, statutory or home rule charter city, school district, special district, any town exercising powers under chapter 368 and located in the metropolitan area, as defined in section 473.121, subdivision 2, and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the Economic Opportunity Act of 1964 (Public Law 88-452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to ~~any political subdivision, statewide system or state agency~~ a government entity, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with ~~state agencies, political subdivisions or statewide systems~~ a government entity.

Sec. 3. Minnesota Statutes 2006, section 13.03, subdivision 4, is amended to read:

Subd. 4. **Change in classification of data; effect of dissemination among agencies.** (a) The classification of data in the possession of an entity shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving entity.

(b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

(c) To the extent that government data is disseminated to a government entity by another government entity, the data disseminated shall have the same classification in the hands of the entity receiving it as it had in the hands of the entity providing it.

(d) If a government entity disseminates data to another government entity, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

(e) To the extent that judicial branch data is disseminated to government entities by the judicial branch, the data disseminated shall have the same level of accessibility in the hands of the agency receiving it as it had in the hands of the judicial branch entity providing it.

Sec. 4. Minnesota Statutes 2006, section 13.04, subdivision 3, is amended to read:

Subd. 3. **Access to data by individual.** Upon request to a responsible authority or designee, an individual shall be informed whether the individual is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon further request, an individual who is the subject of stored private or public data on individuals shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created. The responsible authority or designee shall provide copies of the private or public data upon request by the individual subject of the data. The responsible authority or designee may require the requesting person to pay the actual costs of making, and certifying, ~~and compiling~~ the copies.

The responsible authority or designee shall comply immediately, if possible, with any request made pursuant to this subdivision, or within ten days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.

Sec. 5. Minnesota Statutes 2006, section 13.04, subdivision 4, is amended to read:

Subd. 4. **Procedure when data is not accurate or complete.** (a) An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority may be appealed pursuant to the provisions of the Administrative Procedure Act relating to contested cases. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation. Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing.

(b) Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a ~~state agency, political subdivision, or statewide system~~ government entity without regard to the requirements of section 138.17.

After completing, correcting, or destroying successfully challenged data, a government entity may retain a copy of the commissioner of administration's order issued under chapter 14 or, if no order were issued, a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

Sec. 6. Minnesota Statutes 2006, section 13.05, subdivision 10, is amended to read:

Subd. 10. **International dissemination.** No ~~state agency or political subdivision~~ government entity shall transfer or disseminate any private or confidential data on individuals to the private international organization known as Interpol, except through the Interpol-United States National Central Bureau, United States Department of Justice.

Sec. 7. Minnesota Statutes 2006, section 13.072, subdivision 1, is amended to read:

Subdivision 1. **Opinion; when required.** (a) Upon request of a government entity, the commissioner may give a written opinion on any question relating to public access to government data, rights of subjects of data, or classification of data under this chapter or other Minnesota statutes governing government data practices. Upon request of any person who disagrees with a determination regarding data practices made by a government entity, the commissioner may give a written opinion regarding the person's rights as a subject of government data or right to have access to government data.

(b) Upon request of a body subject to chapter 13D, the commissioner may give a written opinion on any question relating to the body's duties under chapter 13D. Upon request of a person who disagrees with the manner in which members of a governing body perform their duties under chapter 13D, the commissioner may give a written opinion on compliance with chapter 13D. A governing body or person requesting an opinion under this paragraph must pay the commissioner a fee of \$200. Money received by the commissioner under this paragraph is appropriated to the commissioner for the purposes of this section.

(c) If the commissioner determines that no opinion will be issued, the commissioner shall give the government entity or body subject to chapter 13D or person requesting the opinion notice of the decision not to issue the opinion within five business days of receipt of the request. If this notice is not given, the commissioner shall issue an opinion within 20 days of receipt of the request.

(d) For good cause and upon written notice to the person requesting the opinion, the commissioner may extend this deadline for one additional 30-day period. The notice must state the reason for extending the deadline. The government entity or the members of a body subject to chapter 13D must be provided a reasonable opportunity to explain the reasons for its decision regarding the data or how they perform their duties under chapter 13D. The commissioner or the government entity or body subject to chapter 13D may choose to give notice to the subject of the data concerning the dispute regarding the data or compliance with chapter 13D.

(e) This section does not apply to a determination made by the commissioner of health under section 13.3805, subdivision 1, paragraph (b), or 144.6581.

(f) A written, numbered, and published opinion issued by the attorney general shall take precedence over an opinion issued by the commissioner under this section.

Sec. 8. Minnesota Statutes 2006, section 13.08, subdivision 4, is amended to read:

Subd. 4. **Action to compel compliance.** (a) In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person seeking to enforce the person's rights under this chapter or obtain access to data may bring an action in district court to compel compliance with this chapter and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. If the court issues an order to compel compliance under this subdivision, the court may impose a civil penalty of up to \$300 against the government entity. This penalty is payable to the state general fund and is in addition to damages under subdivision 1. The matter shall be heard as soon as possible. In an action involving a request for government data under section 13.03 or 13.04, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public. If the court issues an order to compel compliance under this subdivision, the court shall forward a copy of the order to the commissioner of administration.

(b) In determining whether to assess a civil penalty under this subdivision, the court shall consider whether the government entity has substantially complied with general data practices under this chapter, including but not limited to, whether the government entity has:

- (1) designated a responsible authority under section 13.02, subdivision 16;
- (2) designated a data practices compliance official under section 13.05, subdivision 13;
- (3) prepared the public document that names the responsible authority and describes the records and data on individuals that are maintained by the government entity under section 13.05, subdivision 1;
- (4) developed public access procedures under section 13.03, subdivision 2; procedures to guarantee the rights of data subjects under section 13.05, subdivision 8; and procedures to ensure that data on individuals are accurate and complete and to safeguard the data's security under section 13.05, subdivision 5;
- (5) ~~sought an oral, written, or electronic opinion from the commissioner of administration related to the matter at issue and acted in conformity with that opinion or acted in conformity with an opinion issued under section 13.072 that was sought by a government entity or another person; or~~

(6) provided ongoing training to government entity personnel who respond to requests under this chapter.

(c) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this subdivision if the government entity that is the defendant in the action was also the subject of a written opinion issued under section 13.072 and the court finds that the opinion is directly related to the cause of action being litigated and that the government entity did not act in conformity with the opinion.

Sec. 9. Minnesota Statutes 2006, section 13.32, subdivision 5, is amended to read:

Subd. 5. **Directory information.** Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and Code of Federal Regulations, title 34, section 99.37 which are in effect on ~~July 1, 1993~~ January 1, 2007, is public data on individuals. When conducting the directory information designation and notice process required by federal law, an educational agency or institution shall give parents and students notice of the right to refuse to let the agency or institution designate any or all data about the student as directory information. This notice may be given by any means reasonably likely to inform the parents and students of the right.

Sec. 10. Minnesota Statutes 2006, section 13.35, is amended to read:

13.35 FEDERAL CONTRACTS DATA.

To the extent that a federal agency requires it as a condition for contracting with a ~~state agency or political subdivision~~ government entity, all government data collected and maintained by the ~~state agency or political subdivision~~ government entity because that agency contracts with the federal agency are classified as either private or nonpublic depending on whether the data are data on individuals or data not on individuals.

Sec. 11. Minnesota Statutes 2006, section 13.355, subdivision 1, is amended to read:

Subdivision 1. **General.** The Social Security numbers of individuals, whether provided in whole or in part, collected or maintained by a ~~state agency, statewide system, or political subdivision~~ government entity are private data on individuals, except to the extent that access to the Social Security number is specifically authorized by law.

Sec. 12. Minnesota Statutes 2006, section 13.384, subdivision 1, is amended to read:

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

(a) "Directory information" means name of the patient, date admitted, and general condition.

(b) "Medical data" means data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a ~~state agency or political subdivision~~ government entity including business and financial records, data provided by private health care facilities, and data provided by or about relatives of the individual.

Sec. 13. Minnesota Statutes 2006, section 13.384, subdivision 2, is amended to read:

Subd. 2. **Public hospitals; directory information.** (a) During the time that a person is a patient in a hospital operated by a ~~state agency or political subdivision~~ government entity under legal commitment, directory information is public data. After the person is released by termination of the person's legal commitment, the directory information is private data on individuals.

(b) If a person is a patient other than pursuant to commitment in a hospital controlled by a ~~state agency or political subdivision~~ government entity, directory information is public data unless the patient requests otherwise, in which case it is private data on individuals.

(c) Directory information about an emergency patient who is unable to communicate which is public under this subdivision shall not be released until a reasonable effort is made to notify the next of kin. Although an individual has requested that directory information be private, the hospital may release directory information to a law enforcement agency pursuant to a lawful investigation pertaining to that individual.

Sec. 14. Minnesota Statutes 2006, section 13.39, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** A "pending civil legal action" includes but is not limited to judicial, administrative or arbitration proceedings. Whether a civil legal action is pending shall be determined by the chief attorney acting for the ~~state agency, political subdivision or statewide system~~ government entity.

Sec. 15. Minnesota Statutes 2006, section 13.39, subdivision 2, is amended to read:

Subd. 2. **Civil actions.** (a) Except as provided in paragraph (b), data collected by state agencies, political subdivisions, or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data pursuant to section 13.02, subdivision 13, in the case of data not on individuals and confidential pursuant to section 13.02, subdivision 3, in the case of data on individuals. Any agency, political subdivision, or statewide system may make any data classified as confidential or protected nonpublic pursuant to this subdivision accessible to any person, agency or the public if the agency, political subdivision, or statewide system determines that the access will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest.

(b) A complainant has access to a statement provided by the complainant to a ~~state agency, statewide system, or political subdivision~~ government entity under paragraph (a).

Sec. 16. Minnesota Statutes 2006, section 13.39, subdivision 2a, is amended to read:

Subd. 2a. **Disclosure of data.** During the time when a civil legal action is determined to be pending under subdivision 1, any person may bring an action in the district court in the county where the data is maintained to obtain disclosure of data classified as confidential or protected nonpublic under subdivision 2. The court may order that all or part of the data be released to the public or to the person bringing the action. In making the determination whether data shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, the ~~agency~~ government entity, or any person identified in the data. The data in dispute shall be examined by the court in camera.

Sec. 17. Minnesota Statutes 2006, section 13.39, subdivision 3, is amended to read:

Subd. 3. **Inactive investigative data.** Inactive civil investigative data are public, unless the release of the data would jeopardize another pending civil legal action, and except for those portions of a civil investigative file that are classified as not public data by this chapter or other law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. Civil investigative data become inactive upon the occurrence of any of the following events:

(1) a decision by the ~~state agency, political subdivision, or statewide system~~ government entity or by the chief attorney acting for the ~~state agency, political subdivision, or statewide system~~ government entity not to pursue the civil action;

(2) expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil action; or

(3) exhaustion of or expiration of rights of appeal by either party to the civil action.

Data determined to be inactive under clause (1) may become active if the ~~state agency, political subdivision, statewide system~~ government entity, or its attorney decides to renew the civil action.

Sec. 18. Minnesota Statutes 2006, section 13.392, subdivision 1, is amended to read:

Subdivision 1. **Confidential data or protected nonpublic data.** Data, notes, and preliminary drafts of reports created, collected, and maintained by the internal audit offices of ~~state agencies and political subdivisions~~ government entities, or persons performing audits for ~~state agencies and political subdivisions~~ government entities, and relating to an audit or investigation are confidential data on individuals or protected nonpublic data until the final report has been published or the audit or investigation is no longer being pursued actively, except that the data shall be disclosed as required to comply with section 6.67 or 609.456. This section does not limit in any way:

(1) the state auditor's access to government data of political subdivisions or data, notes, or preliminary drafts of reports of persons performing audits for political subdivisions; or

(2) the public or a data subject's access to data classified by section 13.43.

Sec. 19. Minnesota Statutes 2006, section 13.393, is amended to read:

13.393 ATTORNEYS.

Notwithstanding the provisions of this chapter and section 15.17, the use, collection, storage, and dissemination of data by an attorney acting in a professional capacity for ~~the state, a state agency or a political subdivision~~ a government entity shall be governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility; provided that this section shall not be construed to affect the applicability of any statute, other than this chapter and section 15.17, which specifically requires or prohibits disclosure of specific information by the attorney, nor shall this section be construed to relieve any responsible authority, other than the attorney, from duties and responsibilities pursuant to this chapter and section 15.17.

Sec. 20. Minnesota Statutes 2006, section 13.40, subdivision 1, is amended to read:

Subdivision 1. **Records subject to this chapter.** (a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by ~~any state agency, statewide system, or political subdivision~~ a government entity whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

(b) Data collected, maintained, used, or disseminated by a library or historical records repository operated by ~~any state agency, political subdivision, or statewide system~~ a government entity shall be administered in accordance with the provisions of this chapter.

Sec. 21. Minnesota Statutes 2006, section 13.40, subdivision 3, is amended to read:

Subd. 3. **Nongovernmental data.** Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a ~~state agency, statewide system, or political subdivision~~ government entity are not government data. These data are accessible to the public unless:

(1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or

(2) access would significantly endanger the physical or organizational integrity of the data.

Sec. 22. Minnesota Statutes 2006, section 13.41, subdivision 3, is amended to read:

Subd. 3. **Board of Peace Officer Standards and Training.** The following government data of the Board of Peace Officer Standards and Training are private data:

(1) home addresses of licensees and applicants for licenses; and

(2) data that identify the ~~state agency, statewide system, or political subdivision~~ government entity that employs a licensed peace officer.

The board may disseminate private data on applicants and licensees as is necessary to administer law enforcement licensure or to provide data under section 626.845, subdivision 1, to law enforcement agencies who are conducting employment background investigations.

Sec. 23. Minnesota Statutes 2006, section 13.43, subdivision 2, is amended to read:

Subd. 2. **Public data.** (a) Except for employees described in subdivision 5 and subject to the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a government entity is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

(b) For purposes of this subdivision, a final disposition occurs when the ~~state agency, statewide system, or political subdivision~~ government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the ~~state agency, statewide system, political subdivision~~ government entity, or arbitrator.

(c) The ~~state agency, statewide system, or political subdivision~~ government entity may display a photograph of a current or former employee to a prospective witness as part of the ~~state agency's, statewide system's, or political subdivision's~~ government entity's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a ~~state agency, statewide system, or political subdivision~~ government entity in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

- (1) the head of a state agency and deputy and assistant state agency heads;
- (2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and
- (3) executive or administrative heads of departments, bureaus, divisions, or institutions within state government.

Sec. 24. Minnesota Statutes 2006, section 13.43, subdivision 5, is amended to read:

Subd. 5. **Undercover law enforcement officer.** All personnel data maintained by ~~any state agency, statewide system or political subdivision~~ a government entity relating to an individual employed as or an applicant for employment as an undercover law enforcement officer are private data on individuals. When the individual is no longer assigned to an undercover position, the data described in subdivisions 2 and 3 become public unless the law enforcement agency determines that revealing the data would threaten the personal safety of the officer or jeopardize an active investigation.

Sec. 25. Minnesota Statutes 2006, section 13.43, subdivision 7, is amended to read:

Subd. 7. **Employee assistance data.** All data created, collected or maintained by ~~any state agency or political subdivision~~ a government entity to administer employee assistance programs similar to the one authorized by section 43A.319 are classified as private, pursuant to section 13.02, subdivision 12. This section shall not be interpreted to authorize the establishment of employee assistance programs.

Sec. 26. Minnesota Statutes 2006, section 13.43, subdivision 9, is amended to read:

Subd. 9. **Peer counseling debriefing data.** (a) Data acquired by a peer group member in a public safety peer counseling debriefing is private data on the person being debriefed.

(b) For purposes of this subdivision, "public safety peer counseling debriefing" means a group process oriented debriefing session held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any ~~agency~~ government entity providing public safety emergency services and is designed to help a person who has suffered an occupation-related traumatic event begin the process of healing and effectively dealing with posttraumatic stress.

Sec. 27. Minnesota Statutes 2006, section 13.43, subdivision 10, is amended to read:

Subd. 10. **Prohibition on agreements limiting disclosure or discussion of personnel data.** (a) A ~~state agency, statewide system, or political subdivision~~ government entity may not enter into an agreement settling a dispute arising out of the employment relationship with the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data. An agreement or portion of an agreement that violates this paragraph is void and unenforceable.

(b) Paragraph (a) applies to the following, but only to the extent that the data or information could otherwise be made accessible to the public:

(1) an agreement not to discuss, publicize, or comment on personnel data or information;

(2) an agreement that limits the ability of the subject of personnel data to release or consent to the release of data; or

(3) any other provision of an agreement that has the effect of limiting the disclosure or discussion of information that could otherwise be made accessible to the public, except a provision that limits the ability of an employee to release or discuss private data that identifies other employees.

(c) Paragraph (a) also applies to a court order that contains terms or conditions prohibited by paragraph (a).

Sec. 28. Minnesota Statutes 2006, section 13.43, subdivision 11, is amended to read:

Subd. 11. **Protection of employee or others.** (a) If the responsible authority or designee of a ~~state agency, statewide system, or political subdivision~~ government entity reasonably determines that the release of personnel data is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, data that are relevant to the concerns for safety may be released as provided in this subdivision.

(b) The data may be released:

(1) to the person who may be harmed and to an attorney representing the person when the data are relevant to obtaining a restraining order;

(2) to a prepetition screening team conducting an investigation of the employee under section 253B.07, subdivision 1; or

(3) to a court, law enforcement agency, or prosecuting authority.

(c) Section 13.03, subdivision 4, paragraph (c), applies to data released under this subdivision, except to the extent that the data have a more restrictive classification in the possession of the agency or authority that receives the data. If the person who may be harmed or the person's attorney receives data under this subdivision, the data may be used or released further only to the extent necessary to protect the person from harm.

Sec. 29. Minnesota Statutes 2006, section 13.435, is amended to read:

13.435 SALARY BENEFIT SURVEY DATA.

Salary and personnel benefit survey data purchased from consulting firms, nonprofit corporations or associations or obtained from employers with the written understanding that the data shall not be made public which is maintained by ~~state agencies, political subdivisions or statewide systems~~ government entities are classified as nonpublic pursuant to section 13.02, subdivision 9.

Sec. 30. Minnesota Statutes 2006, section 13.44, subdivision 1, is amended to read:

Subdivision 1. **Real property; complaint data.** The identities of individuals who register complaints with ~~state agencies or political subdivisions~~ government entities concerning violations of state laws or local ordinances concerning the use of real property are classified as confidential data, pursuant to section 13.02, subdivision 3.

Sec. 31. Minnesota Statutes 2006, section 13.44, subdivision 2, is amended to read:

Subd. 2. **Real property; building code violations.** Code violation records pertaining to a particular parcel of real property and the buildings, improvements, and dwelling units located on it that are kept by any state, county, or city agency charged by the governing body of the appropriate ~~political subdivision~~ government entity with the responsibility for enforcing a state, county, or city health, housing, building, fire prevention, or housing maintenance code are public data; except as otherwise provided by section 13.39, subdivision 2; 13.44; or 13.82, subdivision 7.

Sec. 32. Minnesota Statutes 2006, section 13.44, subdivision 3, is amended to read:

Subd. 3. **Real property; appraisal data.** (a) **Confidential or protected nonpublic data.** Estimated or appraised values of individual parcels of real property that are made by personnel of ~~the state or a political subdivision~~ a government entity or by independent appraisers acting for ~~the state or a political subdivision~~ a government entity for the purpose of selling or acquiring land through purchase or condemnation are classified as confidential data on individuals or protected nonpublic data.

(b) **Private or nonpublic data.** Appraised values of individual parcels of real property that are made by appraisers working for fee owners or contract purchasers who have received an offer to purchase their property from ~~the state or a political subdivision~~ a government entity are classified as private data on individuals or nonpublic data.

(c) **Public data.** The data made confidential or protected nonpublic under paragraph (a) or made private or nonpublic under paragraph (b) become public upon the occurrence of any of the following:

- (1) the data are submitted to a court-appointed condemnation commissioner;
- (2) the data are presented in court in condemnation proceedings; or
- (3) the negotiating parties enter into an agreement for the purchase and sale of the property.

Sec. 33. Minnesota Statutes 2006, section 13.462, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section, "benefit data" means data on individuals collected or created because an individual seeks information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing, home ownership, rehabilitation and community action agency, Head Start, and food assistance programs administered by ~~state agencies, political subdivisions, or statewide systems~~ government entities. Benefit data does not include welfare data which shall be administered in accordance with section 13.46.

Sec. 34. Minnesota Statutes 2006, section 13.462, subdivision 2, is amended to read:

Subd. 2. **Public data.** The names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered by ~~any political subdivision, state agency, or statewide system~~ a government entity that are intended to assist with the purchase, rehabilitation, or other purposes related to housing or other real property are classified as public data on individuals. If an applicant or recipient is a corporation, the names and addresses of the officers of the corporation are public data on individuals. If an applicant or recipient is a partnership, the names and addresses of the partners are public data on individuals. The amount or value of benefits, aid, or assistance received is public data.

Sec. 35. Minnesota Statutes 2006, section 13.462, subdivision 3, is amended to read:

Subd. 3. **Private data.** Unless otherwise provided by law, all other benefit data are private data on individuals, and shall not be disclosed except pursuant to court order or to an agent of the ~~state agency, political subdivision, or statewide system~~ government entity, including appropriate law enforcement personnel, who are acting in an investigation or prosecution of a criminal or civil proceeding relating to the administration of a program described in subdivision 1.

Sec. 36. Minnesota Statutes 2006, section 13.48, is amended to read:

13.48 AWARD DATA.

Financial data on business entities submitted to a ~~state agency, statewide system, or political subdivision~~ government entity for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.

Sec. 37. Minnesota Statutes 2006, section 13.552, subdivision 3, is amended to read:

Subd. 3. **Data provided under subpoena.** Data supplied by a ~~state agency, statewide system, or political subdivision~~ government entity pursuant to a subpoena issued by the commissioner of human rights is governed by section 363A.06, subdivision 2.

Sec. 38. Minnesota Statutes 2006, section 13.591, subdivision 4, is amended to read:

Subd. 4. **Classification of evaluative data; data sharing.** (a) Data created or maintained by a government entity as part of the selection or evaluation process referred to in this section are protected nonpublic data until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

(b) If a ~~state agency~~ government entity asks employees of other ~~state agencies~~ government entities to assist with the selection of the responses to a request for bid or the evaluation of responses to a request for proposal, the ~~state agency~~ government entity may share not public data in the responses with those employees. The employees participating in the selection or evaluation may not further disseminate the not public data they review.

Sec. 39. Minnesota Statutes 2006, section 13.72, is amended by adding a subdivision to read:

Subd. 14. **Market research data; classification.** (a) Names, home addresses except for zip codes, home e-mail addresses, and home telephone numbers obtained for or received in response to a survey conducted by or on behalf of the Department of Transportation are classified as private data on individuals.

(b) Business names, business addresses except for zip codes, business e-mail addresses, and business telephone numbers obtained for or received in response to a survey conducted by or on behalf of the Department of Transportation are classified as nonpublic data.

Sec. 40. Minnesota Statutes 2006, section 13.72, is amended by adding a subdivision to read:

Subd. 15. **Overhead rate data.** Financial statements and shareholder financial data provided to the commissioner of transportation by a consultant in order to establish its overhead rate, and the schedule of audit adjustments and the overhead rate schedule prepared by the Department of Transportation in order to establish the overhead rate for a consultant are classified as nonpublic data or private data on individuals. The overhead rate percentage is public data.

Sec. 41. Minnesota Statutes 2006, section 13.72, is amended by adding a subdivision to read:

Subd. 16. **Bid escrow data.** Bid documentation held in escrow by the Department of Transportation is classified as nonpublic data. Any data on individuals in the bid documentation are classified as private data on individuals. "Bid documentation" means all writings, working papers, computer printout charts, and other data calculations used by a contractor to determine its bid in bidding for a contract. The bid documentation includes, but is not limited to, the contractor's costs for operating each piece of equipment owned by the contractor, the contractor's overhead costs and its calculated overhead rate, the contractor's pay rates for its employees, efficiency or productivity factors, arithmetic extensions, and the rates and quotations from subcontractors and material suppliers to the extent that the rates and quotations were used by the contractor in formulating and determining the amount of the bid.

Sec. 42. **[13.7908] BUREAU OF MEDIATION SERVICES DATA.**

Subdivision 1. **Representation data.** Authorization signatures or cards furnished in support of a petition filed or election conducted under sections 179.16, 179.18 to 179.25, and 179A.12, and ballots, prior to the time of tabulation, are classified as protected nonpublic data or confidential data on individuals.

Subd. 2. **Mediation data.** Data received or maintained by the staff or commissioner of the Bureau of Mediation Services during the course of providing mediation services to the parties to a labor dispute under chapter 179 are classified as protected nonpublic data or confidential data on individuals, except to the extent the commissioner of the Bureau of Mediation Services determines access to data is necessary to fulfill the requirements of section 179A.16 or to identify the general nature of or parties to a labor dispute.

Sec. 43. Minnesota Statutes 2006, section 13.861, subdivision 1, is amended to read:

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

(a) "Security service" means an organization that provides security services to a ~~state agency or political subdivision~~ government entity as a part of the governmental ~~that~~ entity or under contract to it. Security service does not include a law enforcement agency.

(b) "Security service data" means all data collected, created, or maintained by a security service for the purpose of providing security services.

Sec. 44. Minnesota Statutes 2006, section 13.87, subdivision 1, is amended to read:

Subdivision 1. **Criminal history data.** (a) **Definition.** For purposes of this subdivision, "criminal history data" means all data maintained in criminal history records compiled by the Bureau of Criminal Apprehension and disseminated through the criminal justice information system, including, but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data.

(b) **Classification.** Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private, pursuant to section 13.02, subdivision 12, except that data created, collected, or maintained by the Bureau of Criminal Apprehension that identify an individual who was convicted of a crime, the offense of which the individual was convicted, associated court disposition and sentence information, controlling agency, and confinement information are public data for 15 years following the discharge of the sentence imposed for the offense. If an individual's name or other identifying information is erroneously associated with a criminal history and a determination is made through a fingerprint verification that the individual is not the subject of the criminal history, the name or other identifying information must be redacted from the public criminal history data. The name and other identifying information must be retained in the criminal history and are classified as private data.

The Bureau of Criminal Apprehension shall provide to the public at the central office of the bureau the ability to inspect in person, at no charge, through a computer monitor the criminal conviction data classified as public under this subdivision.

(c) **Limitation.** Nothing in paragraph (a) or (b) shall limit public access to data made public by section 13.82.

Sec. 45. Minnesota Statutes 2006, section 13.87, subdivision 2, is amended to read:

Subd. 2. **Firearms data.** All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by ~~state agencies, political subdivisions or statewide systems~~ government entities pursuant to sections 624.712 to 624.719 are classified as private, pursuant to section 13.02, subdivision 12.

Sec. 46. **[13.873] INTEGRATED SEARCH SERVICE DATA SUBJECT ACCESS.**

Subdivision 1. **Definition.** For purposes of this section, "integrated search service" is a service operated by the Bureau of Criminal Apprehension that allows authorized users to search and view data that are stored on one or more databases maintained by criminal justice agencies, as defined in section 299C.46, subdivision 2.

Subd. 2. **Requests by data subject.** An individual who is the subject of data accessible through the integrated search service has access to the service only as provided in this section. An individual may request that an integrated search service query to locate data about the individual be performed by state or local law enforcement agencies with integrated search service access. State and local law enforcement agencies with integrated search service access shall provide only the following:

(1) a list of the government entities that have provided public or private data about that individual through integrated search service; and

(2) data that describe what is maintained about the individual at each government entity on the list.

Subd. 3. **Bureau responsibilities.** The Bureau of Criminal Apprehension shall provide the following information at a public Internet site:

(1) a listing of all law enforcement agencies with integrated search service access; and

(2) information for individual data subjects on how to challenge the accuracy or completeness of data pursuant to section 13.04, subdivision 4.

Sec. 47. Minnesota Statutes 2006, section 84.0274, subdivision 5, is amended to read:

Subd. 5. **Owner's rights.** When the state proposes to purchase in fee or any lesser interest in land which will be administered by the commissioner of natural resources, the landowner shall have the following rights:

(a) The right to be informed of the specific intended use of the property and of any change in the intended use of the property which occurs during the acquisition process. The owner shall also be informed that the documents regarding the purchase will be public records if the land is purchased by the state;

(b) The right to be paid a fair price for the property. The price shall include the fair market value of the land plus:

(1) All necessary incidental costs such as abstracting and recording fees related to the sale. The costs of clearing title defects, paying taxes, and attorney's fees are not reimbursable; and

(2) Any penalties incurred by the owner where the property is security for a loan or advance of credit that contains a provision requiring or permitting the imposition of a penalty if the loan or advance of credit is prepaid;

(c) The right to payment, at the owner's election, in a lump sum or in up to four annual installments;

(d) The right to have the property fairly appraised by the state. The state's appraiser shall physically inspect the property and shall allow the owner ~~along to accompany the appraiser~~ when the appraisal is made. The state's appraiser shall certify in the appraisal report to having physically inspected the property and having given the landowner an opportunity to ~~go along accompany the appraiser~~ on inspections. Notwithstanding section 13.44, subdivision 3, before an offer is made, the landowner shall be given a resume of the state's certified appraisal. The resume shall include the appraiser's conclusions as to value, acreage and type of land, value of buildings and other improvements, value of timber, special damages and any special elements of value informed of the value determined pursuant to section 84.0272;

(e) The right to retain a qualified independent appraiser to conduct an appraisal at any time prior to certification of the state's appraisal of the property and to be reimbursed for appraisal fees as provided in section 117.232, subdivision 1, if the land is sold to the state and to have that appraisal considered along with the state's in certifying the selling price;

(f) The right to have the state acquire the property by means of condemnation upon the owner's request with the agreement of the commissioner;

(g) The right to receive or waive relocation assistance, services, payments and benefits as provided in sections 117.52 and 117.521;

(h) The right to accept the state's offer for the property and contest the state's offer for relocation and moving expenses;

(i) The right to continue occupancy of the property until full payment is received, provided that when the owner elects to receive payment in annual installments pursuant to clause (c), the owner may retain occupancy until the first payment is made; and

(j) The right to seek the advice of counsel regarding any aspect of the land transaction.

Sec. 48. Minnesota Statutes 2006, section 122A.33, subdivision 3, is amended to read:

Subd. 3. **Notice of nonrenewal; opportunity to respond.** A school board that declines to renew the coaching contract of a licensed or nonlicensed head varsity coach must notify the coach within 14 days of that decision. If the coach requests reasons for not renewing the coaching contract, the board must give the coach its reasons in writing within ten days of receiving the request. Upon request, the board must provide the coach with a reasonable opportunity to respond to the reasons at a board meeting. The hearing may be opened or closed at the election of the coach unless the board closes the meeting under section 13D.05, subdivision 2, to discuss ~~nonpublic~~ private data.

Sec. 49. Minnesota Statutes 2006, section 171.07, subdivision 1a, is amended to read:

Subd. 1a. **Filing photograph or image; data classification.** The department shall file, or contract to file, all photographs or electronically produced images obtained in the process of issuing drivers' licenses or Minnesota identification cards. The photographs or electronically produced images shall be private data pursuant to section 13.02, subdivision 12. Notwithstanding section 13.04, subdivision 3, the department shall not be required to provide copies of photographs or electronically produced images to data subjects. The use of the files is restricted:

(1) to the issuance and control of drivers' licenses;

(2) for law enforcement purposes in the investigation and prosecution of crimes; and to criminal justice agencies, as defined in section 299C.46, subdivision 2, for the investigation and prosecution of crimes, service of process, enforcement of no contact orders, location of missing persons, investigation and preparation of cases for criminal, juvenile, and traffic court, and supervision of offenders;

(3) for to public defenders, as defined in section 611.272, for the investigation and preparation of cases for criminal, juvenile, and traffic courts; and

(4) to child support enforcement purposes under section 256.978.

Sec. 50. Minnesota Statutes 2006, section 268.19, subdivision 1, as amended by Laws 2007, chapter 54, article 6, section 13, is amended to read:

Subdivision 1. **Use of data.** (a) Except as otherwise provided by this section, data gathered from any person pursuant to the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to a district court order or section 13.05. A subpoena shall not be considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) human rights agencies within Minnesota that have enforcement powers;

(5) the Department of Revenue only to the extent necessary for its duties under Minnesota laws;

(6) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(7) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce on an interchangeable basis with the department for uses consistent with the administration of their duties under Minnesota law;

(8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(9) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(10) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of a person who is the subject of a criminal investigation;

(11) the federal Immigration and Naturalization Service shall have access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(12) the Department of Health solely for the purposes of epidemiologic investigations; and

(13) the Department of Corrections for the purpose of postconfinement employment tracking of individuals who had been committed to the custody of the commissioner of corrections.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation pursuant to section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except pursuant to statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department pursuant to the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 51. Minnesota Statutes 2006, section 270B.01, subdivision 8, is amended to read:

Subd. 8. **Minnesota tax laws.** For purposes of this chapter only, unless expressly stated otherwise, "Minnesota tax laws" means:

(1) the taxes, refunds, and fees administered by or paid to the commissioner under chapters 115B, 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, 297B, and 297H, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes, refunds, and fees; and

(2) section 273.1315.

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

Sec. 52. Minnesota Statutes 2006, section 270B.02, subdivision 3, is amended to read:

Subd. 3. **Confidential data on individuals; protected nonpublic data.** (a) Except as provided in paragraph (b), the name or existence of an informer, informer letters, and other data, in whatever form, given to the Department of Revenue by a person, other than the data subject, who informs that a specific person is not or may not be in compliance with tax laws, or nontax laws administered by the Department of Revenue, including laws ~~other than those relating to property taxes~~ not listed in section 270B.01, subdivision 8, are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. This paragraph does not apply to laws relating to property taxes.

(b) Data under paragraph (a) may be disclosed with the consent of the informer or upon a written finding by a court that the information provided by the informer was false and that there is evidence that the information was provided in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

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

Sec. 53. Minnesota Statutes 2006, section 270B.085, is amended by adding a subdivision to read:

Subd. 3. **Collection of nontax debt.** The commissioner may use return information for the purpose of collecting debts referred to the commissioner under chapter 16D.

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

Sec. 54. Minnesota Statutes 2006, section 270B.14, subdivision 3, is amended to read:

Subd. 3. **Administration of enterprise, job opportunity, and biotechnology and health sciences industry zone program programs.** The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the Department of Employment and Economic Development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7, or to the Department of Employment and Economic Development and appropriate officials from the local government units in which a qualified business is located but only as necessary to enforce the job opportunity building zone benefits under section 469.315, or biotechnology and health sciences industry zone benefits under section 469.336.

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

Sec. 55. Minnesota Statutes 2006, section 325E.59, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) A person or entity, not including a government entity, may not do any of the following:

(1) publicly post or publicly display in any manner an individual's Social Security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(2) print an individual's Social Security number on any card required for the individual to access products or services provided by the person or entity;

(3) require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20;

(4) require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(5) print a number that the person or entity knows to be an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed. If, in connection with a transaction involving or otherwise relating to an individual, a person or entity receives a number from a third party, that person or entity is under no duty to inquire or otherwise determine whether the number is or includes that individual's Social Security number and may print that number on materials mailed to the individual, unless the person or entity receiving the number has actual knowledge that the number is or includes the individual's Social Security number;

(6) assign or use a number as the primary account identifier that is identical to or incorporates an individual's complete Social Security number; or

(7) sell Social Security numbers obtained from individuals in the course of business.

Notwithstanding clauses (1) to (5), Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number. Nothing in this paragraph authorizes inclusion of a Social Security number on the outside of a mailing or in the bulk mailing of a credit card solicitation offer.

(b) A person or entity, not including a government entity, must restrict access to individual Social Security numbers it holds so that only employees who require the numbers in order to perform their job duties have access to the numbers, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20.

(c) ~~Except as provided in subdivision 2,~~ This section applies only to the use of Social Security numbers on or after July 1, ~~2007~~ 2008.

Sec. 56. Laws 2005, chapter 163, section 85, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, ~~2007~~ 2008.

Sec. 57. Laws 2006, chapter 253, section 19, is amended to read:

Sec. 19. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) A person or entity, not including a government entity, may not do any of the following:

(1) publicly post or publicly display in any manner an individual's Social Security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(2) print an individual's Social Security number on any card required for the individual to access products or services provided by the person or entity;

(3) require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20;

(4) require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site;

(5) print a number that the person or entity knows to be an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed. If, in connection with a transaction involving or otherwise relating to an individual, a person or entity receives a number from a third party, that person or entity is under no duty to inquire or otherwise determine whether the number is or includes that individual's Social Security number and may print that number on materials mailed to the individual, unless the person or entity receiving the number has actual knowledge that the number is or includes the individual's Social Security number;

(6) assign or use a number as the primary account identifier that is identical to or incorporates an individual's complete Social Security number; or

(7) sell Social Security numbers obtained from individuals in the course of business.

Notwithstanding clauses (1) to (5), Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number. Nothing in this paragraph authorizes inclusion of a Social Security number on the outside of a mailing or in the bulk mailing of a credit card solicitation offer.

(b) A person or entity, not including a government entity, must restrict access to individual Social Security numbers it holds so that only employees who require the numbers in order to perform their job duties have access to the numbers, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20.

(c) Except as provided in subdivision 2, this section applies only to the use of Social Security numbers on or after July 1, 2007.

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

Sec. 58. **REPEALER.**

(a) Minnesota Statutes 2006, section 13.79, subdivision 2, is repealed.

(b) Minnesota Statutes 2006, section 325E.59, subdivision 2, is repealed.

EFFECTIVE DATE. Paragraph (b) is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to data practices; classifying data; clarifying duties and classifications; making technical changes; authorizing access to certain data; clarifying remedies and procedures; modifying provisions giving the use of Social Security numbers; amending Minnesota Statutes 2006, sections 13.02, subdivisions 8, 11; 13.03, subdivision 4; 13.04, subdivisions 3, 4; 13.05, subdivision 10; 13.072, subdivision 1; 13.08, subdivision 4; 13.32, subdivision 5; 13.35; 13.355, subdivision 1; 13.384, subdivisions 1, 2; 13.39, subdivisions 1, 2, 2a, 3; 13.392, subdivision 1; 13.393; 13.40, subdivisions 1, 3; 13.41, subdivision 3; 13.43, subdivisions 2, 5, 7, 9, 10, 11; 13.435; 13.44, subdivisions 1, 2, 3; 13.462, subdivisions 1, 2, 3; 13.48; 13.552, subdivision 3; 13.591, subdivision 4; 13.72, by adding subdivisions; 13.861, subdivision 1; 13.87, subdivisions 1, 2; 84.0274, subdivision 5; 122A.33, subdivision 3; 171.07, subdivision 1a; 268.19, subdivision 1, as amended; 270B.01, subdivision 8; 270B.02, subdivision 3; 270B.085, by adding a subdivision; 270B.14, subdivision 3; 325E.59, subdivision 1; Laws 2005, chapter 163, section 85; Laws 2006, chapter 253, section 19; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 2006, sections 13.79, subdivision 2; 325E.59, subdivision 2."

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

Senate Conferees: MARY A. OLSON, MEE MOUA, JAMES P. METZEN, DON BETZOLD AND WARREN LIMMER.

House Conferees: STEVE SIMON, DEBRA HILSTROM, MELISSA HORTMAN, PHYLLIS KAHN AND MARY LIZ HOLBERG.

Simon moved that the report of the Conference Committee on S. F. No. 596 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 596, A bill for an act relating to data practices; clarifying duties and classifications; making technical changes; providing for access to and classifications of data; amending Minnesota Statutes 2006, sections 13.02, subdivisions 8, 11; 13.04, subdivisions 3, 4; 13.05, subdivision 10; 13.072, subdivision 1; 13.08, subdivision 4; 13.32, subdivision 5; 13.35; 13.355, subdivision 1; 13.384, subdivisions 1, 2; 13.39, subdivisions 1, 2, 2a, 3; 13.392, subdivision 1; 13.393; 13.40, subdivisions 1, 3; 13.41, subdivision 3; 13.43, subdivisions 2, 5, 7, 9, 10, 11; 13.435; 13.44, subdivisions 1, 2, 3; 13.462; 13.48; 13.4965, subdivision 3; 13.552, subdivision 3; 13.591, subdivision 4; 13.72, by adding subdivisions; 13.861, subdivision 1; 13.87, subdivisions 1, 2; 84.0274, subdivision 5; 122A.33, subdivision 3; 171.07, subdivision 1a; 270B.01, subdivision 8; 270B.02, subdivision 3; 270B.085, by adding a subdivision; 270B.14, subdivision 3; 273.1315; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 2006, section 13.79, subdivision 2.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lesch	Olin	Slawik
Anderson, B.	Dittrich	Hilstrom	Liebling	Olson	Slocum
Anderson, S.	Dominguez	Hilty	Lieder	Otremba	Smith
Anzelc	Doty	Holberg	Lillie	Ozment	Solberg
Atkins	Eastlund	Hoppe	Loeffler	Paymar	Sviggum
Beard	Eken	Hornstein	Madore	Pelowski	Swails
Benson	Emmer	Hortman	Magnus	Peppin	Thao
Berns	Erhardt	Hosch	Mahoney	Peterson, A.	Thissen
Bigham	Erickson	Howes	Mariani	Peterson, N.	Tillberry
Bly	Faust	Huntley	Marquart	Peterson, S.	Tschumper
Brod	Finstad	Jaros	Masin	Poppe	Urdahl
Brown	Fritz	Johnson	McFarlane	Rukavina	Wagenius
Brynaert	Gardner	Juhnke	McNamara	Ruth	Walker
Buesgens	Garfalo	Kahn	Moe	Ruud	Ward
Bunn	Gottwalt	Kalin	Morgan	Sailer	Wardlow
Carlson	Greiling	Knuth	Morrow	Scalze	Welti
Clark	Gunther	Koenen	Mullery	Seifert	Winkler
Cornish	Hackbarth	Kohls	Murphy, E.	Sertich	Wollschlager
Davnie	Hamilton	Kranz	Murphy, M.	Severson	Zellers
Dean	Hansen	Laine	Nelson	Shimanski	Spk. Kelliher
DeLaForest	Hausman	Lanning	Nornes	Simon	
Demmer	Haws	Lenczewski	Norton	Simpson	

Those who voted in the negative were:

Westrom

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1048.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1048

A bill for an act relating to state government; changing the state Indian Affairs Council; amending Minnesota Statutes 2006, section 3.922.

May 18, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1048 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1048 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 3.922, is amended to read:

3.922 INDIAN AFFAIRS COUNCIL.

Subdivision 1. **Creation, membership.** The state Indian Affairs Council is created to consist of the following ~~ex officio~~ members:

~~the governor or a member of the governor's official staff designated by the governor,~~

~~the commissioner of education,~~

~~the commissioner of human services,~~

~~the commissioner of natural resources,~~

~~the commissioner of human rights,~~

~~the commissioner of employment and economic development,~~

~~the commissioner of corrections,~~

~~the commissioner of the Minnesota Housing Finance Agency,~~

~~the commissioner of Iron Range resources and rehabilitation,~~

~~the commissioner of health,~~

~~the commissioner of transportation,~~

~~the commissioner of administration,~~

~~each of whom may designate a staff member to serve instead, and~~

~~three members of the house of representatives appointed by the speaker, and three members of the senate appointed by its Subcommittee on Committees.~~

~~Voting members of the council are the elected tribal chair of:~~

(1) one member of each of the following federally recognized tribes, designated by the elected tribal president or chairperson of the governing bodies of: the Fond du Lac Reservation Business Committee Band;

the Grand Portage ~~Reservation Business Committee Band~~;

the Mille Lacs ~~Reservation Business Committee Band~~;

the White Earth ~~Reservation Business Committee Band~~;

the Bois Forte (Nett Lake) ~~Reservation Business Committee Band~~;

the Leech Lake ~~Reservation Business Committee Band~~;

the Red Lake ~~Tribal Council Nation~~;

the Upper Sioux ~~board of trustees~~ Community;

the Lower Sioux ~~Tribal Council~~ Community;

the Shakopee-Mdewankanton ~~General Council~~ Sioux Community;

the Prairie Island ~~Tribal Council~~ Mdewakanton Dakota Community; ~~and~~

~~two members to be selected under subdivision 2.~~

(2) a member of the governor's official staff designated by the governor;

the commissioner of education;

the commissioner of human services;

the commissioner of natural resources;

the commissioner of human rights;

the commissioner of employment and economic development;

the commissioner of corrections;

the commissioner of the Minnesota Housing Finance Agency;

the commissioner of Iron Range resources and rehabilitation;

the commissioner of health;

the commissioner of transportation;

the commissioner of veterans affairs;

the commissioner of administration;

Each of the commissioners listed in this clause may designate a staff member to serve on the council instead of the commissioner;

(3) two members of the house of representatives, appointed by the speaker; and

(4) two members of the senate, appointed by its Subcommittee on Committees.

~~The chairs of the Indian committees, trusts, or councils may designate in writing a member who has been elected at large to an office in the committee, trust, or council, to serve instead. Members appointed to represent the house of representatives, or the senate or tribal governments shall no longer serve on the council when they are no longer members of the bodies which they represent and their offices shall be vacant. A member who is a designee of a tribal chair president or chairperson shall cease to be a member at the end of the term of the designating tribal chair president or chairperson. Ex officio members or their designees on~~ Only members of the council designated under clause (1) shall not vote.

~~Subd. 2. **Additional members.** Two members of the council shall be elected at large by Indian residents of Minnesota who are legal members and eligible voters of a federally recognized tribe in accordance with the criteria of the tribe and are not members of any federally recognized tribe with a reservation in Minnesota. The election shall be in a manner prescribed by the secretary of state. The manner of election, certification, and contest shall, as far as reasonably possible, be consistent with procedures employed in general elections in the state to ensure a fair election and ready access to the election process by eligible voters. The voting procedure shall include voting by absentee ballot. A person is eligible to serve as an at large member of the council if at the time of the election the person is a qualified voter within the requirements of the Minnesota Constitution, article VII and a member of a federally recognized tribe that does not have a reservation in Minnesota. The election shall be certified and regulated by the secretary of state. Elections shall be held by April 14, 1981, and by every fourth April 14 thereafter. The term of office for at large members is four years commencing on the April 20 following the election and ending at 12:01 a.m., April 20 four years later.~~

Subd. 3. **Compensation; expenses.** Compensation of ~~nonlegislator~~ members appointed under subdivision 1, clause (1), is as provided in section ~~15.059, but, 15.0575.~~ Because the council performs functions that are not purely advisory, the expiration dates provided in ~~that~~ section 15.059 do not apply. Expenses of the council must be approved by two of any three members of the council designated by the council and then be paid in the same manner as other state expenses. The executive secretary chair shall inform the commissioner of finance in writing of the names of the persons authorized to approve expenses.

Subd. 4. **Meetings.** Meetings may be called by the chair or at the written request of five members of the council. A majority of the voting members of the council is a quorum.

Subd. 5. **Officers; personnel; authority.** The council shall annually elect a chair and other officers as it may deem necessary. The chair may appoint subcommittees necessary to fulfill the duties of the council. It shall also employ and prescribe the duties of employees and agents as it deems necessary at the direction of elected tribal leaders. The compensation of the executive director of the ~~board~~ council is as provided by section 43A.18. All employees are in the unclassified service. ~~The chair is an ex officio member of the State Board of Human Rights.~~ Appropriations and other funds of the council are subject to chapter 16C. The council may contract in its own name. Contracts must be approved by a majority of the members of the council with the approval of elected tribal leaders

and executed by the chair and the executive director. The council may apply for, receive, and spend in its own name, grants and gifts of money consistent with the powers and duties specified in this section. The council shall maintain its primary office in Bemidji. It shall also maintain personnel and office space in St. Paul.

Subd. 6. **Duties.** The primary duties of the council are to:

~~(1) clarify for the legislature and state agencies the nature of tribal governments and the relationship of tribal governments to the Indian people of Minnesota;~~

~~(2) assist the secretary of state in establishing an election of at large members of the council;~~

~~(3) (1) analyze and make recommendations to tribal elected leaders and to members of the legislature and the governor on desired and needed legislation to benefit the statewide Indian community and communicate to the members of the legislature when legislation has or will have an adverse effect on the statewide Indian community;~~

~~(4) provide, through the elected apparatus of the council, an effective conduit to the legislature for and information on programs, proposals, and projects submitted by of importance to tribal governments, organizations, committees, groups, or individuals and nontribal Indian organizations;~~

~~(5) provide a continuing dialogue with members of the tribal governments to improve their knowledge of the legislative process, state agencies, and governmental due process;~~

~~(6) (2) assist in establishing Indian advisory councils in cooperation with state agencies that deliver services to the Indian community federally recognized tribes in Minnesota and the urban Indian communities;~~

~~(7) (3) assist state agencies in defining what groups, organizations, committees, councils, or individuals are eligible for delivery of their respective services;~~

~~(8) (4) assist in providing ensuring the provision of resources, tribal and other, in the delivery of services to the statewide Indian community federally recognized tribes in Minnesota and the urban Indian communities;~~

~~(9) act as a liaison between local, state, and national units of government in (5) recommend to tribal governments and the state government the means to enhance the delivery of services to the Indian population of members of federally recognized tribes in Minnesota by local, state, and national units of government;~~

~~(10) (6) assist state agencies in implementing and updating studies of services delivered to the Indian community federally recognized tribes in Minnesota and urban Indian communities;~~

~~(11) (7) provide, for the benefit of all levels of state government, a continuing liaison between state governmental bodies and elected tribal governments and officials leaders;~~

~~(12) (8) interact with private organizations involved with Indian concerns to people that develop and implement programs to assist Indian people, as they when such programs may affect state agencies and departments;~~

~~(13) act as an intermediary, when requested and if necessary, between Indian interests and state agencies and departments when questions, problems, or conflicts exist or arise;~~

~~(14) provide information for and direction to a program to assist Indian citizens to assume all the rights, privileges, and duties of citizenship, and to coordinate and cooperate with local, state, and national private agencies providing services to the Indian people;~~

~~(15)~~ (9) develop educational programs, community organization programs, leadership development programs, motivational programs, and business development programs for Indian persons who have been, are, or ~~will~~ may be subject to prejudice and discrimination;

~~(16)~~ cooperate and consult with appropriate commissioners and agencies to develop plans and programs to most effectively serve the needs of Indians; and

~~(17)~~ (10) review data provided by the commissioner of human services under section 260C.215, subdivision 5, and present recommendations to elected tribal leaders on the out-of-home placement of Indian children: ~~Recommendations must be presented to the commissioner and the legislature by February 1, 1990; November 1, 1990; and November 1 of each year thereafter.; and~~

(11) prepare a proposed agenda for the annual summit of elected tribal leaders, legislative leaders and the governor.

Subd. 7. **State officials and departments; cooperation.** In carrying out these objectives and to ascertain ~~Indian~~ the needs of members of federally recognized tribes in Minnesota and urban Indian community members, the council shall have the right to confer with state officials and other governmental units and have access to records as necessary to obtain needed information. The council also shall have the right to call upon various state departments for technical advice and service as needed to fulfill its purposes.

Subd. 8. **Advisory ~~council~~ board.** An advisory ~~council~~ board on urban Indians shall advise the ~~board~~ council on the unique problems and concerns of Minnesota Indians who reside in urban areas of the state. The ~~council~~ board must be appointed by the ~~board~~ council at the direction of the elected tribal leadership and consist of six Indians residing in the vicinity of Minneapolis, St. Paul, Bemidji, and Duluth. At least one member of the ~~council~~ board must be a resident of each city. The terms, compensation, and removal of members are as provided in section 15.059, but the expiration dates provided in that section do not apply.

Subd. 10. **Rulemaking.** Notwithstanding other law, the council does not have authority to adopt, amend, or repeal rules or to adjudicate contested cases or appeals. Rules adopted before July 1, 2001, may continue in effect until amended or repealed by law."

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

Senate Conferees: TONY LOUREY, PATRICIA TORRES RAY AND STEVE DILLE.

House Conferees: BILL HILTY, KENT EKEN AND LARRY HOWES.

Hilty moved that the report of the Conference Committee on S. F. No. 1048 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1048, A bill for an act relating to state government; changing the state Indian Affairs Council; amending Minnesota Statutes 2006, section 3.922.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lesch	Olin	Simpson
Anderson, B.	Dittrich	Hilstrom	Liebling	Olson	Slawik
Anderson, S.	Dominguez	Hilty	Lieder	Otremba	Slocum
Anzelc	Doty	Holberg	Lillie	Ozment	Smith
Atkins	Eastlund	Hoppe	Loeffler	Paulsen	Solberg
Beard	Eken	Hornstein	Madore	Paymar	Sviggum
Benson	Emmer	Hortman	Magnus	Pelowski	Swails
Berns	Erhardt	Hosch	Mahoney	Peppin	Thao
Bigham	Erickson	Howes	Mariani	Peterson, A.	Thissen
Bly	Faust	Huntley	Marquart	Peterson, N.	Tillberry
Brod	Finstad	Jaros	Masin	Peterson, S.	Tschumper
Brown	Fritz	Johnson	McFarlane	Poppe	Urdahl
Brynaert	Gardner	Juhnke	McNamara	Rukavina	Wagenius
Buesgens	Garofalo	Kahn	Moe	Ruth	Walker
Bunn	Gottwalt	Kalin	Morgan	Ruud	Ward
Carlson	Greiling	Knuth	Morrow	Sailer	Wardlow
Clark	Gunther	Koenen	Mullery	Scalze	Walti
Cornish	Hackbarth	Kohls	Murphy, E.	Seifert	Westrom
Davnie	Hamilton	Kranz	Murphy, M.	Sertich	Winkler
Dean	Hansen	Laine	Nelson	Severson	Wollschlager
DeLaForest	Hausman	Lanning	Nornes	Shimanski	Zellers
Demmer	Haws	Lenczewski	Norton	Simon	Spk. Kelliher

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1131.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1131

A bill for an act relating to game and fish; modifying Lake Superior commercial fishing provisions; amending Minnesota Statutes 2006, section 97C.835, subdivisions 1, 3, 8; proposing coding for new law in Minnesota Statutes, chapter 97C.

May 18, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1131 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1131 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

NATURAL RESOURCES AND ENVIRONMENT POLICY

Section 1. **[16B.328] OUTDOOR LIGHTING FIXTURES MODEL ORDINANCE.**

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

(1) "energy conservation" means reducing energy use and includes: (i) using a light with lower wattage; and (ii) using devices such as time controls, motion detectors, or on and off switches that limit unnecessary use of lighting;

(2) "cutoff luminaire" means a luminaire in which 2.5 percent or less of the lamp lumens are emitted above a horizontal plane through the luminaire's lowest part and ten percent or less of the lamp lumens are emitted at a vertical angle 80 degrees above the luminaire's lowest point;

(3) "light pollution" means the shining of light produced by a luminaire above the height of the luminaire and into the sky;

(4) "lumen" means a unit of luminous flux. One footcandle is one lumen per square foot. For purposes of this section, the lumen-output values are the initial lumen-output rating of the lamp;

(5) "luminaire" means a complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts; and

(6) "outdoor lighting fixture" means any type of fixed or movable lighting equipment that is designed or used for illumination outdoors. The term includes billboard lighting, streetlights, searchlights, and other lighting used for advertising purposes and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.

Subd. 2. **Model ordinance.** The commissioner of administration, in consultation with the commissioner of commerce, associations for local governments, and any other interested person, shall develop a model ordinance that can be adapted for use by cities, counties, and towns, governing outdoor lighting to reduce light pollution. The model ordinance must address:

(1) standards for lighting on private property, outdoor advertising, lighting on commercial, industrial, or institutional property, canopies covering fueling stations, and public streets, sidewalks, and alleys;

(2) how illumination levels should be measured;

(3) possible exemptions, such as for temporary emergency or hazard lighting;

(4) recommended elements for an exterior lighting plan for a development;

(5) treatment of nonconforming lighting;

(6) lighting standards that might apply in special subdistricts;

(7) light pole maximum heights; and

(8) light trespass.

Sec. 2. Minnesota Statutes 2006, section 84.029, subdivision 2, is amended to read:

Subd. 2. **Acquisition of land for trails.** The commissioner may acquire, by gift, purchase, or lease, easements or other interests in land for trails, and recreational uses related to trails, where necessary to complete trails established primarily in state forests, state parks, or other public land under the jurisdiction of the commissioner, when railroad rights-of-way are abandoned, when the use of township roads is compatible with vehicular travel, ~~and~~ or when needed to complete trails established by the legislature.

Sec. 3. Minnesota Statutes 2006, section 84.777, as amended by Laws 2007, chapter 57, article 1, section 24, is amended to read:

84.777 OFF-HIGHWAY VEHICLE USE OF STATE LANDS RESTRICTED.

Subdivision 1. **Designated trails.** (a) Except as otherwise allowed by law or rules adopted by the commissioner, effective June 1, 2003, notwithstanding sections 84.787 to 84.805 and 84.92 to 84.929, the use of off-highway vehicles is prohibited on state land administered by the commissioner of natural resources, and on county-administered forest land within the boundaries of a state forest, except on roads and trails specifically designated and posted by the commissioner for use by off-highway vehicles.

(b) Paragraph (a) does not apply to county-administered land within a state forest if the county board adopts a resolution that modifies restrictions on the use of off-highway vehicles on county-administered land within the forest.

Subd. 2. **Off-highway vehicle seasons.** (a) The commissioner shall prescribe seasons for off-highway vehicle use on state forest lands. Except for designated forest roads, a person must not operate an off-highway vehicle on state forest lands outside of the seasons prescribed under this paragraph.

(b) The commissioner may designate and post winter trails on state forest lands for use by off-highway vehicles.

(c) For the purposes of this subdivision, "state forest lands" means forest lands under the authority of the commissioner as defined in section 89.001, subdivision 13, and lands managed by the commissioner under section 282.011.

Subd. 3. **Mapped trails.** (a) Except as provided in sections 84.926 and 84.928, after completion of official department off-highway vehicle maps for the area, a person must not operate an off-highway vehicle on state land that is not mapped for the type of off-highway vehicle. This paragraph does not apply to state forest land north of U.S. Highway 2 until after June 30, 2009.

(b) This subdivision does not apply to a forest access route in a managed forest north of U.S. Highway 2 that the commissioner has not designated as a road or trail. Forest access routes will not be signed or maintained and will not be included on published user maps of the forest. Off-highway vehicle operation on forest access routes is subject to the prohibitions on causing erosion, rutting, damage to trees or crops, and construction of unauthorized trails contained in Minnesota Rules. Damaged routes are subject to closure to off-highway vehicle use.

Subd. 4. **Exemption from rulemaking.** Determinations of the commissioner under this section may be by written order published in the State Register and are exempt from the rulemaking provisions of chapter 14. Section 14.386 does not apply.

Sec. 4. Minnesota Statutes 2006, section 84.788, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** Unless exempted in subdivision 2, ~~after January 1, 1994,~~ a person may not operate and an owner may not give permission for another to operate an off-highway motorcycle ~~on public lands or waters~~ unless the vehicle has been registered under this section.

Sec. 5. Minnesota Statutes 2006, section 84.82, subdivision 6, is amended to read:

Subd. 6. **Exemptions.** Registration is not required under this section for:

- (1) a snowmobile owned and used by the United States, another state, or a political subdivision thereof;
- (2) a snowmobile registered in a country other than the United States temporarily used within this state;
- (3) a snowmobile that is covered by a valid license of another state and has not been within this state for more than 30 consecutive days;
- (4) a snowmobile used exclusively in organized track racing events;
- (5) a snowmobile in transit by a manufacturer, distributor, or dealer; ~~or~~
- (6) a snowmobile at least 15 years old in transit by an individual for use only on land owned or leased by the individual; or
- (7) a snowmobile while being used to groom a state or grant-in-aid trail.

Sec. 6. Minnesota Statutes 2006, section 84.8205, subdivision 1, is amended to read:

Subdivision 1. **Sticker required; fee.** (a) Except as provided in paragraph (b), a person may not operate a snowmobile on a state or grant-in-aid snowmobile trail unless a snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural resources shall issue a sticker upon application and payment of a \$15 fee. The fee for a three-year snowmobile state trail sticker that is purchased at the time of snowmobile registration is \$30. In addition to other penalties prescribed by law, a person in violation of this subdivision must purchase an annual state trail sticker for a fee of \$30. The sticker is valid from November 1 through April 30. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the snowmobile trails and enforcement account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid, trail maintenance, grooming, and easement acquisition.

(b) A state trail sticker is not required under this section for:

- (1) a snowmobile owned by the state or a political subdivision of the state that is registered under section 84.82, subdivision 5;
- (2) a snowmobile that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.82, subdivision 6;
- (3) a collector snowmobile that is operated as provided in a special permit issued for the collector snowmobile under section 84.82, subdivision 7a; ~~or~~

(4) a person operating a snowmobile only on the portion of a trail that is owned by the person or the person's spouse, child, or parent; or

(5) a snowmobile while being used to groom a state or grant-in-aid trail.

Sec. 7. Minnesota Statutes 2006, section 84.925, subdivision 5, is amended to read:

Subd. 5. **Training requirements.** (a) An individual who was born after July 1, 1987, and who is 16 years of age or older, must successfully complete the independent study course component of all-terrain vehicle safety training before operating an all-terrain vehicle on public lands or waters, public road rights-of-way, or state or grant-in-aid trails.

(b) An individual who is convicted of violating a law related to the operation of an all-terrain vehicle must successfully complete the independent study course component of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(c) An individual who is convicted for a second or subsequent excess speed, trespass, or wetland violation in an all-terrain vehicle season, or any conviction for careless or reckless operation of an all-terrain vehicle, must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(d) An individual who receives three or more citations and convictions for violating a law related to the operation of an all-terrain vehicle in a two-year period must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(e) An individual must present evidence of compliance with this subdivision before an all-terrain vehicle registration is issued or renewed.

Sec. 8. Minnesota Statutes 2006, section 84.9256, subdivision 2, is amended to read:

Subd. 2. **Helmet and seat belts required.** (a) A person less than 18 years of age shall not ~~operate~~ ride as a passenger or as an operator of an all-terrain vehicle on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the commissioner of public safety.

(b) A person less than 18 years of age shall not ride as a passenger or as an operator of a class 2 all-terrain vehicle without wearing a seat belt when provided by the manufacturer.

Sec. 9. Minnesota Statutes 2006, section 84.9256, is amended by adding a subdivision to read:

Subd. 2a. **Parent or guardian authorization.** A person under age 16 shall not operate and a person shall not allow a person under age 16 to operate an all-terrain vehicle, unless the parent or guardian of the person under age 16 authorizes the operation. For purposes of this subdivision, "guardian" means the legal guardian of the person under age 16 or a person age 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.

Sec. 10. Minnesota Statutes 2006, section 84.9257, is amended to read:

84.9257 PASSENGERS.

(a) ~~A parent or guardian may operate a class 1 all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.~~

(b) ~~For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.~~

(c) ~~A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.~~

(d) ~~(b) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.~~

(e) ~~An operator of a class 2 all-terrain vehicle may carry two passengers while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater.~~

Sec. 11. Minnesota Statutes 2006, section 84.926, is amended by adding a subdivision to read:

Subd. 6. **Operation; class 2 vehicles.** Except as provided in subdivision 4, operation of class 2 all-terrain vehicles on lands administered by the commissioner is limited to forest roads, minimum maintenance roads, and trails designated or signed for class 2 all-terrain vehicles.

Sec. 12. Minnesota Statutes 2006, section 84.926, is amended by adding a subdivision to read:

Subd. 7. **Snowmobiles; closed forests; off trail.** Forests classified as closed forests are open to off-trail snowmobile use unless prohibited, as determined by the commissioner by written order published in the State Register. The determination is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 13. Minnesota Statutes 2006, section 84.928, subdivision 1, is amended to read:

Subdivision 1. **Operation on roads and rights-of-way; class 1 vehicles.** (a) Unless otherwise allowed in sections 84.92 to 84.929, a person shall not operate ~~a class 1~~ an all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway ~~other than~~.

(b) A person may operate a class 1 all-terrain vehicle in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph (d) or (f).

(c) A person may operate a class 2 all-terrain vehicle within the public road right-of-way of a county state-aid or county highway on the extreme right-hand side of the road and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions, unless prohibited under paragraph (d) or (f). A person may operate a class 2 all-terrain vehicle on the bank or ditch of a public road right-of-way on a designated class 2 all-terrain vehicle trail.

(d) ~~(b)~~ (d) A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of ~~class 1~~ all-terrain vehicles in the ~~ditch or outside bank or slope of a~~ public road right-of-way under its jurisdiction.

~~(e)~~ (e) The restrictions in paragraphs (a), ~~(b), (c), (d), (h), and (i), and (j)~~ do not apply to the operation of ~~a class 1~~ an all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway when the ~~class 1~~ all-terrain vehicle is:

- (1) owned by or operated under contract with a publicly or privately owned utility or pipeline company; and
- (2) used for work on utilities or pipelines.

~~(d)~~ (f) The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

- (1) degradation of vegetation on adjacent public property;
- (2) siltation of waters of the state;
- (3) impairment or enhancement to the act of taking game; or
- (4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

~~(e)~~ The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

~~(f)~~ (g) A person may operate ~~a class 1~~ an all-terrain vehicle registered for private use and used for agricultural purposes ~~or a class 2 all-terrain vehicle~~ on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the ~~class 1 or class 2~~ all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

~~(g)~~ (h) A person shall not operate ~~a class 1~~ an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

~~(h)~~ (i) A person shall not operate ~~a class 1~~ an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

~~(i)~~ (j) A person shall not operate ~~a class 1~~ an all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

Sec. 14. Minnesota Statutes 2006, section 84.929, is amended to read:

84.929 PENALTIES.

Any person who violates any provision of sections 84.773, 84.777, and 84.92 to 84.928 or rules of the commissioner is guilty of a misdemeanor.

Sec. 15. Minnesota Statutes 2006, section 85.015, subdivision 14, is amended to read:

Subd. 14. ~~Gateway Trail Willard Munger Trail System, Chisago, Ramsey, Pine, St. Louis, Carlton, and Washington Counties.~~ (a) The trail shall consist of six segments. One segment shall be known as the Gateway Trail and shall originate at the State Capitol and shall extend northerly and northeasterly to William O'Brien State Park, thence northerly to Taylors Falls in Chisago County, and there terminate. One segment shall be known as the Boundary Trail and shall originate in Chisago County and extend into Duluth in St. Louis County. One segment shall be known as the Browns Creek Trail and shall originate at Duluth Junction and extend into Stillwater in Washington County. One segment shall be known as the Munger Trail and shall originate at Hinckley in Pine County and extend through Moose Lake in Carlton County to Duluth in St. Louis County. One segment shall be known as the Alex Laveau Trail and shall originate in Carlton County at Carlton and extend through Wrenshall to the Minnesota-Wisconsin border. One segment shall be established that extends the trail to include the cities of Proctor, Duluth, and Hermantown in St. Louis County.

(b) ~~The trail Gateway and Browns Creek trails shall be developed primarily for hiking and nonmotorized riding and the remaining trails shall be developed primarily for riding and hiking.~~

(c) In addition to the authority granted in subdivision 1, lands and interests in lands for the ~~trail~~ Gateway and Browns Creek trails may be acquired by eminent domain.

~~(d) The commissioner of natural resources, after consulting with all local units of government affected by the trail, and with the commissioner of transportation and the Metropolitan Council, shall prepare a master plan for the trail. After completion of the master plan, any land or interest in land not needed for the trail may be disposed of by the commissioner of natural resources as follows:~~

~~(1) by transfer to the Department of Transportation, the Historical Society, or another state agency;~~

~~(2) by sale at not less than the purchase price to a city, town, school district, park district, or other political subdivision whose boundaries include or are adjacent to the land, for public purposes only, after written notice to each of these political subdivisions; or~~

~~(3) if no offer to purchase is received from any political subdivision within one year after the completion of the master plan, then by public sale, at not less than the purchase price, upon notice published in the manner provided in section 92.14, and otherwise in the same manner as trust fund lands are sold, so far as applicable.~~

~~All proceeds derived from sales of unneeded land and interest in land shall be deposited in the state bond fund. For the purposes of United States Code, title 23, section 138, and title 49, section 1653(f), any land or interest in land not needed for the trail and transferred to another state agency, or sold, does not constitute permanent park, recreation area, or wildlife or waterfowl refuge facility land.~~

Sec. 16. Minnesota Statutes 2006, section 85.015, subdivision 22, is amended to read:

Subd. 22. **Minnesota River Trail.** The trail shall originate at the entrance to Big Stone Lake State Park and extend along the Minnesota River Valley to connect to the Minnesota Valley Trail at the city of Le Sueur. The trail shall include a loop between Fort Ridgely State Park and the cities of Redwood Falls and Sleepy Eye. A segment shall be established connecting the cities of Granite Falls and Montevideo.

Sec. 17. Minnesota Statutes 2006, section 85.053, subdivision 2, is amended to read:

Subd. 2. **Requirement.** Except as provided in section 85.054, a motor vehicle may not enter a state park, state recreation area, or state wayside over 50 acres in area, without a state park permit issued under this section. Except for vehicles permitted under subdivisions 7, paragraph (a), clause (2), and 8, the state park permit must be affixed to

the lower right corner windshield of the motor vehicle and must be completely affixed by its own adhesive to the windshield, or the commissioner may, by written order, provide an alternative means to display and validate ~~annual~~ state park permits.

Sec. 18. Minnesota Statutes 2006, section 85.053, subdivision 8, is amended to read:

Subd. 8. **Military personnel on leave; exemption.** (a) ~~The provisions of this section requiring a state park permit and regulating its display do not apply to~~ A one-day permit, under subdivision 4, shall be issued without a fee for a motor vehicle being used by a person who is serving in active military service in any branch or unit of the United States armed forces and who is stationed outside Minnesota, during the period of active service and for 90 days immediately thereafter, if the person notifies presents the person's current military orders to the park attendant on duty or other designee of the commissioner of the person's military status at the time of usage. It is sufficient notice for the eligible person to temporarily affix to the inside of the windshield of the vehicle in a visible manner the person's current military orders and to carry in the person's possession current military identification attesting to the person's active or recent military status.

(b) For purposes of this section, "active service" has the meaning given under section 190.05, subdivision 5c, when performed outside Minnesota.

Sec. 19. Minnesota Statutes 2006, section 97A.015, subdivision 24, is amended to read:

Subd. 24. **Game birds.** "Game birds" means migratory waterfowl, ring-necked pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, wild turkeys, coots, gallinules, sora and Virginia rails, mourning dove, American woodcock, and common snipe.

Sec. 20. Minnesota Statutes 2006, section 97A.015, is amended by adding a subdivision to read:

Subd. 26c. **Immediately released or immediately returned to the water.** "Immediately released" or "immediately returned to the water" means that a fish must not be retained longer than is needed at the site of capture to unhook, identify, measure, or photograph the fish. Placing a fish on a stringer, in a live well, or in a cooler, bucket, or other container is not "immediately released" or "immediately returned to the water."

Sec. 21. Minnesota Statutes 2006, section 97A.401, subdivision 5, is amended to read:

Subd. 5. **Wild animals damaging property.** Special permits may be issued with or without a fee to take protected wild animals ~~that are damaging property~~ or to remove or destroy their dens, nests, eggs, houses, or dams for the purpose of preventing or reducing damage or injury to people, property, agricultural crops, or other interests. The commissioner may prescribe rules for taking Canada geese and their nests and eggs, with or without a permit, consistent with federal regulations. ~~A special permit issued under this subdivision to take beaver must state the number to be taken.~~

Sec. 22. Minnesota Statutes 2006, section 97A.405, subdivision 2, is amended to read:

Subd. 2. **Personal possession.** (a) A person acting under a license or traveling from an area where a licensed activity was performed must have in personal possession either: (1) the proper license, if the license has been issued to and received by the person; or (2) the proper license identification number or stamp validation, if the license has been sold to the person by electronic means but the actual license has not been issued and received.

(b) If possession of a license or a license identification number is required, a person must exhibit, as requested by a conservation officer or peace officer, either: (1) the proper license if the license has been issued to and received by the person; or (2) the proper license identification number or stamp validation and a valid state driver's license, state

identification card, or other form of identification provided by the commissioner, if the license has been sold to the person by electronic means but the actual license has not been issued and received. A person charged with violating the license possession requirement shall not be convicted if the person produces in court or the office of the arresting officer, the actual license previously issued to that person, which was valid at the time of arrest, or satisfactory proof that at the time of the arrest the person was validly licensed. Upon request of a conservation officer or peace officer, a licensee shall write the licensee's name in the presence of the officer to determine the identity of the licensee.

(c) If the actual license has been issued and received, a receipt for license fees, a copy of a license, or evidence showing the issuance of a license, including the license identification number or stamp validation, does not entitle a licensee to exercise the rights or privileges conferred by a license.

(d) A license or stamp issued electronically and not immediately provided to the licensee shall be mailed to the licensee within 30 days of purchase of the license or stamp validation, except for a pictorial turkey stamp or a pictorial trout and salmon stamp. A pictorial turkey stamp or a pictorial trout and salmon stamp shall be mailed to the licensee after purchase of a license or stamp validation only if the licensee pays an additional \$2 fee.

Sec. 23. Minnesota Statutes 2006, section 97A.405, subdivision 4, is amended to read:

Subd. 4. **Replacement licenses.** (a) The commissioner may permit licensed deer hunters to change zone, license, or season options. The commissioner may issue a replacement license if the applicant submits the original deer license and unused tags that are being replaced and the applicant pays any increase in cost between the original and the replacement license. A refund of the difference in fees may be issued when a person changes from a regular deer license to a youth deer license. When a person submits both an archery and a firearms license for replacement, the commissioner may apply the value of both licenses towards the replacement license fee.

(b) A replacement license may be issued only if the applicant has not used any tag from the original license or licenses and meets the conditions of paragraph (c). The original license or licenses and all unused tags ~~for that license for the licenses being replaced~~ must be submitted to the issuing agent at the time the replacement license is issued.

(c) A replacement license may be issued under the following conditions, or as otherwise prescribed by rule of the commissioner:

- (1) when the season for the license being surrendered has not yet opened; ~~or~~
- (2) when the person is upgrading from a regular firearms or archery deer license to ~~a multizone or an~~ all season deer license;
- (3) when the person is upgrading from a regular firearms license to a multizone deer license; or
- (4) when the person is changing from a regular firearms deer license to a youth deer license.

(d) Notwithstanding section 97A.411, subdivision 3, a replacement license is valid immediately upon issuance if the license being surrendered is valid at that time.

Sec. 24. Minnesota Statutes 2006, section 97A.411, subdivision 1, is amended to read:

Subdivision 1. **License period.** (a) Except as provided in paragraphs (b), ~~(c)~~, and (d), a license is valid during the lawful time within the license year that the licensed activity may be performed. Except as provided in paragraph (c), a license year begins on the first day of March and ends on the last day of February.

(b) A license issued under section 97A.475, subdivision 6, clause (5), 97A.475, subdivision 7, clause (2), (3), (5), or (6), or 97A.475, subdivision 12, clause (2), is valid for the full license period even if this period extends into the next license year, provided that the license period selected by the licensee begins at the time of issuance.

(c) ~~When the last day of February falls on a Saturday, an annual resident or nonresident fish house or dark house license, including a rental fish house or dark house license, obtained for the license year covering the last day of February, is valid through Sunday, March 1 and the angling license of the fish house licensee is extended through March 1. The license year for resident fishing, the angling portion of a sporting license, nonresident fishing, resident fish house, resident dark house, and nonresident fish house begins on March 1 and ends on April 30 of the following year.~~

(d) A lifetime license issued under section 97A.473 or 97A.474 is valid during the lawful time within the license year that the licensed activity may be performed for the lifetime of the licensee.

Sec. 25. Minnesota Statutes 2006, section 97A.421, is amended by adding a subdivision to read:

Subd. 7. **Taking wild animals while privileges are suspended.** A person who takes a protected wild animal during the time the person is prohibited from obtaining a license to take that animal under this section is guilty of a misdemeanor.

Sec. 26. Minnesota Statutes 2006, section 97A.441, subdivision 7, is amended to read:

Subd. 7. **Owners or tenants of agricultural land.** (a) The commissioner may issue, without a fee, a license to take an antlerless deer to a person who is an owner or tenant ~~and is living and actively farming on~~ of at least 80 acres of agricultural land, as defined in section 97B.001, in deer permit areas that have deer archery licenses to take additional deer under section 97B.301, subdivision 4. A person may receive only one license per year under this subdivision. For properties with co-owners or cotenants, only one co-owner or cotenant may receive a license under this subdivision per year. The license issued under this subdivision is restricted to land leased for agricultural purposes or owned by the holder of the license within the permit area where the qualifying land is located. The holder of the license may transfer the license to the holder's spouse or dependent. Notwithstanding sections 97A.415, subdivision 1, and 97B.301, subdivision 2, the holder of the license may purchase an additional license for taking deer and may take an additional deer under that license.

(b) A person who obtains a license under paragraph (a) must allow public deer hunting on their land during that deer hunting season, with the exception of the first Saturday and Sunday during the deer hunting season applicable to the license issued under section 97A.475, subdivision 2, clauses (4) and (13).

Sec. 27. Minnesota Statutes 2006, section 97A.445, subdivision 1, is amended to read:

Subdivision 1. **Angling; Take a Kid Fishing ~~Weekend~~ Weekends.** A resident over age 18 may take fish by angling without ~~a~~ an angling or fish house license during one three-day consecutive period of the open water angling season ~~and one three-day consecutive period of the ice angling season~~ designated by rule of the commissioner if accompanied by a child who is under age 16. The commissioner shall publicize the three-day ~~period~~ periods as "Take a Kid Fishing Weekend" for the open water angling season and "Take a Kid Ice Fishing Weekend" for the ice angling season.

Sec. 28. Minnesota Statutes 2006, section 97A.451, subdivision 3, is amended to read:

Subd. 3. **Residents under age 16; small game.** (a) A resident under age 16 may not obtain a small game license but may take small game by firearms or bow and arrow without a license if the resident is:

(1) age 14 or 15 and possesses a firearms safety certificate;

(2) age 13, possesses a firearms safety certificate, and is accompanied by a parent or guardian; ~~or~~

(3) age 13, 14, or 15, possesses an apprentice hunter validation, and is accompanied by a parent or guardian who possesses a small game license that was not obtained using an apprentice hunter validation; or

~~(3)~~ (4) age 12 or under and is accompanied by a parent or guardian.

(b) A resident under age 16 may take small game by trapping without a small game license, but a resident 13 years of age or older must have a trapping license. A resident under age 13 may trap without a trapping license, but may not register fisher, otter, bobcat, or pine marten unless the resident is at least age five. Any fisher, otter, bobcat, or pine marten taken by a resident under age five must be included in the limit of the accompanying parent or guardian.

(c) A resident under age 12 may apply for a turkey license and may take a turkey without a firearms safety certificate if the resident is accompanied by an adult parent or guardian who has a firearms safety certificate.

Sec. 29. Minnesota Statutes 2006, section 97A.475, subdivision 2, is amended to read:

Subd. 2. **Resident hunting.** Fees for the following licenses, to be issued to residents only, are:

(1) for persons age 18 or over and under age 65 to take small game, \$12.50;

(2) for persons ages 16 and 17 and age 65 or over, \$6 to take small game;

(3) to take turkey, \$18;

(4) for persons age 18 or over to take deer with firearms, \$26;

(5) for persons age 18 or over to take deer by archery, \$26;

(6) to take moose, for a party of not more than six persons, \$310;

(7) to take bear, \$38;

(8) to take elk, for a party of not more than two persons, \$250;

(9) multizone license to take antlered deer in more than one zone, \$52;

(10) to take Canada geese during a special season, \$4;

(11) all season license to take ~~two~~ three deer throughout the state in any open deer season, except as restricted under section 97B.305, \$78;

(12) to take prairie chickens, \$20;

(13) for persons at least age 12 and under age 18 to take deer with firearms during the regular firearms season in any open zone or time period, \$13; and

(14) for persons at least age 12 and under age 18 to take deer by archery, \$13.

Sec. 30. Minnesota Statutes 2006, section 97A.475, subdivision 16, is amended to read:

Subd. 16. **Resident hunting guides.** The fee for a resident license to guide bear hunters is \$82.50 and is available only to a Minnesota resident individual.

Sec. 31. Minnesota Statutes 2006, section 97A.505, subdivision 4, is amended to read:

Subd. 4. **Storage of protected wild animals.** A person that stores protected wild animals for others must plainly mark the package, in ink, with the name and address of the owner, the license number of the person taking the animal, and the number and species in the package. ~~A person may not use a commercial cold storage warehouse for protected wild animals, except lawfully taken fish and furs.~~

Sec. 32. Minnesota Statutes 2006, section 97A.511, is amended to read:

97A.511 FUR-BEARING ANIMALS.

The skins of fur-bearing animals and the flesh of beaver, muskrat, raccoon, rabbits and hares, legally taken and bearing the required seals or tags required by the game and fish laws, may be bought, sold, and transported at any time. ~~The flesh of beaver, raccoon, rabbits, and hare may not be transported out of the state.~~

Sec. 33. Minnesota Statutes 2006, section 97B.015, is amended by adding a subdivision to read:

Subd. 5a. **Exemption for military personnel.** Notwithstanding subdivision 5, a person who has successfully completed basic training in the United States armed forces is exempt from the range and shooting exercise portion of the required course of instruction for the firearms safety certificate. The commissioner may require written proof of the person's military training, as deemed appropriate for implementing this subdivision. The commissioner shall publicly announce this exemption from the range and shooting exercise requirement and the availability of the department's online, remote study option for adults seeking firearms safety certification. Military personnel are not exempt from any other requirement of this section for obtaining a firearms safety certificate.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to applications for certificates made on or after that date.

Sec. 34. Minnesota Statutes 2006, section 97B.020, is amended to read:

97B.020 FIREARMS SAFETY CERTIFICATE REQUIRED.

(a) Except as provided in this section and section 97A.451, subdivision 3a, a person born after December 31, 1979, may not obtain an annual license to take wild animals by firearms unless the person has:

- (1) a firearms safety certificate or equivalent certificate;
- (2) a driver's license or identification card with a valid firearms safety qualification indicator issued under section 171.07, subdivision 13;
- (3) a previous hunting license with a valid firearms safety qualification indicator; ~~or~~
- (4) an apprentice hunter validation issued under section 97B.022; or

(4) (5) other evidence indicating that the person has completed in this state or in another state a hunter safety course recognized by the department under a reciprocity agreement or certified by the department as substantially similar.

(b) A person who is on active duty and has successfully completed basic training in the United States armed forces, reserve component, or National Guard may obtain a hunting license or approval authorizing hunting regardless of whether the person is issued a firearms safety certificate.

(c) A person born after December 31, 1979, may not use a lifetime license to take wild animals by firearms, unless the person meets the requirements for obtaining an annual license under paragraph (a) or (b).

Sec. 35. **[97B.022] APPRENTICE HUNTER VALIDATION.**

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

Subd. 2. **Apprentice hunter validation requirements.** A resident born after December 31, 1979, who is age 12 or older and who does not possess a firearms safety certificate may be issued an apprentice hunter validation. An apprentice hunter validation is valid for only one license year in a lifetime. An individual in possession of an apprentice hunter validation may hunt small game and deer only when accompanied by an adult licensed to hunt in Minnesota whose license was not obtained using an apprentice hunter validation. An apprentice hunter validation holder must obtain all required licenses and stamps.

Sec. 36. Minnesota Statutes 2006, section 97B.031, subdivision 1, is amended to read:

Subdivision 1. **Firearms and ammunition that may be used to take big game.** (a) A person may take big game with a firearm only if:

- (1) the rifle, shotgun, and handgun used is a caliber of at least .23 inches;
- (2) the firearm is loaded only with single projectile ammunition;
- (3) a projectile used is a caliber of at least .23 inches and has a soft point or is an expanding bullet type;
- (4) the ammunition has a case length of at least 1.285 inches;
- (5) the muzzle-loader used is incapable of being loaded at the breech;
- (6) the smooth-bore muzzle-loader used is a caliber of at least .45 inches; and
- (7) the rifled muzzle-loader used is a caliber of at least .40 inches.

(b) Notwithstanding paragraph (a), clause (4), a person may take big game with a ten millimeter cartridge that is at least 0.95 inches in length, a .45 Winchester Magnum cartridge, ~~or~~ a .50 A. E. (Action Express) handgun cartridge, or a 56-46 Spencer, 56-50 Spencer, or 56-56 Spencer cartridge.

Sec. 37. Minnesota Statutes 2006, section 97B.035, is amended by adding a subdivision to read:

Subd. 1a. **Minimum draw weight.** A bow used to take big game must have a pull that meets or exceeds 30 pounds at or before full draw.

Sec. 38. **[97B.036] CROSSBOW HUNTING DURING FIREARMS DEER SEASON.**

Notwithstanding section 97B.035, subdivisions 1 and 2, a person may take deer by crossbow during the regular firearms deer season. The transportation requirements of section 97B.051 apply to crossbows during the regular firearms deer season. Crossbows must meet the requirements of section 97B.106, subdivision 2. A person taking deer by crossbow under this section must have a valid firearms deer license.

Sec. 39. Minnesota Statutes 2006, section 97B.075, is amended to read:

97B.075 HUNTING RESTRICTED BETWEEN EVENING AND MORNING.

(a) A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except as provided in this section.

(b) Big game may be taken from one-half hour before sunrise until one-half hour after sunset.

(c) Except as otherwise prescribed by the commissioner on or before the Saturday nearest October 8, waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner. On the opening day of the duck season, shooting hours for migratory game birds, except woodcock, begin at 9:00 a.m.

Sec. 40. Minnesota Statutes 2006, section 97B.085, subdivision 3, is amended to read:

Subd. 3. **Communication excepted.** This section does not prohibit the use of:

(1) one-way radio communication between a handler and a dog; or

(2) a remote-controlled animal noise caller for taking crows, fur-bearing animals, and unprotected animals.

Sec. 41. **[97B.086] POSSESSION OF NIGHT VISION EQUIPMENT.**

(a) A person may not possess night vision goggle equipment while taking wild animals or while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to take wild animals.

(b) This section does not apply to a firearm that is:

(1) unloaded;

(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and

(3) in the closed trunk of a motor vehicle.

(c) This section does not apply to a bow that is:

(1) completely encased or unstrung; and

(2) in the closed trunk of a motor vehicle.

(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.

(e) This section does not apply to night vision goggle equipment possessed by peace officers or military personnel while exercising their duties.

Sec. 42. Minnesota Statutes 2006, section 97B.301, subdivision 7, is amended to read:

Subd. 7. **All season deer license.** (a) A resident may obtain an all season deer license that authorizes the resident to hunt during the archery, regular firearms, and muzzle-loader seasons. The all season license is valid for taking three deer, no more than one of which may be a legal buck.

(b) The all season deer license is valid for taking antlerless deer as follows:

~~(1) up to two antlerless deer may be taken during the archery or muzzle loader seasons in any open area or during the regular firearms season in managed or intensive deer areas; and~~

~~(2) one antlerless deer may be taken during the regular firearms season in a lottery deer area, only with an either-sex permit or statutory exemption from an either-sex permit, prescribed by the commissioner.~~

(c) The commissioner shall issue three tags when issuing a license under this subdivision.

Sec. 43. Minnesota Statutes 2006, section 97B.311, is amended to read:

97B.311 DEER SEASONS AND RESTRICTIONS.

(a) The commissioner may, by rule, prescribe restrictions and designate areas where deer may be taken, including hunter selection criteria for special hunts established under section 97A.401, subdivision 4. The commissioner may, by rule, prescribe the open seasons for deer within the following periods:

(1) taking with firearms, other than muzzle-loading firearms, between November 1 and December 15;

(2) taking with muzzle-loading firearms between September 1 and December 31; and

(3) taking by archery between September 1 and December 31.

(b) Notwithstanding paragraph (a), the commissioner may establish special seasons within designated areas at any time of year.

~~(c) Smokeless gunpowder may not be used in a muzzle loader during the muzzle loader season.~~

Sec. 44. Minnesota Statutes 2006, section 97B.318, subdivision 1, is amended to read:

Subdivision 1. **Shotgun use area.** During the regular firearms season in the shotgun use area, only legal shotguns loaded with single-slug shotgun shells, legal muzzle-loading long guns, and legal handguns may be used for taking deer. Legal shotguns include those with rifled barrels. The shotgun use area is that portion of the state lying within the following described boundary: Beginning on the west boundary of the state at U.S. Highway 10; ~~thence along U.S. Highway 10~~ the northern boundary of Clay County; ~~thence along the northern boundary of Clay County~~ to State Trunk Highway (STH) 32; thence along STH 32 to STH 34; thence along STH 34 to Interstate Highway 94 (I-94); thence along I-94 to County State-Aid Highway (CSAH) 40, Douglas County; thence along CSAH 40 to CSAH 82, Douglas County; thence along CSAH 82 to CSAH 22, Douglas County; thence along CSAH

22 to CSAH 6, Douglas County; thence along CSAH 6 to CSAH 14, Douglas County; thence along CSAH 14 to STH 29; thence along STH 29 to CSAH 46, Otter Tail County; thence along CSAH 46, Otter Tail County, to CSAH 22, Todd County; thence along CSAH 22 to U.S. Highway 71; thence along U.S. Highway 71 to STH 27; thence along STH 27 to the Mississippi River; thence along the east bank of the Mississippi River to STH 23; thence along STH 23 to STH 95; thence along STH 95 to U.S. Highway 8; thence along U.S. Highway 8 to the eastern boundary of the state; thence along the east, south, and west boundaries of the state to the point of beginning.

Sec. 45. **[97B.328] BAITING PROHIBITED.**

(a) A person may not hunt deer:

(1) with the aid or use of bait;

(2) in the vicinity of bait if the person knows or has reason to know that bait is present; or

(3) in the vicinity of where the person has placed bait or caused bait to be placed within the previous ten days.

(b) This restriction does not apply to:

(1) food resulting from normal or accepted farming, forest management, wildlife food plantings, orchard management, or other similar land management activities; or

(2) a person hunting on the person's own property, when the person has not participated in, been involved with, or agreed to feeding wildlife on adjacent land owned by another person.

Sec. 46. Minnesota Statutes 2006, section 97B.928, subdivision 1, is amended to read:

Subdivision 1. **Information required.** (a) A person may not set or place a trap or snare, other than on property owned or occupied by the person, unless the following information is affixed to the trap or snare in a manner that ensures that the information remains legible while the trap or snare is on the lands or waters:

(1) the number and state of the person's driver's license;

(2) the person's Minnesota identification card number; ~~or~~

(3) the person's name and mailing address; or

(4) the license identification number issued by the Department of Natural Resources.

(b) The commissioner may not prescribe additional requirements for identification of traps or snares.

(c) Until March 1, 2013, the driver's license number under paragraph (a), clause (1), may be the person's previously issued Minnesota driver's license number.

Sec. 47. Minnesota Statutes 2006, section 97C.325, is amended to read:

97C.325 ~~PROHIBITED METHODS OF~~ RESTRICTIONS ON TAKING FISH.

(a) Except as specifically authorized, a person may not take fish with:

(1) explosives, chemicals, drugs, poisons, lime, medicated bait, fish berries, or other similar substances;

(2) substances or devices that kill, stun, or affect the nervous system of fish;

(3) nets, traps, trot lines, or snares; or

(4) spring devices that impale, hook, or capture fish.

(b) If a person possesses a substance or device listed in paragraph (a) on waters, shores, or islands, it is presumptive evidence that the person is in violation of this section.

(c) The commissioner may, by rule, allow the use of a nonmotorized device with a recoil mechanism to take fish through the ice.

(d) To protect water quality or improve habitat for fish or wildlife, the commissioner may prescribe restrictions on fishing seasons, limits, or methods on specific bodies of water.

Sec. 48. Minnesota Statutes 2006, section 97C.335, is amended to read:

97C.335 USE OF ARTIFICIAL LIGHTS TO TAKE FISH PROHIBITED.

A person may not use artificial lights to lure or attract fish or to see fish in the water while spearing, except that while angling or spearing, a person may:

(1) affix ~~to the end of a fishing line~~ a lighted artificial bait with hooks attached to the end of a fishing line; or

(2) use a lighted decoy for spearing.

Any battery that is used in lighted fishing lures cannot contain any intentionally introduced mercury.

Sec. 49. Minnesota Statutes 2006, section 97C.355, subdivision 8, is amended to read:

Subd. 8. **Confiscation of unlawful structures; civil penalty.** (a) Structures on the ice in violation of this section may be confiscated and disposed of, retained by the division, or sold at the highest price obtainable, in a manner prescribed by the commissioner.

(b) In addition to other penalties provided by law, the owner of a structure left on the ice in violation of this section is subject to a civil penalty under section 115A.99.

Sec. 50. **[97C.417] REPORTING ASIAN CARP.**

A person who takes any of the following Asian carp species must report the type of carp taken to the commissioner within seven days of taking:

(1) grass carp (*Ctenopharyngodon idella*);

(2) bighead carp (*Hypophthalmichthys nobilis*); or

(3) silver carp (*Hypophthalmichthys molitrix*).

Sec. 51. Minnesota Statutes 2006, section 97C.835, subdivision 1, is amended to read:

Subdivision 1. **Commercial fishing license for Lake Superior.** (a) A license to fish commercially in Lake Superior shall be issued to a maximum of ~~50~~ 25 residents. To qualify for licensing, a resident must have landed fish in the previous year with a value of at least \$1,500, and must have engaged in commercial fishing for at least 30 days of the previous year. An applicant may be issued a license, at the discretion of the commissioner, if failure to meet the requirements for the dollar value of fish landed or number of days fished resulted from illness or other mitigating circumstances, or the applicant has reached the age of 65 and has been licensed at least five of the previous ten years.

(b) A license may be issued to a resident who has not previously fished commercially on Lake Superior and has not been convicted of a game and fish law violation in the preceding three years, if the applicant:

- (1) shows a bill of sale indicating the purchase of gear and facilities connected with an existing license;
- (2) shows proof of inheritance of all the gear and facilities connected with an existing license; or
- (3) has served at least two years as an apprentice in a Minnesota Lake Superior licensed commercial fishing operation.

Sec. 52. Minnesota Statutes 2006, section 97C.835, subdivision 3, is amended to read:

Subd. 3. **Pound nets and trap nets.** Pound or trap nets may be used to take lake whitefish, round whitefish, pygmy whitefish, ciscoes, chubs, alewives, rainbow smelt, and rough fish in Lake Superior, including St. Louis Bay east of the U.S. Highway 53 bridge, under the rules prescribed by the commissioner.

Sec. 53. Minnesota Statutes 2006, section 97C.835, subdivision 8, is amended to read:

Subd. 8. **Special permits.** The commissioner may issue special permits to duly licensed commercial fishing operators ~~not exceeding 20 in number~~, for the purpose of taking lake trout, ciscoes, and lake whitefish ~~spawn during the closed season for the propagation of trout~~ in Lake Superior and adjacent waters under rules prescribed by the commissioner.

Sec. 54. **[97C.836] LAKE SUPERIOR LAKE TROUT EXPANDED ASSESSMENT HARVEST.**

The commissioner shall provide for taking of lake trout by licensed commercial operators in Lake Superior management zones MN-3 and MN-2 for expanded assessment and sale. The commissioner shall authorize expanded assessment taking and sale of lake trout in Lake Superior management zone MN-3 beginning annually in 2007 and zone MN-2 beginning annually in 2010. Total assessment taking and sale may not exceed 3,000 lake trout in zone MN-3 and 2,000 lake trout in zone MN-2 and may be reduced when necessary to protect the lake trout population or to manage the effects of invasive species or fish disease. Taking lake trout for expanded assessment and sale shall be allowed from June 1 to September 30, but may end earlier in the respective zones if the quotas are reached. The quotas must be reassessed at the expiration of the current ten-year Fisheries Management Plan for the Minnesota Waters of Lake Superior dated September 2006.

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

Sec. 55. Minnesota Statutes 2006, section 103G.2241, subdivision 4, is amended to read:

Subd. 4. **Wetland restoration.** A replacement plan for wetlands is not required for:

(1) activities in a wetland restored or created for conservation purposes under a contract or easement providing the landowner with the right to drain the restored or created wetland; or

(2) activities in a wetland restored or created by a landowner without any assistance or financing from public agencies or private entities other than the landowner and the wetland has not been used for wetland replacement or deposited in the state wetland bank.

Sec. 56. Minnesota Statutes 2006, section 103G.2242, subdivision 15, as amended by Laws 2007, chapter 57, article 1, section 132, is amended to read:

Subd. 15. **Fees paid to board.** All fees established in subdivisions 9 and 14 must be paid to the Board of Water and Soil Resources ~~to be used~~ and are annually appropriated to the board for the purpose of administration of the wetland bank and to process appeals under section 103G.2242, subdivision 9.

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

Sec. 57. Minnesota Statutes 2006, section 103G.291, subdivision 3, is amended to read:

Subd. 3. **Emergency Water supply plans; demand reduction.** (a) Every public water supplier serving more than 1,000 people must submit ~~an emergency and conservation~~ 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 and must identify alternative sources of water for use in an emergency that are consistent with section 103G.261. Public water suppliers must update ~~the 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).

~~(b)~~ (c) Public water suppliers serving more than 1,000 people must employ water use demand reduction measures 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.

~~(c)~~ (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.

~~(d)~~ (e) For the purposes of this subdivision, "public water supplier" means an entity that owns, manages, or operates a public water supply, as defined in section 144.382, subdivision 4.

Sec. 58. Minnesota Statutes 2006, section 103G.311, subdivision 2, is amended to read:

Subd. 2. **Hearing notice.** (a) The hearing notice on an application must ~~state~~ include:

(1) the date, place, and time fixed by the commissioner for the hearing; ~~and~~

(2) the waters affected, the water levels sought to be established, or control structures proposed; and

(3) the matters prescribed by sections 14.57 to 14.59 and rules adopted thereunder.

(b) A summary of the hearing notice must be published by the commissioner at the expense of the applicant or, if the proceeding is initiated by the commissioner in the absence of an applicant, at the expense of the commissioner.

(c) The summary of the hearing notice must be:

(1) published once a week for two successive weeks before the day of hearing in a legal newspaper published in the county where any part of the affected waters is located; and

(2) mailed by the commissioner to the county auditor, the mayor of a municipality, the watershed district, and the soil and water conservation district affected by the application; ~~and~~

(3) ~~made under requirements prescribed by sections 14.57 to 14.59 and rules of the chief administrative law judge.~~

Sec. 59. **[114E.01] SHORT TITLE.**

This chapter may be cited as the Uniform Environmental Covenants Act.

Sec. 60. **[114E.05] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the definitions in this subdivision have the meanings given.

Subd. 2. **Activity and use limitations.** "Activity and use limitations" means restrictions or obligations with respect to real property that are associated with an environmental response project.

Subd. 3. **Common interest community.** "Common interest community" means a common interest community as defined in chapter 515B.

Subd. 4. **Environmental agency.** "Environmental agency" means the Pollution Control Agency, Agriculture Department, or another state or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

Subd. 5. **Environmental covenant.** "Environmental covenant" means a servitude created under this chapter that imposes activity and use limitations.

Subd. 6. **Environmental response project.** "Environmental response project" means a plan or work performed to clean up, eliminate, investigate, minimize, mitigate, or prevent the release or threatened release of contaminants affecting real property in order to protect public health or welfare or the environment, including:

(1) response or corrective actions under federal or state law, including chapters 115B, 115C, 115E, and 116, and the Comprehensive Environmental Response, Compensation and Liability Act, United States Code, title 44, section 9601, et seq.;

(2) corrective actions or response to agricultural chemical incidents under chapters 18B, 18C, 18D, and 18E; and

(3) closure, contingency, or corrective actions required under rules or regulations applicable to waste treatment, storage, or disposal facilities or to above or below ground tanks.

Subd. 7. **Holder.** "Holder" means any person identified as a holder of an environmental covenant as specified in section 114E.10, paragraph (a).

Subd. 8. **Person.** "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, political subdivision or special purpose unit of government, agency, or instrumentality of the state or federal government, or any other legal or commercial entity.

Subd. 9. **Record.** "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Subd. 10. **Recorded.** "Recorded" means recorded with the county recorder or registrar of title, as applicable, in each county where the real property is located.

Subd. 11. **State.** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 61. **[114E.10] NATURE OF RIGHTS; ROLE OF ENVIRONMENTAL AGENCY; SUBORDINATION OF INTERESTS.**

(a) Any person, including a person that owns an interest in the real property subject to the environmental covenant, the environmental agency, or any other political subdivision or unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property. The holder is the grantee of the real property interest conveyed under an environmental covenant.

(b) Unless an environmental agency is a holder, any right that the agency may have with respect to an environmental covenant does not constitute an interest in real property. Approval of an environmental covenant does not make the environmental agency a holder unless it has authority under law other than this chapter to acquire an interest in real property for purposes related to an environmental response project and it is expressly identified as a holder in the environmental covenant.

(c) An environmental agency is bound by any obligation it assumes in an environmental covenant, but an environmental agency does not assume obligations merely by signing an environmental covenant. As provided in section 114E.15, an environmental covenant is not valid unless signed by the environmental agency and the environmental agency may set reasonable conditions for its approval of an environmental covenant. When the environmental agency is a federal agency, the covenant must also be approved and signed by the state environmental agency that has authority under state law to address the release or threatened release involved in the environmental response project. Any other person that signs an environmental covenant is bound by the obligations the person expressly assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under law other than this chapter except as provided in the covenant.

(d) The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

(1) an interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant;

(2) this chapter does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant;

(3) a subordination agreement may be contained in an environmental covenant or in a separate record that is recorded. If the environmental covenant covers commonly owned property in a common interest community, the environmental covenant or the subordination agreement may be signed by any person authorized by the governing board of the owners' association; and

(4) an agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

Sec. 62. **[114E.15] CONTENTS OF ENVIRONMENTAL COVENANT.**

(a) An environmental covenant must:

(1) state on its first page that the instrument is an environmental covenant executed pursuant to this chapter;

(2) contain a legally sufficient description of the real property subject to the covenant;

(3) describe the activity and use limitations on the real property;

(4) identify every holder;

(5) be signed and acknowledged by the environmental agency, every holder, and every owner of the fee simple title to the real property subject to the covenant; and

(6) identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

(b) In addition to the information required by paragraph (a), an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

(1) requirements for notice of any transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination or the environmental response project on, the real property subject to the covenant;

(2) requirements for periodic reporting describing compliance with the covenant;

(3) rights of access to the real property granted in connection with implementation or enforcement of the covenant;

(4) a brief narrative description of the contamination and environmental response project, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

(5) limitation on amendment or termination of the covenant in addition to those contained in sections 114E.40 and 114E.45;

(6) rights of the holder in addition to its right to enforce the covenant pursuant to section 114E.50; and

(7) waiver of a party's right to consent to the amendment or termination of a covenant under section 114E.45, paragraph (a), clause (3).

(c) The environmental agency may set reasonable conditions for its approval of an environmental covenant, including:

(1) requiring that persons specified by the agency that have interests in the real property also sign the covenant;

(2) requiring that a person who holds a prior interest in the real property subject to the covenant agree to subordinate that interest where applicable; and

(3) requiring the inclusion within the text of the covenant information, restrictions, or requirements as described in paragraph (b).

Sec. 63. **[114E.20] VALIDITY; EFFECT ON OTHER INSTRUMENTS.**

(a) An environmental covenant created under this chapter runs with the land.

(b) An environmental covenant that is otherwise effective is valid and enforceable even if:

(1) it is not appurtenant to an interest in real property;

(2) it can be or has been assigned to a person other than the original holder;

(3) it is not of a character that has been recognized traditionally at common law;

(4) it imposes a negative burden;

(5) it imposes an affirmative obligation on a person having an interest in the real property or on the holder;

(6) the benefit or burden does not touch or concern real property;

(7) there is no privity of estate or contract;

(8) the holder dies, ceases to exist, resigns, or is replaced; or

(9) the owner of an interest in the real property subject to the environmental covenant and the holder are the same person.

(c) Any instrument that imposes activity and use limitations, including any conservation easement, declaration, restrictive covenant, or similar instrument created before the effective date of this chapter remains valid and enforceable as provided in the law under which it was created. This chapter does not apply in any other respect to such an instrument.

(d) This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law of this state.

Sec. 64. **[114E.25] RELATIONSHIP TO OTHER LAND USE LAW.**

(a) This chapter does not authorize a use of real property that is otherwise prohibited by zoning, by law other than this chapter regulating use of real property, or by a recorded instrument that has priority over the environmental covenant.

(b) An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than this chapter.

(c) An environmental agency that exercises authority under law other than this chapter to require as part of an environmental response project the performance of a response or corrective action that would not otherwise be an authorized use of real property under zoning or other real property law or prior recorded instruments may include such requirement as an affirmative obligation in an environmental covenant.

Sec. 65. **[114E.30] NOTICE.**

(a) A copy of an environmental covenant, and any amendments or notices of termination thereof, must be provided by the persons and in the manner required by the environmental agency to:

- (1) each person that signed the covenant or their successor or assign;
- (2) each person holding a recorded interest in the real property subject to the covenant;
- (3) each person in possession of the real property subject to the covenant;
- (4) each political subdivision in which real property subject to the covenant is located; and
- (5) any other person the environmental agency requires.

(b) The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

Sec. 66. **[114E.35] RECORDING.**

(a) An environmental covenant and any amendment or termination of the covenant must be recorded with the county recorder or registrar of titles, as applicable, in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in section 114E.40, paragraph (f), an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

Sec. 67. **[114E.40] DURATION; MODIFICATION OR TERMINATION BY ADMINISTRATIVE OR COURT ACTION.**

(a) An environmental covenant is perpetual unless it is:

- (1) by its terms limited to a specific duration or terminated by the occurrence of a specific event;
- (2) terminated by consent pursuant to section 114E.45;
- (3) terminated pursuant to paragraph (b) or (e);

(4) terminated by foreclosure of an interest that has priority over the environmental covenant; or

(5) terminated or modified in an eminent domain proceeding, but only if:

(i) the environmental agency that signed the covenant is a party to the proceeding;

(ii) all persons identified in paragraph (c) are given notice of the pendency of the proceeding; and

(iii) the court determines, after hearing, that the activity and use limitations subject to termination or modification are no longer required to protect public health or welfare or the environment.

(b) The environmental agency that approved an environmental covenant may determine whether to terminate or reduce the burden on the real property of the covenant if the agency determines that some or all of the activity and use limitations under the covenant are no longer required to protect public health or welfare or the environment or modify the covenant if the agency determines that modification is required to adequately protect public health or welfare or the environment.

(c) The environmental agency shall provide notice of any proposed action under paragraph (b) to each person with a current recorded interest in the real property subject to the environmental covenant, each holder, all other persons who originally signed the environmental covenant, or their successors or assigns, and any other person with rights or obligations under the covenant. The environmental agency shall provide 30 days for comment on the proposed action by parties entitled to notice. Any person entitled to notice under this paragraph may request a contested case under chapter 14 by making the request in writing within the 30-day comment period. A determination by an environmental agency under this paragraph is a final agency decision subject to judicial review in the same manner as provided in sections 14.63 to 14.68 or under applicable federal law.

(d) Any person entitled to notice under paragraph (c) may apply in writing to the environmental agency for a determination under paragraph (b) that an existing covenant be terminated, that the burden of a covenant be reduced, or that covenant be modified. The application must specify the determination sought by the applicant, the reasons why the environmental agency should make the determination, and the information which would support it. If the environmental agency fails to commence a proceeding under paragraph (b) within 60 days of receipt of the application, the applicant may bring a de novo action in the district court for termination, reduction of burden, or modification of the environmental covenant pursuant to paragraph (e).

(e) The district court for the county in which the real property subject to an environmental covenant is located may, under the doctrine of changed circumstances, terminate the covenant, reduce its burden on the real property, or modify its terms in a de novo action if an environmental agency fails to commence a proceeding within 60 days as provided under paragraph (d). The applicant under paragraph (d), any party to the environmental covenant, or any other person identified in paragraph (c) may commence an action under this paragraph. The person commencing the action shall serve notice of the action on the environmental agency and any person entitled to notice under paragraph (c). The court shall terminate, reduce the burden of, or modify the environmental covenant if the court determines that the person bringing the action shows that some or all of the activity and use limitations under the covenant do not, or are no longer required to, protect public health or welfare or the environment.

(f) An environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

(g) An environmental covenant may not be extinguished, limited, or impaired by application of section 500.20 or 541.023.

Sec. 68. **[114E.45] AMENDMENT OR TERMINATION BY CONSENT.**

(a) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:

(1) the environmental agency;

(2) the current owner of the fee simple title to the real property subject to the covenant;

(3) every other original signatory to the covenant, or their successor or assign, unless:

(i) the person waived the right to consent to termination or modification in the environmental covenant or another signed and acknowledged record that is recorded;

(ii) the person fails to object to the amendment or termination within 60 days after a notice requesting the person's consent to amendment or termination was mailed by certified mail, return receipt requested, to the person's last known address, as obtained from the United States Postal Service; or

(iii) a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and

(4) each holder, except as otherwise provided in paragraph (d).

Any person may establish that the notice described in clause (3), item (ii), was properly mailed by recording an affidavit to that effect from a person having knowledge of the facts, and a certified copy of the recorded affidavit shall be prima facie evidence of the facts stated therein.

(b) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in the environmental covenant or other signed record the right to consent to amendments.

(c) Except for an assignment undertaken pursuant to a governmental reorganization, or as otherwise provided in the environmental covenant, assignment of an environmental covenant to a new holder is an amendment.

(d) Except as otherwise provided in paragraph (c) or in an environmental covenant:

(1) a holder may not assign its interest without consent of the other parties specified in paragraph (a);

(2) a holder may be removed and replaced by agreement of the other parties specified in paragraph (a); and

(3) a court of competent jurisdiction may fill a vacancy in the position of holder.

Sec. 69. **[114E.50] ENFORCEMENT OF ENVIRONMENTAL COVENANT.**

(a) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:

(1) a party to the covenant, including all holders;

(2) the environmental agency that signed the covenant;

(3) any person to whom the covenant expressly grants power to enforce;

(4) a person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant; or

(5) a political subdivision in which the real property subject to the covenant is located.

(b) The state environmental agency that signed the covenant may use any remedy or enforcement measure provided in section 115.071, subdivisions 3 to 5, or 116.072 to remedy violations of a covenant. This paragraph does not limit the state environmental agency from taking action to enforce the terms of a covenant against a person required to comply with the covenant in connection with that person's obligation to perform response actions or as a condition of receiving a liability assurance with respect to a release or threatened release of contaminants.

(c) This chapter does not limit the regulatory authority of the environmental agency under law other than this chapter with respect to an environmental response project.

(d) A person is not responsible for or subject to liability arising from a release or threatened release of contamination into the environment, or for remediation costs attendant thereto, solely because it has signed, holds rights to, or otherwise has the right to enforce an environmental covenant.

Sec. 70. **[114E.60] UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 71. **[114E.65] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but does not modify, limit, or supersede section 101 of that act, United States Code, title 15, section 7001(a), or authorize electronic delivery of any of the notices described in section 103 of that act, United States Code, title 15, section 7003(b).

Sec. 72. Minnesota Statutes 2006, section 115.072, is amended to read:

115.072 RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapters 114C, 114E, and 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the environmental fund in the state treasury to the extent provided in section 115.073.

Sec. 73. Minnesota Statutes 2006, section 115.56, subdivision 2, is amended to read:

Subd. 2. **License required.** (a) Except as provided in paragraph (b), after March 31, 1996, a person may not design, install, maintain, pump, or inspect an individual sewage treatment system without a license issued by the commissioner.

(b) A license is not required for a person who complies with the applicable requirements if the person is:

(1) a qualified employee of state or local government who has passed the examination described in paragraph (d) or a similar examination;

(2) an individual who constructs an individual sewage treatment system on land that is owned or leased by the individual and functions solely as the individual's dwelling or seasonal dwelling;

(3) a farmer who pumps and disposes of sewage waste from individual sewage treatment systems, holding tanks, and privies on land that is owned or leased by the farmer; or

(4) an individual who performs labor or services for a person licensed under this section in connection with the design, installation, maintenance, pumping, or inspection of an individual sewage treatment system at the direction and under the personal supervision of a person licensed under this section.

A person constructing an individual sewage treatment system under clause (2) must consult with a site evaluator or designer before beginning construction. In addition, the system must be inspected before being covered and a compliance report must be provided to the local unit of government after the inspection.

(c) The commissioner, in conjunction with the University of Minnesota Extension Service or another higher education institution, shall ensure adequate training exists for individual sewage treatment system professionals.

(d) The commissioner shall conduct examinations to test the knowledge of applicants for licensing and shall issue documentation of licensing.

(e) Licenses may be issued only upon successful completion of the required examination and submission of proof of sufficient experience, proof of general liability insurance, and a corporate surety bond in the amount of at least \$10,000.

(f) Notwithstanding paragraph (e), the examination and proof of experience are not required for an individual sewage treatment system professional who, on the effective date of the rules adopted under subdivision 1, holds a certification attained by examination and experience under a voluntary certification program administered by the agency.

(g) Local units of government may not require additional local licenses for individual sewage treatment system professionals.

(h) A pumper whose annual gross revenue from pumping systems is \$9,000 or less and whose gross revenue from pumping systems during the year ending May 11, 1994, was at least \$1,000 is not subject to training requirements in rules adopted under subdivision 1, except for any training required for initial licensure.

(i) Until December 31, 2010, no other professional license is required to:

(1) design, install, maintain, or inspect an individual sewage treatment system with a flow of 10,000 gallons of water per day or less if the system designer, installer, maintainer, or inspector is licensed under this subdivision and the local unit of government has not adopted additional requirements; and

(2) operate an individual sewage treatment system with a flow of 10,000 gallons of water per day or less if the system operator is licensed as a system designer, installer, maintainer, or inspector under this subdivision and the local unit of government has not adopted additional requirements.

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

Sec. 74. Minnesota Statutes 2006, section 115B.17, subdivision 15, is amended to read:

Subd. 15. **Acquisition of property.** The agency may acquire, by purchase or donation, ~~an interest~~ interests in real property, including easements, ~~restrictive environmental~~ covenants under chapter 114E, and leases, that the agency determines is are necessary for response action. ~~The validity and duration of a restrictive covenant or nonpossessory easement acquired under this subdivision shall be determined in the same manner as the validity and duration of a conservation easement under chapter 84C, unless the duration is otherwise provided in the agreement.~~ The agency may acquire an easement by condemnation only if the agency is unable, after reasonable efforts, to acquire an interest in real property by purchase or donation. The provisions of chapter 117 govern condemnation proceedings by the agency under this subdivision. A donation of an interest in real property to the agency is not effective until the agency executes a certificate of acceptance. The state is not liable under this chapter solely as a result of acquiring an interest in real property under this subdivision. Agency approval of an environmental covenant under chapter 114E is sufficient evidence of acceptance of an interest in real property where the agency is expressly identified as a holder in the covenant.

Sec. 75. Minnesota Statutes 2006, section 116.07, subdivision 2a, is amended to read:

Subd. 2a. **Exemptions from standards.** No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to (1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise, (2) an existing or newly constructed segment of a highway, provided that all reasonably available noise mitigation measures, as approved by the commissioners of the Department of Transportation and Pollution Control Agency, are employed to abate noise, (3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired, (4) skeet, trap or shooting sports clubs, or (5) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, ~~1983~~ 1996. Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, ~~1983~~ 1996.

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

Sec. 76. Minnesota Statutes 2006, section 116.23, is amended to read:

116.23 PROHIBITION AND RESTRICTIONS.

Subdivision 1. **Nutrient concentrations.** No person shall manufacture for use or sale in Minnesota or import into Minnesota for resale any cleaning agent or chemical water conditioner which contains a prescribed nutrient in a concentration that is greater than the prescribed maximum permissible concentration of that nutrient in that cleaning agent or chemical water conditioner.

Subd. 2. **Residential dishwasher detergent.** No person shall sell, distribute, offer, or expose for sale at retail any household dishwasher detergent that contains more than 0.5 percent phosphorus by weight. This subdivision does not apply to the sale or distribution of detergents for commercial or institutional dishwashing purposes.

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

Sec. 77. Minnesota Statutes 2006, section 169A.35, subdivision 1, is amended to read:

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

(1) "alcoholic beverage" has the meaning given it in section 340A.101, subdivision 2;

(2) "distilled spirits" has the meaning given it in section 340A.101, subdivision 9;

(3) "motor vehicle" does not include motorboats in operation, or off-road recreational vehicles except when being operated on a roadway or shoulder of a roadway that is not part of a grant-in-aid trail or trail designated for that vehicle by the commissioner of natural resources;

(4) "possession" means either that the person had actual possession of the bottle or receptacle or that the person consciously exercised dominion and control over the bottle or receptacle; and

(5) "3.2 percent malt liquor" has the meaning given it in section 340A.101, subdivision 19.

Sec. 78. Minnesota Statutes 2006, section 373.01, subdivision 1, is amended to read:

Subdivision 1. **Public corporation; listed powers.** (a) Each county is a body politic and corporate and may:

(1) Sue and be sued.

(2) Acquire and hold real and personal property for the use of the county, and lands sold for taxes as provided by law.

(3) Purchase and hold for the benefit of the county real estate sold by virtue of judicial proceedings, to which the county is a party.

(4) Sell, lease, and convey real or personal estate owned by the county, and give contracts or options to sell, lease, or convey it, and make orders respecting it as deemed conducive to the interests of the county's inhabitants.

(5) Make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers.

(b) No sale, lease, or conveyance of real estate owned by the county, except the lease of a residence acquired for the furtherance of an approved capital improvement project, nor any contract or option for it, shall be valid, without first advertising for bids or proposals in the official newspaper of the county for three consecutive weeks and once in a newspaper of general circulation in the area where the property is located. The notice shall state the time and place of considering the proposals, contain a legal description of any real estate, and a brief description of any personal property. Leases that do not exceed \$15,000 for any one year may be negotiated and are not subject to the competitive bid procedures of this section. All proposals estimated to exceed \$15,000 in any one year shall be considered at the time set for the bid opening, and the one most favorable to the county accepted, but the county board may, in the interest of the county, reject any or all proposals.

(c) Sales of personal property the value of which is estimated to be \$15,000 or more shall be made only after advertising for bids or proposals in the county's official newspaper, on the county's Web site, or in a recognized industry trade journal. At the same time it posts on its Web site or publishes in a trade journal, the county must publish in the official newspaper, either as part of the minutes of a regular meeting of the county board or in a separate notice, a summary of all requests for bids or proposals that the county advertises on its Web site or in a trade journal. After publication in the official newspaper, on the Web site, or in a trade journal, bids or proposals may be solicited and accepted by the electronic selling process authorized in section 471.345, subdivision 17. Sales of personal property the value of which is estimated to be less than \$15,000 may be made either on competitive bids or in the open market, in the discretion of the county board. "Web site" means a specific, addressable location provided on a server connected to the Internet and hosting World Wide Web pages and other files that are generally accessible on the Internet all or most of a day.

(d) Notwithstanding anything to the contrary herein, the county may, when acquiring real property for county highway right-of-way, exchange parcels of real property of substantially similar or equal value without advertising for bids. The estimated values for these parcels shall be determined by the county assessor.

(e) If real estate or personal property remains unsold after advertising for and consideration of bids or proposals the county may employ a broker to sell the property. The broker may sell the property for not less than 90 percent of its appraised market value as determined by the county. The broker's fee shall be set by agreement with the county but may not exceed ten percent of the sale price and must be paid from the proceeds of the sale.

(f) A county or its agent may rent a county-owned residence acquired for the furtherance of an approved capital improvement project subject to the conditions set by the county board and not subject to the conditions for lease otherwise provided by paragraph (a), clause (4), and paragraphs (b), (c), (d), (e), and (g).

(g) In no case shall lands be disposed of without there being reserved to the county all iron ore and other valuable minerals in and upon the lands, with right to explore for, mine and remove the iron ore and other valuable minerals, nor shall the minerals and mineral rights be disposed of, either before or after disposition of the surface rights, otherwise than by mining lease, in similar general form to that provided by section 93.20 for mining leases affecting state lands. The lease shall be for a term not exceeding 50 years, and be issued on a royalty basis, the royalty to be not less than 25 cents per ton of 2,240 pounds, and fix a minimum amount of royalty payable during each year, whether mineral is removed or not. Prospecting options for mining leases may be granted for periods not exceeding one year. The options shall require, among other things, periodical showings to the county board of the results of exploration work done.

(h) Notwithstanding anything in this subdivision to the contrary, the county may, when selling real property owned in fee simple that cannot be improved because of noncompliance with local ordinances regarding minimum area, shape, frontage, or access, proceed to sell the nonconforming parcel without advertising for bid. At the county's discretion, the real property may be restricted to sale to adjoining landowners or may be sold to any other interested party. The property shall be sold to the highest bidder, but in no case shall the property be sold for less than 90 percent of its fair market value as determined by the county assessor. All owners of land adjoining the land to be sold shall be given a written notice at least 30 days before the sale. This paragraph shall be liberally construed to encourage the sale of nonconforming real property and promote its return to the tax roles.

Sec. 79. Minnesota Statutes 2006, section 473.1565, subdivision 1, is amended to read:

Subdivision 1. **Planning activities.** (a) The Metropolitan Council must carry out planning activities addressing the water supply needs of the metropolitan area as defined in section 473.121, subdivision 2. The planning activities must include, at a minimum:

(1) development and maintenance of a base of technical information needed for sound water supply decisions including surface and groundwater availability analyses, water demand projections, water withdrawal and use impact analyses, modeling, and similar studies;

(2) development and periodic update of a metropolitan area master water supply plan, prepared in cooperation with and subject to the approval of the commissioner of natural resources, that:

(i) provides guidance for local water supply systems and future regional investments;

(ii) emphasizes conservation, interjurisdictional cooperation, and long-term sustainability; and

(iii) addresses the reliability, security, and cost-effectiveness of the metropolitan area water supply system and its local and subregional components;

(3) recommendations for clarifying the appropriate roles and responsibilities of local, regional, and state government in metropolitan area water supply;

(4) recommendations for streamlining and consolidating metropolitan area water supply decision-making and approval processes; and

(5) recommendations for the ongoing and long-term funding of metropolitan area water supply planning activities and capital investments.

(b) The council must carry out the planning activities in this subdivision in consultation with the Metropolitan Area Water Supply Advisory Committee established in subdivision 2.

Sec. 80. Minnesota Statutes 2006, section 473.859, subdivision 3, is amended to read:

Subd. 3. **Public facilities plan.** A public facilities plan shall describe the character, location, timing, sequence, function, use and capacity of existing and future public facilities of the local governmental unit. A public facilities plan must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. A public facilities plan shall contain at least the following parts:

(1) a transportation plan describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;

(2) a sewer policy plan describing, designating and scheduling the areas to be sewered by the public system, the existing and planned capacities of the public system, the standards and conditions under which the installation of private sewer systems will be permitted, and to the extent practicable, the areas not suitable for public or private systems because of public health, safety and welfare considerations;

(3) a parks and open space plan describing, designating and scheduling the existing and proposed parks and recreation open spaces within the jurisdiction; and

(4) a water supply plan ~~including~~ as described in section 103G.291, subdivision 3.

~~(i) a description of the existing water supply system, including the source of water, well and treatment plant locations, and major supply lines; an inventory of commercial and industrial users; an indication of the community's intent to make future changes or additions to the system, including projections for population and industrial and commercial use and the methods by which this growth will be served;~~

- (ii) ~~a statement of the community's objectives, policies, and standards for operating the water supply system;~~
- (iii) ~~a conservation program that contains the goals of the program, demand and supply conservation techniques to be used, an evaluation of pricing methods that could be used to reduce demand, the conditions under which conservation actions would occur, a process for reducing nonessential uses according to the priority system under section 103G.261, and the education program that will be used to inform the public of the need to conserve and the methods available to achieve conservation;~~
- (iv) ~~an emergency preparedness or contingency plan, as described in section 103G.291, subdivision 3;~~
- (v) ~~an indication of the possibility for joint efforts with neighboring communities or other public entities for sharing water sources and treatment, interconnection for routine or emergency supply, pursuit of alternative supplies, and water source protection;~~
- (vi) ~~a statement of the water supply problems that the community experiences or expects to experience and any proposed solutions, especially those that would impact other communities or the region; and~~
- (vii) ~~a wellhead protection plan prepared in accordance with rules adopted by the commissioner of health under section 103I.101, subdivision 5, clause (9).~~

Sec. 81. Laws 2006, chapter 251, section 16, is amended to read:

Sec. 16. **PHOSPHORUS RULE; REPORT.**

(a) Notwithstanding any law to the contrary, a provision of a Minnesota Pollution Control Agency rule establishing new or changed limits on phosphorus discharges from a new or existing wastewater facility must not take effect until ~~July 1, 2007~~ May 1, 2008.

(b) The Minnesota Pollution Control Agency must report to the legislature by February 1, 2007, on a proposed or adopted rule changing limits on phosphorus discharges. The report must address scientific justification for the new rule and the impact the proposed or adopted rule will have on needed funding to implement the Clean Water Legacy Act.

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

Sec. 82. Laws 2007, chapter 57, article 1, section 4, subdivision 8, is amended to read:

Subd. 8. Ecological Services	16,175,000	14,476,000
Appropriations by Fund		
General	8,597,000	6,531,000
Natural Resources	3,696,000	3,994,000
Game and Fish	3,882,000	3,951,000
\$1,194,000 <u>\$1,157,000</u> the first year and \$1,227,000 <u>\$1,187,000</u> the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management.		

Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame information, education, and promotion.

\$1,612,000 the first year and \$1,636,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

The commissioner must report to the legislative chairs on environmental finance for money appropriated in this subdivision on grassland/wetland complexes with specific outcomes, including acres of wetlands and prairie grasses and forbs of a local ecotype preserved, restored, and enhanced during the 2008-2009 biennium.

\$2,938,000 in the first year and \$4,385,000 in the second year, of which \$1,968,000 the first year and \$2,195,000 the second year are from ~~the invasive species account in~~ the natural resources fund for management, public awareness, assessment and monitoring, research, law enforcement, and water access inspection to prevent the spread of invasive species, grants to manage invasive plants in public waters, technical assistance to grant applicants for improving lake quality, and management of terrestrial invasive species on state-administered lands. Priority shall be given to preventing the spread of aquatic invertebrates, including, but not limited to, zebra mussels, spiny waterflea, and round goby. An applicant for a grant to manage invasive plants in public waters must have a workable plan for improving water quality and reducing the need for additional treatment. Grants may not be made for chemicals that are likely endocrine disruptors. A plan to prevent the introduction of asian carp into Minnesota waters must be made available to the public by November 1, 2007.

\$125,000 the first year is to support a technical advisory committee and for land management units that manage grass lands in order to develop plans to optimize native prairie seed harvest and replanting on state-owned lands. The work must use best management practices with an outcome of ensuring the survival of the native prairie remaining in Minnesota and to estimate the value of the seeds. Maximizing seed harvest may include allowing seed producers to keep a portion of the seed as compensation for supplying equipment and labor. The Department of Natural Resources in cooperation with the Department of Agriculture and the Board of Water and Soil Resources shall establish the technical advisory committee which has the expertise to develop (1) criteria to identify public and private marginal lands which could be used to produce native prairie seeds of a local eco-type or restore native prairies that could be used to produce clean energy, (2) guidelines for production that ensure high carbon sequestration, protection of wildlife and waters, and minimization of inputs and that do not

compromise the survival of the native prairie remaining in Minnesota, and (3) recommendations for incentives that will result in the production of native prairie seeds of a local eco-type or restore native prairies. In addition to agency members, the advisory committee shall have one member from each of two statewide farm organizations, one member from a statewide sustainable farmer organization, one member each from three statewide rural economic development organizations, one member each from three statewide environmental organizations, and one member each from three statewide wildlife or conservation organizations. No person registered as a lobbyist under Minnesota Statutes, section 10A.03, may serve on the technical advisory committee. The technical committee shall work with the NextGen Energy Board to develop a clean energy program. A report on outcomes from the technical committee is due December 15, 2007, to the legislative finance chairs on environment and natural resources.

\$50,000 in the first year is for the commissioner, in consultation with the Environmental Quality Board, to report to the house and senate committees having jurisdiction over environmental policy and finance by February 1, 2008, on the Mississippi River critical area program. The report shall include the status of critical area plans, zoning ordinances, the number and types of revisions anticipated, and the nature and number of variances sought. The report shall include recommendations that adequately protect and manage the aesthetic integrity and natural environment of the river corridor.

\$2,250,000 the first year is to support the identification of impaired waters and develop plans to address those impairments, as required by the federal Clean Water Act, in accordance with Minnesota Statutes, chapter 114D. This is a onetime appropriation.

\$477,000 the first year and \$477,000 the second year are for the reinvest in Minnesota programs of game and fish, critical habitat, and wetlands established under Minnesota Statutes, section 84.95, subdivision 2.

\$350,000 the first year is for a grant to the International Wolf Center for building renovations.

\$500,000 the first year is for a grant to the city of Wabasha for programming at the National Bald Eagle Center.

\$100,000 the first year is for a grant to the Wildlife Rehabilitation Center of Minnesota to retire loans incurred by the center for construction of its facility in the city of Roseville and to complete educational technology infrastructure at the center.

\$115,000 in the first year and \$116,000 in the second year is for the Project Wild program. Of this amount, \$35,000 in the first year and \$36,000 in the second year are from the natural resources fund, and \$40,000 in the first year and \$40,000 in the second year are from the game and fish fund.

\$110,000 in the first year and \$150,000 each in the second year is from the all-terrain vehicle account in the natural resources fund for developing and maintaining all-terrain vehicle trails and environmental review.

The appropriations under this section to assess and address impaired waters in accordance with the federal Clean Water Act and Minnesota Statutes, chapter 114D, are available until June 30, 2009.

Sec. 83. **RULE AMENDMENTS.**

The commissioner of natural resources may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to sections 27 and 51 to 54. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 84. **LAKE TROUT REPORT.**

By February 1, 2008, the commissioner of natural resources must review and report to the legislative policy committees with jurisdiction over natural resources on the pros and cons of changing the winter lake trout season so that it would be open from the Saturday nearest January 1 to March 31.

Sec. 85. **ACCESS TO MINNESOTA OUTDOORS PLAN.**

Subdivision 1. **Walk-in access plan.** (a) The commissioner of natural resources shall prepare a plan for a walk-in public access program under which the commissioner may encourage owners and operators of privately held land to voluntarily make that land available for walk-in access by the public for hunting and fishing under programs administered by the commissioner.

(b) As part of the plan, the commissioner shall explore entering into contracts with the owners or lessees of land to establish voluntary walk-in public access for hunting, fishing, or other wildlife-dependent recreational activities.

(c) In the plan, the commissioner must describe:

(1) the costs and benefits that private land access will provide the public, such as hunting, fishing, bird watching, and related outdoor activities; and

(2) the types of game, fish, and wildlife habitat improvements made to the land that will enhance public uses.

(d) The commissioner shall explore the effectiveness and public and private cost of walk-in public access programs in other states and recommend walk-in program options for public access to private lands for hunting, fishing, and related recreational activities.

Subd. 2. **Other law.** Nothing in the plan may preempt trespass and liability laws. Recommendations submitted by the commissioner of natural resources under subdivision 3 shall include any changes to Minnesota Statutes, sections 604A.20 to 604A.27, necessary to ensure that landowners are not exposed to additional liability as a result of the walk-in access program.

Subd. 3. **Report.** The commissioner must present the walk-in public access plan to the house and senate committees with jurisdiction over natural resources policy and finance, with recommendations on program implementation, by January 15, 2008.

Sec. 86. **RULE AMENDMENTS.**

The commissioner of natural resources shall amend Minnesota Rules, parts 6262.0100, subpart 5, item D, and 6266.0700, subpart 3, to allow an angler in a fish house or dark house to possess fillets of a fish with size restrictions if the angler is preparing and using the fish for a meal. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules according to this section and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

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

Sec. 87. **CORMORANT DIETARY STUDY.**

The Department of Natural Resources shall conduct a dietary study of the cormorant population on Lake of the Woods, in consultation with local units of governments bordering Lake of the Woods. The cost of the study shall be paid by local units of government associated with the study.

Sec. 88. **PUBLIC MEETINGS REQUIRED; CONSTRUCTION OF MOORING FACILITIES.**

The commissioner of natural resources shall hold at least two public meetings in the north central lakes area of the state to inform the public of and gather public input regarding the conditions and criteria under Minnesota Rules, part 6115.0211, subpart 4a, item C, for permitted mooring facilities and docks.

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

Sec. 89. **GAME AND FISH BUDGETARY OVERSIGHT COMMITTEE.**

The senate Subcommittee on Committees of the Committee on Rules and Administration and the speaker of the house of representatives shall each appoint one member of their respective bodies to serve as a member of the Game and Fish Budgetary Oversight Committee appointed under Minnesota Statutes, section 97A.055, subdivision 4b, paragraph (c). The appointments must be made no later than September 1, 2007. The terms of the members appointed under this section expire June 30, 2009.

Sec. 90. **LEECH LAKE FISHERY.**

By January 15, 2008, the commissioner of natural resources must report to the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resource policy on the status of the Leech Lake fishery.

Sec. 91. **AQUATIC PLANT RULEMAKING.**

By January 15, 2008, the commissioner of natural resources shall report to the senate and house of representatives committees on natural resource policy on proposed aquatic plant management rule changes. The rule changes must not be finally adopted before April 1, 2008.

Sec. 92. **BIG ISLAND.**

In accordance with Minnesota Statutes, section 83A.02, the commissioner of natural resources shall initiate a process to rename Big Island on Pelican Lake in St. Louis County.

Sec. 93. **MINNESOTA TRAVEL GREEN PROGRAM.**

(a) The director of Explore Minnesota Tourism shall develop a Minnesota travel green program to recognize tourism businesses that have made a commitment to reduce their environmental impact. A Minnesota travel green program must be a voluntary program designed to promote the Explore Minnesota brand and give the state and hospitality business participants a marketing edge, promote smart business practices, reduce costs, educate travelers, promote Minnesota travel, and protect the environment.

(b) In developing the program, the director shall actively seek the ideas, advice, and participation of:

(1) the Minnesota travel and tourism industry;

(2) the Explore Minnesota Tourism Council;

(3) the University of Minnesota Tourism Center;

(4) the commissioner of natural resources;

(5) the commissioner of the Pollution Control Agency;

(6) the Minnesota Environmental Initiative;

(7) the International Ecotourism Society;

(8) Renewing The Countryside organization;

(9) statewide lodging and hospitality associations;

(10) private industry sponsors; and

(11) other interested organizations.

(c) The director shall:

(1) research other states' similar programs;

(2) determine criteria that must be met in order for a business to participate in the program;

(3) determine who will evaluate the criteria in relation to a particular business;

(4) estimate the level of private sector partnership participation;

(5) determine the marketing techniques that will have the most impact; and

(6) establish a timeline and budget to get the program up and running.

(d) The director shall present the recommendations to the legislative committees with jurisdiction over the environment and tourism, along with draft legislation to codify the program.

Sec. 94. **APPEALS BOARD OF ADJUSTMENT.**

(a) A county, with a city of the first class, encompassing over 5,000 square miles must establish as a pilot program an Appeals Board of Zoning Adjustment to review determinations made by the Board of Zoning Adjustment. The Appeals Board of Zoning Adjustment shall be an intermediary appeal process that may be accessed prior to appealing a decision to the district court. Members shall serve a three-year term.

(b) Paragraph (a) expires two years after the effective date of this section.

Sec. 95. **ISTS LICENSING REPORT.**

The commissioner of the Pollution Control Agency must report to the legislative committees with jurisdiction on environmental policy by February 15, 2008, after consulting with officials from the Minnesota Onsite Wastewater Association; the Minnesota Society of Professional Engineers; the American Council of Engineering Companies; the Minnesota Association of Professional Soil Scientists; the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design; the Geoscience Professional Organization; the University of Minnesota Water Resources Center; the Association of Minnesota Counties; the League of Minnesota Cities; the Coalition of Greater Minnesota Cities; the Minnesota Association of Small Cities; and the Minnesota Association of Townships, on further issues relating to the licensing of individual sewage treatment systems.

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

Sec. 96. **REPEALER.**

Minnesota Statutes 2006, sections 84.928, subdivision 8; 85.015, subdivision 11; 97A.475, subdivision 38; and 97C.365; and Laws 2006, chapter 236, article 1, section 2, are repealed.

ARTICLE 2

STATE LANDS

Section 1. Minnesota Statutes 2006, section 84.0272, subdivision 3, is amended to read:

Subd. 3. **Minimal value acquisition.** (a) Notwithstanding subdivision 1, if the commissioner determines that lands or interests in land have a value less than ~~\$5,000~~ \$100,000, the commissioner may acquire the lands for the value determined by the commissioner without an appraisal. The commissioner shall make the determination based upon ~~available information including, but not limited to:~~

(1) up to the most recent assessed market value of the land or interests in land as determined by the county assessor of the county in which the land or interests in land is located, plus ten percent;

(2) a sale price of the land or interests in land, provided the sale occurred within the past year;

(3) the sale prices of comparable ~~land or~~ Department of Natural Resources land sales or acquisitions of interests in land located in the vicinity and sold within the past year; or

(4) an appraisal of the land or interests in land conducted within the past year.

(b) In the event the value is ~~minimal~~ less than \$1,000, the commissioner may add a transaction incentive, provided that the sum of the incentive plus the value of the land does not exceed \$1,000.

Sec. 2. Minnesota Statutes 2006, section 84.0274, subdivision 5, is amended to read:

Subd. 5. **Owner's rights.** When the state proposes to purchase in fee or any lesser interest in land which will be administered by the commissioner of natural resources, the landowner shall have the following rights:

(a) The right to be informed of the specific intended use of the property and of any change in the intended use of the property which occurs during the acquisition process. The owner shall also be informed that the documents regarding the purchase will be public records if the land is purchased by the state;

(b) The right to be paid a fair price for the property. The price shall include the fair market value of the land plus:

(1) All necessary incidental costs such as abstracting and recording fees related to the sale. The costs of clearing title defects, paying taxes, and attorney's fees are not reimbursable; and

(2) Any penalties incurred by the owner where the property is security for a loan or advance of credit that contains a provision requiring or permitting the imposition of a penalty if the loan or advance of credit is prepaid;

(c) The right to payment, at the owner's election, in a lump sum or in up to four annual installments;

(d) The right to have the property fairly appraised by the state. The state's appraiser shall physically inspect the property and ~~shall allow the owner along~~ the owner shall be allowed to accompany the appraiser when the appraisal is made. The state's appraiser shall certify in the appraisal report to having physically inspected the property and having given the landowner an opportunity to ~~go along~~ accompany the appraiser on inspections. Notwithstanding section 13.44, subdivision 3, before an offer is made, the landowner shall be given a resume of the state's certified appraisal. The resume shall include the appraiser's conclusions as to value, acreage and type of land, value of buildings and other improvements, value of timber, special damages and any special elements of value informed of the value determined pursuant to section 84.0272;

(e) The right to retain a qualified independent appraiser to conduct an appraisal at any time prior to certification of the state's appraisal of the property and to be reimbursed for appraisal fees as provided in section 117.232, subdivision 1, if the land is sold to the state and to have that appraisal considered along with the state's in certifying the selling price;

(f) The right to have the state acquire the property by means of condemnation upon the owner's request with the agreement of the commissioner;

(g) The right to receive or waive relocation assistance, services, payments and benefits as provided in sections 117.52 and 117.521;

(h) The right to accept the state's offer for the property and contest the state's offer for relocation and moving expenses;

(i) The right to continue occupancy of the property until full payment is received, provided that when the owner elects to receive payment in annual installments pursuant to clause (c), the owner may retain occupancy until the first payment is made; and

(j) The right to seek the advice of counsel regarding any aspect of the land transaction.

Sec. 3. Minnesota Statutes 2006, section 93.55, subdivision 1, is amended to read:

Subdivision 1. **Forfeiture; failure to record.** If the owner of a mineral interest fails to record the verified statement required by section 93.52, before January 1, 1975, as to any interests owned on or before December 31, 1973, or within one year after acquiring ~~such the~~ interests as to interests acquired after December 31, 1973, ~~and not previously recorded under section 93.52,~~ the mineral interest shall forfeit to the state after notice and opportunity for hearing as provided in this section. However, before completing the procedures set forth in subdivision 2, the commissioner of natural resources may lease the severed mineral interest as provided in subdivisions 1a and 3.

Sec. 4. Minnesota Statutes 2006, section 93.55, is amended by adding a subdivision to read:

Subd. 1b. **Exemption for forfeiture.** Notwithstanding subdivision 1, a severed mineral interest for which a statement was recorded as required under section 93.52, but for which no new statement was recorded when the interest was subsequently conveyed on or after December 31, 1969, but before July 1, 2007, is not subject to forfeiture if: (1) substantial compliance can be shown as provided in subdivision 2, and (2) a new statement is recorded within one year of any conveyance of ownership on or after July 1, 2007.

Sec. 5. **ADDITIONS TO STATE PARKS.**

Subdivision 1. **[85.012] [Subd. 16.] Flandrau State Park, Brown County.** The following area is added to Flandrau State Park, Brown County: that part of Lot 2, Block One, Conklin Addition in the city of New Ulm, Brown County, Minnesota, according to the plat of record in the Office of the County Recorder, Brown County, Minnesota, described as follows: beginning at the southerly most corner of Lot 2, Block One, Conklin Addition in the city of New Ulm, Brown County, Minnesota; thence North 55 degrees 29 minutes 26 seconds East (assumed bearing) along the southeasterly line of said Lot 2 a distance of 107.92 feet; thence South 60 degrees 45 minutes 57 seconds West a distance of 102.48 feet to the westerly line of Lot 2; thence South 02 degrees 33 minutes 23 seconds East along said westerly line of Lot 2 a distance of 11.10 feet to the point of beginning; containing 508 square feet, more or less, and subject to easements of record in said County and State.

Subd. 2. **[85.012] [Subd. 59.] Whitewater State Park, Winona County.** The following area is added to Whitewater State Park, Winona County: that part of the Southeast Quarter of Section 18, Township 107 North, Range 10 West, Winona County, Minnesota, described as follows: commencing at the southwest corner of the Northwest Quarter of Section 17, Township 107 North, Range 10 West; thence on an assumed bearing of South 89 degrees 26 minutes 39 seconds East along the south line of said Northwest Quarter, 303.04 feet; thence continue South 89 degrees 26 minutes 39 seconds East along said south line 1327.79 feet; thence South 00 degrees 33 minutes 21 seconds West, 300.00 feet; thence North 89 degrees 26 minutes 39 seconds West parallel with said south line, 1027.83 feet; thence South 00 degrees 33 minutes 21 seconds West, 300.00 feet; thence North 89 degrees 26 minutes 39 seconds West parallel with said south line, 597 feet, more or less, to the intersection with the east line of the Southeast Quarter of said Section 18 being also the POINT OF BEGINNING; thence North 89 degrees 26 minutes 39 seconds West parallel with said south line, 330 feet, more or less, to the centerline of a township road; thence North 16 degrees 01 minutes 55 seconds West along said centerline, 170.44 feet; thence northwesterly along said centerline on a tangential curve concave southwesterly, having a central angle of 10 degrees 57 minutes 52 seconds, radius of 2426.00 feet, for an arc length of 464.25 feet to the north line of said Southeast Quarter of Section 18; thence North 89 degrees 48 minutes 48 seconds East along the north line of said Southeast Quarter, 547.06 feet to the southwest corner of said Northwest Quarter; thence South 00 degrees East, a distance of 600 feet, more or less, along the said east line to the POINT OF BEGINNING. Containing 5.78 acres, more or less.

Sec. 6. **DELETIONS FROM STATE PARKS.**

[85.012] [Subd. 16.] Flandrau State Park, Brown County. The following area is deleted from Flandrau State Park, Brown County: that part of Outlot 293 in the city of New Ulm, according to the Plat of the City of New Ulm, of record in the Office of the County Recorder, Brown County, Minnesota, described as follows: commencing at the southerly most corner of Lot 2, Block One, Conklin Addition in the city of New Ulm, Brown County, Minnesota; thence North 55 degrees 29 minutes 26 seconds East (assumed bearing), along the southeasterly line of said Lot 2, a distance of 107.92 feet to the point of beginning; thence continuing North 55 degrees 29 minutes 26 seconds East, along said southerly line of Lot 2, a distance of 80.95 feet, to the easterly most corner of said Lot 2; thence South 19 degrees 33 minutes 58 seconds East, along the southeasterly prolongation of the easterly line of said Lot 2, a distance of 10.0 feet; thence South 62 degrees 31 minutes 07 seconds West, 78.97 feet to the point of beginning, containing 391 square feet, more or less, and subject to easement of record in said county and state.

Sec. 7. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; AITKIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Aitkin County and is described as follows:

(1) Government Lot 3, Section 24, Township 50 North, Range 25 West, containing 5.8 acres, more or less; and

(2) Government Lot 4, Section 24, Township 50 North, Range 25 West, containing 0.9 acres, more or less.

(d) The land borders the Willow River and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 8. **PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; AITKIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Aitkin County and is described as follows: Government Lot 2, Section 8, Township 48 North, Range 25 West, containing 34.6 acres, more or less.

(d) The land borders Gun Lake. The Department of Natural Resources has determined that school trust management interests would best be served if the land was sold.

Sec. 9. PUBLIC SALE OF CONSOLIDATED CONSERVATION LAND BORDERING PUBLIC WATER; AITKIN COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, and the classification provisions of Minnesota Statutes, chapters 84A and 282, Aitkin County may sell by public sale the consolidated conservation land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Aitkin County and is described as follows: Government Lot 1, Section 7, Township 47 North, Range 26 West, containing 1.25 acres, more or less.

(d) The land borders the Mississippi River and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 10. PRIVATE SALE OF CONSOLIDATED CONSERVATION LAND; AITKIN COUNTY.

(a) Notwithstanding the classification and public sale provisions of Minnesota Statutes, chapters 84A and 282, the commissioner of natural resources may sell by private sale the consolidated conservation land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The consideration for the conveyance must be for no less than the appraised value of the land and timber and survey costs. Proceeds shall be disposed of according to Minnesota Statutes, chapter 84A.

(c) The land that may be sold is located in Aitkin County and is described as follows: the North 370 feet of the East 590 feet of the Southeast Quarter of the Northeast Quarter, Section 24, Township 48 North, Range 24 West, containing 5.0 acres, more or less.

(d) The land will be sold "as is" to the current leaseholder who will assume responsibility for any site cleanup needed due to the use of the land for a concrete plant by the previous leaseholder. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 11. PUBLIC SALE OF CONSOLIDATED CONSERVATION LAND; AITKIN COUNTY.

(a) Notwithstanding the classification provisions of Minnesota Statutes, chapters 84A and 282, Aitkin County may sell by public sale the consolidated conservation land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Aitkin County and is described as follows: the Northeast Quarter of the Northeast Quarter, Section 21, Township 47 North, Range 26 West, containing 40 acres, more or less.

(d) The land is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 12. **CONVEYANCE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; BELTRAMI COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may convey to a governmental subdivision of the state for no payment the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The conveyance must provide that the land described in paragraph (c) be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land.

(c) The land that may be conveyed is located in Beltrami County and is described as follows: that part of Government Lot 3, Section 4, Township 146 North, Range 34 West, described as follows: starting from meander corner number 4, which is located on the north section line of Section 4, Township 146 North, Range 34 West, 1518.0 feet in an easterly direction from the northwest corner of said section; thence South 16 degrees 17 minutes East a distance of 131.6 feet; thence South 46 degrees 35 minutes East a distance of 206.8 feet; thence South 6 degrees 37 minutes East a distance of 89.4 feet; thence South 14 degrees 32 minutes East a distance of 139.0 feet; thence South 10 degrees 34 minutes West a distance of 221.5 feet; thence South 83 degrees 46 minutes West a distance of 178.5 feet to the starting point; thence South 47 degrees 15 minutes West a distance of 275.0 feet; thence South 38 degrees 53 minutes East a distance of 285.7 feet; thence North 61 degrees 27 minutes East a distance of 122.0 feet; thence North 73 degrees 47 minutes East a distance of 300.0 feet; thence North 12 degrees 40 minutes West a distance of 37.6 feet; thence North 20 degrees 30 minutes West a distance of 113.5 feet; thence North 51 degrees 15 minutes West a distance of 320.7 feet; thence South 38 degrees 15 minutes West a distance of 116.8 feet to the starting point, containing 3.5 acres, more or less.

(d) The land borders Grant Lake and is not contiguous to other state lands. The land was donated to the state for use as a public campground and is used by local residents as a day-use park. The Department of Natural Resources has determined that the state's land management interests would best be served if the land were conveyed to a local unit of government.

Sec. 13. **LAND EXCHANGE; LAND BORDERING PUBLIC WATERS IN BELTRAMI COUNTY.**

(a) Pursuant to Minnesota Statutes, section 94.342, subdivision 3, the commissioner of natural resources may, with the approval of the Land Exchange Board as required under the Minnesota Constitution, article XI, section 10, and according to Minnesota Statutes, sections 94.343 to 94.347, exchange with Beltrami County the land bordering public waters that is described in paragraph (b) for land of substantially equal value that borders public water.

(b) The land to be conveyed is located in Beltrami County and is described as:

(1) that part of the Southeast Quarter of the Southeast Quarter west of County State-Aid Highway 14, Section 32, Township 147 North, Range 34 West;

(2) the Southeast Quarter of the Southwest Quarter of the Southeast Quarter, Section 32, Township 147 North, Range 34 West; and

(3) that part of the Northeast Quarter of the Northeast Quarter west of County State-Aid Highway 14 and north of the haul road, Section 5, Township 146 North, Range 34 West.

Sec. 14. PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CASS COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land to the Leech Lake Band of Ojibwe for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land be used for the public and reverts to the state if the band fails to provide for public use or abandons the public use of the land. The commissioner may include conservation restrictions in the conveyance deed to ensure the property is maintained as open space.

(c) The land that may be sold is located in Cass County and is described as follows:

(1) Government Lot 3, Section 14, Township 142 North, Range 29 West, containing 35.54 acres, more or less; and

(2) Government Lot 6, Section 14, Township 142 North, Range 29 West, containing 2.06 acres, more or less.

(d) The land is located on Bear Island in Leech Lake and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 15. PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; CASS COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cass County and is described as follows: that part of Government Lot 7, Section 28, Township 142 North, Range 26 West, described as follows: commencing at the south quarter corner of said Section 28, from which the southwest corner of said Section 28 bears, based on the Cass County Coordinate System of NAD 1983, South 89 degrees 44 minutes 53 seconds West, 2775.06 feet; thence North 52 degrees 48 minutes 53 seconds West, 1326.13 feet to the southeast corner of that particular tract of land conveyed to the state of Minnesota and filed for record on November 9, 1961, in Book 121 of Deeds, Page 598, and to a railroad spike on the centerline of County State-Aid Highway 4; thence North 52 degrees 12 minutes 27 seconds West, 221.06 feet along the southwesterly line of said particular tract of land conveyed to the state of Minnesota and the centerline of County State-Aid Highway 4 to a spike; thence North 51 degrees 01 minutes 41 seconds West, 111.72 feet along the southwesterly line of said particular tract of land conveyed to the state of Minnesota and the centerline of County State-Aid Highway 4 to a mag nail and the point of beginning of the land to be described; thence continuing North 51 degrees 01 minutes 41 seconds West, 41.42 feet along the southwesterly line of said particular tract of land conveyed to the state of Minnesota and the centerline of County State-Aid Highway 4 to a mag nail; thence North 13 degrees 19 minutes 36 seconds East, 144.63 feet to a 3/4" x 24" rebar with plastic cap stamped "MN DNR LS 17005" (DNR MON); thence continuing North 13 degrees 19 minutes 36 seconds East, 5 feet, more or less, to the water's edge of Little Sand Lake; thence southeasterly, a distance of 50 feet, more or less, along said water's edge to a line which bears North 13 degrees 19 minutes 36 seconds East from the point of beginning; thence South 13 degrees 19 minutes 36 seconds West, 5 feet, more or less, to a DNR MON, thence continuing South 13 degrees 19 minutes 36 seconds West, 129.22 feet to the point of beginning and there terminating. Containing 0.12 acres, more or less, subject to existing road easements.

(d) The land is located on Little Sand Lake. The sale will be to the adjoining landowner in conjunction with an acquisition to resolve an unintentional trespass by the state which occurred when the Department of Natural Resources constructed a water access site.

Sec. 16. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; COOK COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cook County and is described as follows: the Northwest Quarter of the Northeast Quarter, Section 33, Township 63 North, Range 3 East, containing 40 acres, more or less.

(d) The land borders Mons Creek and was acquired in a land exchange in 2003. The Department of Natural Resources has determined that school trust management interests would best be served if the land was sold.

Sec. 17. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; COOK COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cook County and is described as follows:

(1) Outlot A & Caribou Backlot, Cook County. Outlot A of White Sky, according to the plat on file and of record in the Office of the Recorder for Cook County, Minnesota, containing 0.74 acres, more or less; and

(2) that part of Government Lot 4, Section 2, Township 60 North, Range 3 West, lying northerly of Cook County Road 4, southerly of the plat of White Sky, and westerly of Lot 1, Block 1 of White Sky First Addition, according to the plats on file and of record in the Office of the Recorder for Cook County, containing 1.02 acres, more or less.

(d) The land borders Caribou Lake. The Department of Natural Resources has determined that school trust management interests would best be served if the lands were sold.

Sec. 18. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; COOK COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Cook County and is described as follows: that part of Government Lot 10, Section 35, Township 65 North, Range 1 West, more fully described as follows: being the easterly 863.9 feet of Government Lot 10, EXCEPT the southerly 40.3 feet thereof. The west and south boundary lines being perpendicular to and parallel with the south boundary of Government Lot 10, respectively. Containing 3.3 acres, more or less.

(d) The land borders West Bearskin Lake, was acquired in a land exchange in 2000, and is not contiguous to other state lands. The Department of Natural Resources has determined that school trust management interests would best be served if the land was sold.

Sec. 19. PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Crow Wing County may sell by private sale, under Minnesota Statutes, section 282.01, subdivision 7a, the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. Prior to the sale, the commissioner of revenue shall grant a permanent conservation easement according to Minnesota Statutes, section 282.37, to protect aquatic habitat. The easement must be approved by the Crow Wing County Board and the commissioner of natural resources.

(c) The land to be sold is located in Crow Wing County and is described as: Government Lot 1, Section 26, Township 138 North, Range 27 West, city of Fifty Lakes.

(d) The county has determined that the county's land management interests would best be served if the land was returned to private ownership.

Sec. 20. PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Crow Wing County may sell to the city of Crosby the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in Crow Wing County and is described as:

Of a tract of land lying south of the herein described line and being out of and part of the Southeast Quarter of the Northwest Quarter, Section 11, Township 46 North, Range 29 West, except part to the city of Crosby, Crow Wing County, Minnesota, said line described as follows: Commencing at the center of Section 11, thence South 88 degrees 59 minutes 19 seconds West, coincident with the south line of said Southeast Quarter of the Northwest Quarter, 1291.01 feet to the southwest corner of said Southeast Quarter of the Northwest Quarter; thence North 02 degrees 09 minutes 21 seconds East, coincident with the west line of said Southeast Quarter of the Northwest Quarter, 531.93 feet to the point of beginning of the line herein described; thence through and across said Southeast Quarter of the Northwest Quarter of the following 21 courses and distances:

- (1) South 71 degrees 26 minutes 55 seconds East, 27.36 feet;
- (2) South 33 degrees 07 minutes 48 seconds East, 34.76 feet;
- (3) South 87 degrees 03 minutes 06 seconds East, 64.17 feet;
- (4) South 61 degrees 33 minutes 20 seconds East, 45.74 feet;
- (5) South 72 degrees 07 minutes 59 seconds East, 112.59 feet;
- (6) South 77 degrees 44 minutes 53 seconds East, 56.34 feet;
- (7) North 70 degrees 49 minutes 46 seconds East, 83.42 feet;
- (8) South 76 degrees 32 minutes 31 seconds East, 94.57 feet;
- (9) North 80 degrees 41 minutes 54 seconds East, 33.03 feet;
- (10) North 83 degrees 09 minutes 05 seconds East, 41.90 feet;
- (11) North 68 degrees 51 minutes 01 seconds East, 175.87 feet;
- (12) South 58 degrees 17 minutes 34 seconds East, 54.35 feet;
- (13) South 80 degrees 01 minutes 47 seconds East, 43.42 feet;
- (14) North 36 degrees 43 minutes 03 seconds East, 84.81 feet;
- (15) North 60 degrees 06 minutes 12 seconds East, 57.47 feet;
- (16) South 83 degrees 31 minutes 42 seconds East, 90.21 feet;
- (17) North 73 degrees 59 minutes 37 seconds East, 57.44 feet;
- (18) South 65 degrees 21 minutes 29 seconds East, 81.38 feet;
- (19) North 86 degrees 47 minutes 22 seconds East, 75.46 feet;
- (20) North 47 degrees 10 minutes 02 seconds East, 52.07 feet; and
- (21) North 63 degrees 13 minutes 46 seconds East, 48.20 feet

to the point of termination from which the point of commencing bears South 01 degrees 27 minutes 31 seconds West, 572.34 feet.

(d) The county has determined that the county's land management interests would best be served if the land was sold to the city of Crosby.

Sec. 21. CONVEYANCE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; DAKOTA COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Dakota County may sell or convey to the township of Ravenna for no consideration the tax-forfeited land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and provide that the land reverts to the state if the township of Ravenna stops using the land for the public purpose described in paragraph (d). The conveyance is subject to restrictions imposed by the commissioner of natural resources. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be conveyed is located in Dakota County and is described as: Unplatted, Section 21, Township 114, Range 16, Southeast Quarter of the Southwest Quarter, less various tracts, except West 870 feet of South 729.29 feet, except part of North 594 feet lying west of Ravenna Trail, except South 480 feet lying east of West 870 feet, except beginning at the northwest corner of the Southeast Quarter of the Southwest Quarter East 22R South 20R southwest to point on west line 22R South of beginning North 22R to beginning, except parcels 33-02100-030-53, 33-02100-040-53, 33-02100-050-53, 33-02100-060-53, and 33-02100-080-53. (Dakota County tax identification number 33-02100-018-54).

(d) The county has determined that the land is needed by the township of Ravenna for drainage and access to culverts.

Sec. 22. PRIVATE SALE OF SURPLUS STATE LAND; HENNEPIN COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale to a governmental subdivision the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land to a governmental subdivision of the state for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land described in paragraph (c) be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land. The commissioner may include conservation restrictions in the conveyance deed to ensure the property is maintained as open space.

(c) The land that may be sold is located in Hennepin County and is described as follows:

(1) the Northwest Quarter of Southwest Quarter, Section 36, Township 120 North, Range 22 West, less road right-of-way, containing 39 acres, more or less;

(2) the east six and two-thirds acres of the West Half of the Southeast Quarter of the Southwest Quarter, Section 36, Township 120 North, Range 22 West, less road right-of-way, containing 6.67 acres, more or less; and

(3) the West Quarter of the East Half of the Southeast Quarter of the Southwest Quarter, Section 36, Township 120 North, Range 22 West, less road right-of-way, containing 4.87 acres, more or less.

(d) The land was conveyed to the state for wild game reservation purposes. Due to adjacent residential use and local zoning restrictions, the land is no longer available for hunting purposes. The Department of Natural Resources has determined that the state's land management interests would best be served if the lands were conveyed to a local unit of government.

Sec. 23. **PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; HENNEPIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale to a governmental subdivision the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land to a governmental subdivision of the state for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land described in paragraph (c) be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land.

(c) The land that may be sold is located in Hennepin County and is described as follows: all that part of the Northwest Quarter of the Southwest Quarter and Government Lot 2, Section 25, Township 120 North, Range 22 West, lying north and westerly of the following described line: beginning at a point on the west line of said section 830.19 feet South of the west 1/4 corner thereof; thence North 36 degrees 55 minutes East, 109.88 feet; thence North 00 degrees 00 minutes, 1217.3 feet more or less to the water's edge of Haydens Lake. Subject to existing road easements. Containing 1.9 acres, more or less.

(d) The land was purchased by the state for a water access site but has never been used as a water access site. The Department of Natural Resources has determined that the state's land management interests would best be served if the land was conveyed to a local unit of government.

Sec. 24. **PUBLIC OR PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; KITTSON COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by public or private sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may sell the land to a governmental subdivision of the state for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land.

(c) The land that may be sold is located in Kittson County and is described as follows:

(1) Parcel 1: Lot 7, Block 4, Park Addition to Bronson, lying in the Southwest Quarter of the Southwest Quarter, Section 30, Township 161 North, Range 46 West, containing 0.92 acres, more or less;

(2) Parcel 2: that part of Lots 5 and 6, Block 4, Park Addition to Bronson, lying in the Southwest Quarter of the Southwest Quarter, Section 30, Township 161 North, Range 46 West, more particularly described as follows: commencing at the midpoint of the west line of said Lot 5, which point is 33 feet East of the west line of said Southwest Quarter of the Southwest Quarter of Section 30; thence East and parallel to the south line of said Lot 5, a distance of 157 feet; thence South on a straight line at right angles to the immediately preceding line of this description to the center of the south branch of Two Rivers; thence northwesterly along the center line of said south branch of Two Rivers to its intersection with a north and south line parallel to the west line of said Southwest Quarter of the Southwest Quarter of Section 30, and distant 33 feet East therefrom, which line is also the west line of said Block 4; thence North along said west line of said Block 4, to the point of beginning, containing 0.39 acres, more or less;

(3) Parcel 12: that part of Block 4, of the Park Addition to the village of Bronson, Kittson County, Minnesota, which may be more particularly described as follows: Lot 6, Block 4, with the exception of a tract consisting of the westerly 157 feet of said Lot 6, deeded to the Olof Locken Post, No. 315, of the American Legion, containing 0.68 acres, more or less; ALSO the following described portion of Lot 8 of said Block 4: commencing at a point on the west line of said Lot 8, 140 feet North of the southwest corner of said Lot 8; thence North along said west line of Lot 8, a distance of 68 feet; thence East at right angles to the said west line of Lot 8 to the east line of said Lot 8; thence South along the east line of said Lot 8, a distance of 68 feet; thence West at right angles to said east line of Lot 8 to the point of beginning, containing 0.05 acres, more or less; EXCEPTING therefrom the following described tract of land: commencing at the northeast corner of Block 4 in Park Addition to the village of Lake Bronson; thence South at right angles a distance of 265 feet to the point of beginning; thence West at right angles a distance of 143 feet; thence South at right angles a distance of 111 feet to the center of the Two Rivers; thence East at right angles a distance of 143 feet to the east line of Lot 8; thence North at right angles a distance of 111 feet to the point of beginning, being a part of Lot 6 and Lot 8 of Block 4, containing altogether 0.75 acres, more or less; and

(4) Parcel 13: that part of Lot 8, Block 4 of the Park Addition to the village of Bronson, Kittson County, Minnesota, which may be more particularly described as follows: the South 140 feet of said Lot 8, Block 4, containing 0.10 acres, more or less; ALSO the following portion of said Lot 8: commencing at a point on the west line of said Lot 8, 208 feet North of the southwest corner of said Lot 8; thence North along said west line of Lot 8, a distance of 5.6 feet; thence East at right angles to said west line of Lot 8 to the east line of said Lot 8, thence South along said east line of Lot 8, a distance of 5.8 feet; thence West at right angles to said east line of Lot 8, to the point of beginning, containing 0.004 acres, more or less; containing altogether 0.104 acres, more or less.

(d) The land borders South Branch Two Rivers and is not contiguous to other state lands. The land was acquired for park purposes but was not included in a state park. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 25. **PRIVATE SALE OF SURPLUS STATE LAND; KITTSON COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Kittson County and is described as follows: a parcel of land in the Southwest Quarter of the Southeast Quarter of Section 30, Township 161 North, Range 46 West, more particularly described as follows: beginning at a point which is 33 feet North of the south line and 422 feet East of the west line of said Southwest Quarter of the Southeast Quarter; thence East parallel to said south line, 726 feet; thence North parallel to said west line, 300 feet; thence West parallel to said south line, 726 feet; thence South parallel to said west line, 300 feet to the point of beginning. Containing 5.00 acres, more or less.

(d) The sale may be to multiple parties, including the county for the county highway right-of-way, the township for the township road, and adjoining landowners to resolve unintentional agricultural trespasses. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 26. **PRIVATE SALE OF SURPLUS STATE LAND; LAKE COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Lake County and is described as follows: that part of the Northeast Quarter of the Southwest Quarter, Section 16, Township 57 North, Range 6 West, described as follows: commencing at the southeast corner of said Northeast Quarter of the Southwest Quarter marked by a DNR survey marker (3/4 inch x 18 inch rebar with an orange cap marked MN DNR LS 16098); thence North 89 degrees 11 minutes 24 seconds West based on the Lake County Coordinate System North Shore Zone, NAD83, 1986 adjustment, along the south line of said Northeast Quarter of the Southwest Quarter, 439.78 feet to a DNR survey marker on the westerly right-of-way of Trunk Highway 61 and the point of beginning; thence continuing North 89 degrees 11 minutes 24 seconds West along said south line 426.27 feet to a DNR survey marker; thence North 00 degrees 48 minutes 36 seconds East 100.00 feet to a DNR survey marker; thence South 89 degrees 11 minutes 24 seconds East 494.20 feet to a DNR survey marker on said westerly right-of-way; thence South 34 degrees 59 minutes 57 seconds West along said westerly right-of-way 120.89 feet, more or less, to the point of beginning. Containing 1.06 acres, more or less.

(d) The sale would be to the adjoining landowner and resolve an unintentional trespass that occurred when a garage was constructed on state-owned land. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 27. **PRIVATE SALE OF SURPLUS STATE LAND; LAKE COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Lake County and is described as follows: that part of the Northwest Quarter of the Southeast Quarter, Section 16, Township 57 North, Range 6 West, described as follows: commencing at the northwest corner of said Northwest Quarter of the Southeast Quarter marked by a DNR survey marker (3/4 inch x 18 inch rebar with an orange cap marked MN DNR LS 16098); thence South 89 degrees 14 minutes 10 seconds East based on the Lake County Coordinate System North Shore Zone, NAD83, 1986 adjustment, along the north line of said Northwest Quarter of the Southeast Quarter, 191.15 feet to a DNR survey marker and the point of beginning; thence continuing South 89 degrees 14 minutes 10 seconds East along said north line 264.92 feet to a DNR survey marker on the westerly right-of-way of Trunk Highway 61; thence South 34 degrees 59 minutes 57 seconds West along said westerly right-of-way 200.00 feet; thence North 41 degrees 54 minutes 07 seconds West 224.87 feet, more or less, to the point of beginning. Containing 0.50 acres, more or less.

(d) The sale would be to the adjoining landowner and resolve an unintentional trespass that occurred when a garage and house were constructed on state-owned land. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 28. **PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; LAKE COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Lake County may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of \$1 and relinquishment of a four-acre parcel of land that Lake County has used for road relocation.

(c) The land to be sold is located in Lake County and is described as: that part of the Southeast Quarter of the Northwest Quarter, north of County State-Aid Highway 14, Section 20, Township 55 North, Range 11 West.

(d) The county has determined that the county's land management interests would best be served if the land was returned to private ownership.

Sec. 29. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; NICOLLET COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Nicollet County and is described as follows:

(1) that part of the Southwest Quarter and that part of the Southeast Quarter, Section 8, Township 109 North, Range 29 West, being described as a strip of land 300.0 feet in width lying adjacent to and northerly of the following described centerline of proposed channel change: commencing at the center of Section 8, Township 109 North, Range 20 West, from which the north quarter corner of said Section 8 bears North 0 degrees 00 minutes East, thence South 0 degrees 00 minutes East for 1280 feet on said quarter line; thence South 90 degrees 00 minutes East for 54.9 feet to road station 40+40 on the centerline of County State-Aid Highway 24 which is the true point of beginning for the centerline of channel change; thence South 75 degrees 58 minutes East for a distance of 553.5 feet on centerline of channel change; thence South 75 degrees 58 minutes East for a distance of 1540.0 feet and there terminating; and from the true point of beginning North 77 degrees 58 minutes West for a distance of 770 feet and there terminating; SAID LANDS ALSO DESCRIBED AS: a strip of land lying and being 300.0 feet each side of the following described centerline of proposed channel change: beginning at a point 1280.0 feet South and 54.9 feet East of the center of Section 8, Township 109 North, Range 29 West; thence easterly on a bearing of South 77 degrees 00 minutes East for a distance of 553.5 feet; thence easterly on a bearing of South 75 degrees 00 minutes East for a distance of 1540.0 feet and there terminating. This includes 3.005 acres in part of the North Half of the Southeast Quarter of Section 8, Township 109 North, Range 29 West, and 10.932 acres in part of Government Lot 2 of Section 8, Township 109 North, Range 29 West. Also from the point of beginning, westerly on a bearing of North 77 degrees 00 minutes West for a distance of 770.0 feet and there terminating. This includes 4.098 acres in part of the Southwest Quarter of Section 8, Township 109 North, Range 29 West. Containing 3.01 acres, more or less; and

(2) that part of the Southwest Quarter and that part of the Southeast Quarter, Section 8, Township 109 North, Range 29 West, Nicollet County, Minnesota, being described as a strip of land 300.0 feet in width lying adjacent to and southerly of the following described centerline of proposed channel change: commencing at the center of Section 8, Township 109 North, Range 20 West, from which the north quarter corner of said Section 8 bears North 0 degrees 00 minutes East; thence South 0 degrees 00 minutes East for 1280 feet on said quarter line; thence South 90 degrees 00 minutes East for 54.9 feet to road station 40+40 on the centerline of County State-Aid Highway 24 which is the true point of beginning for the centerline of channel change; thence South 75 degrees 58 minutes East for a distance of 553.5 feet on centerline of channel change; thence South 75 degrees 58 minutes East for a distance of 1540.0 feet and there terminating; and from the true point of beginning North 77 degrees 58 minutes West for a distance of 770 feet and there terminating; SAID LANDS ALSO DESCRIBED AS: a strip of land lying and being 300.0 feet each side of the following described centerline of proposed channel change: beginning at a point 1280.0 feet South and 54.9 feet East of the center of Section 8, Township 109 North, Range 29 West; thence easterly on a

bearing of South 77 degrees 00 minutes East for a distance of 553.5 feet; thence easterly on a bearing of South 75 degrees 00 minutes East for a distance of 1540.0 feet and there terminating. This includes 3.005 acres in part of the North Half of the Southeast Quarter of Section 8, Township 109 North, Range 29 West, and 10.932 acres in part of Government Lot 2 of Section 8, Township 109 North, Range 29 West. Also, from the point of beginning, westerly on a bearing of North 77 degrees 00 minutes West for a distance of 770.0 feet and there terminating. This includes 4.098 acres in part of the Southwest Quarter of Section 8, Township 109 North, Range 29 West. Containing 4.10 acres, more or less.

(d) The land borders the Minnesota River. It was acquired when a new bridge was installed across the river resulting in a realignment of the river channel. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 30. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; RED LAKE COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Red Lake County and is described as follows:

(1) Government Lot 10, Section 31, Township 152 North, Range 40 West, containing 20.17 acres, more or less; and

(2) Government Lot 3, Section 34, Township 152 North, Range 40 West, containing 21.7 acres, more or less.

(d) The land borders the Clearwater River and is not contiguous to other state lands. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 31. PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in St. Louis County and is described as follows: Government Lot 2, except the Northwest Quarter of Lot 2, Section 19, Township 58 North, Range 18 West, containing 30.84 acres, more or less.

(d) The land borders an unnamed tributary to the West Two Rivers Reservoir. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 32. PRIVATE SALE OF SURPLUS STATE LAND; ST. LOUIS COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in St. Louis County and is described as follows: Government Lot 3, Section 18, Township 68 North, Range 19 West, containing 23.22 acres, more or less.

(d) The sale will be to the University of Minnesota for the off axis NOvA detector project. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 33. LAND EXCHANGE; ST. LOUIS COUNTY.

(a) The commissioner of natural resources shall, with the approval of the Land Exchange Board as required under the Minnesota Constitution, article XI, section 10, and according to Minnesota Statutes, sections 94.343 to 94.347, exchange the land described in paragraph (b). The commissioner shall offer to exchange the land with the holder of Department of Natural Resources lease number 144-011-0587 by December 31, 2007.

(b) The land to be exchanged is located in St. Louis County and is described as follows: that part of Government Lot 1, Section 6, Township 58 North, Range 17 West, containing 1.98 acres more or less, that is subject to Department of Natural Resources lease number 144-011-0587.

Sec. 34. PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c) under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. The conveyance must reserve to the state a 100-foot easement along the shoreline to protect vegetation and allow angling by the public and a 15-foot easement from the public road right-of-way to allow angler walk-in access.

(c) The land to be sold is located in St. Louis County and is described as: Lots 7, 8, and 9, Block 2, Wonderland 1st Addition.

(d) The county has determined that the county's land management interests would best be served if the land was sold to an adjoining landowner.

Sec. 35. PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, St. Louis County may sell the tax-forfeited land bordering public water that is described in paragraph (c) under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. The conveyance must reserve to the state a 150-foot easement of 75 feet on each side of the centerline of the East Branch of Chester Creek and a 100-foot easement of 50 feet on each side of the centerline of tributaries of Chester Creek.

(c) The land to be sold is located in St. Louis County and is described as:

(1) part of the Northeast Quarter of the Southeast Quarter, Section 9, Township 50 North, Range 14 West; and

(2) Lots 7, 8, 9, 34, 35, 36, 37, 58, 59, 60, and 61 and part of Lot 10, Englewood Farms.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 36. PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County may sell by private sale the tax-forfeited land that is described in paragraph (c) under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) part of the Southwest Quarter of the Northwest Quarter, Section 1, Township 63 North, Range 18 West;

(2) part of the Southwest Quarter of the Northeast Quarter, Section 28, Township 53 North, Range 13 West; and

(3) part of the Northeast Quarter of the Northeast Quarter, Section 9, Township 58 North, Range 16 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 37. SPARTA BEACH IN CITY OF GILBERT; ST. LOUIS COUNTY.

(a) This section applies to the land described in paragraph (b), which is owned by the city of Gilbert. The legislature finds that any fill placed along the shoreline below the historical high watermark prior to the effective date of this section does not extend beyond the ordinary low watermark and does not interfere with the public right of navigation or any other public right. Consistent with the common law of the state, the state shall not dispute the right of the owner of the land, or the owner's successors, to enjoy exclusive use of filled land in shallow waters abutting the land, subject only to the limitation that the owner or owner's successors shall not interfere with the public right of navigation.

(b) The land referred to in this section is described as follows:

That part of the North Half of Government Lot 1, Section 35, Township 58 North, Range 17 West of the Fourth Principal Meridian, St. Louis County, Minnesota, described as follows: Starting at a pipe that is on the east side of Differding Road on the north line of the plat of Birch View and assuming that the north line is East and West, thence running North 49 degrees 56 minutes West a distance of 291.00 feet to the place of beginning; thence running South 55 degrees 19 minutes West a distance of 135 feet to the shore of Ely Lake; Starting from the place of beginning, thence running North 29 degrees 01 minutes West a distance of 436.50 feet; thence running North 87 degrees 24 minutes West a distance of 302 feet to the shore of Ely Lake; thence running along the shore to the intersection with the first described.

Sec. 38. PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; WASHINGTON COUNTY.

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy. The commissioner may only sell the land to a governmental subdivision of the state. The conveyance may be for less than the value of the land as determined by the commissioner, but the conveyance must provide that the land be used for the public and reverts to the state if the governmental subdivision fails to provide for public use or abandons the public use of the land.

(c) The land that may be sold is located in Washington County and is described as follows, Parcels A and B containing altogether 31.55 acres, more or less:

(1) Parcel A: all that part of the North Half of the Southeast Quarter, Section 30, Township 30 North, Range 20 West, bounded by the following described lines: commencing at the east quarter corner of said Section 30; thence on an assumed bearing of North 88 degrees 13 minutes 48 seconds West, 399.98 feet on and along the east-west quarter line of said Section 30 to the point of beginning; thence North 88 degrees 13 minutes 48 seconds West, 504.57 feet on and along the said east-west quarter line; thence South 17 degrees 54 minutes 26 seconds West, 1377.65 feet to a point on the south 1/16 line of said Section 30; thence South 88 degrees 10 minutes 45 seconds East, 504.44 feet on and along the south 1/16 line of said Section 30; thence North 17 degrees 54 minutes 26 seconds East, 1378.11 feet to the point of beginning; and

(2) Parcel B: all that part of the North Half of the Southeast Quarter, Section 30, Township 30 North, Range 20 West, bounded by the following described lines: commencing at the east quarter corner of said Section 30; thence on an assumed bearing of North 88 degrees 13 minutes 48 seconds West, 904.55 feet along the east-west quarter line of said Section 30 to the point of beginning; thence South 17 degrees 54 minutes 26 seconds West, 1377.65 feet to a point on the south 1/16 line of said Section 30; thence North 88 degrees 10 minutes 45 seconds West, 369.30 feet along said south 1/16 line; thence North 42 degrees 24 minutes 47 seconds West, 248.00 feet; thence North 02 degrees 59 minutes 30 seconds East, 488.11 feet; thence North 47 degrees 41 minutes 19 seconds East, 944.68 feet to a point on the east-west quarter line of said Section 30; thence South 88 degrees 13 minutes 48 seconds East, 236.03 feet along said east-west quarter line to the point of beginning.

(d) The land borders Long Lake and is not contiguous to other state lands. The land was donated to the state with the understanding that the land would be used as a wildlife sanctuary. The Department of Natural Resources has determined that the land is not needed for natural resource purposes.

Sec. 39. CLAIR A. NELSON MEMORIAL FOREST, LAKE COUNTY; TEMPORARY SUSPENSION OF APPORTIONMENT OF PROCEEDS FROM TAX-FORFEITED LANDS.

(a) Upon approval of an affected political subdivision within Lake County, the Lake County Board may suspend the apportionment of the balance of net proceeds from tax-forfeited lands within the affected political subdivision under Minnesota Statutes, section 282.08, clause (4), item (iii), and retain the net proceeds. The authority under this paragraph is available until Lake County suspends the apportionment of net proceeds subject to item (iii), in the amount of \$2,200,000, plus any interest costs incurred by the county to purchase land described in this section. The money received by Lake County is to reimburse the county for the purchase in 2006 of 6,085 acres of forest land named the Clair A. Nelson Memorial Forest.

(b) Any revenue derived from acquired land that was reimbursed under paragraph (a) is subject to apportionment as provided in Minnesota Statutes, section 282.08.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2006.

Sec. 40. EFFECTIVE DATE.

Sections 1 to 38 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; providing for an outdoor lighting fixture model ordinance; modifying land acquisition requirements; modifying land owners' bill of rights; modifying requirements for certain recreational vehicles; modifying certain state trails and parks; modifying state park permit provisions; modifying definitions; modifying license provisions; modifying possession and taking restrictions; providing for apprentice hunter validation; modifying commercial fishing provisions; providing for crossbow deer hunting; providing for an Appeals Board of Zoning Adjustment; modifying certain county powers; modifying recordation requirements for mineral interests; modifying requirements for certain contested case hearings; modifying water supply plan requirements; modifying wetlands provisions; adopting the Uniform Environmental Covenants Act; modifying individual sewage treatment system provisions; extending exemptions to noise standards; restricting the use of phosphorous in household dishwasher detergent; authorizing public and private sales, conveyances, and exchanges of certain state lands; providing for status of certain land in St. Louis County; providing for temporary suspension of apportionment of certain proceeds from tax-forfeited lands; providing for a walk-in access plan and travel green program; modifying authority for and requiring rulemaking; requiring reports and studies; requiring public meetings; providing for renaming Big Island; providing criminal and civil penalties; providing appointments; appropriating money; amending Minnesota Statutes 2006, sections 84.0272, subdivision 3; 84.0274, subdivision 5; 84.029, subdivision 2; 84.777, as amended; 84.788, subdivision 1; 84.82, subdivision 6; 84.8205, subdivision 1; 84.925, subdivision 5; 84.9256, subdivision 2, by adding a subdivision; 84.9257; 84.926, by adding subdivisions; 84.928, subdivision 1; 84.929; 85.015, subdivisions 14, 22; 85.053, subdivisions 2, 8; 93.55, subdivision 1, by adding a subdivision; 97A.015, subdivision 24, by adding a subdivision; 97A.401, subdivision 5; 97A.405, subdivisions 2, 4; 97A.411, subdivision 1; 97A.421, by adding a subdivision; 97A.441, subdivision 7; 97A.445, subdivision 1; 97A.451, subdivision 3; 97A.475, subdivisions 2, 16; 97A.505, subdivision 4; 97A.511; 97B.015, by adding a subdivision; 97B.020; 97B.031, subdivision 1; 97B.035, by adding a subdivision; 97B.075; 97B.085, subdivision 3; 97B.301, subdivision 7; 97B.311; 97B.318, subdivision 1; 97B.928, subdivision 1; 97C.325; 97C.335; 97C.355, subdivision 8; 97C.835, subdivisions 1, 3, 8; 103G.2241, subdivision 4; 103G.2242, subdivision 15, as amended; 103G.291, subdivision 3; 103G.311, subdivision 2; 115.072; 115.56, subdivision 2; 115B.17, subdivision 15; 116.07, subdivision 2a; 116.23; 169A.35, subdivision 1; 373.01, subdivision 1; 473.1565, subdivision 1; 473.859, subdivision 3; Laws 2006, chapter 251, section 16; Laws 2007, chapter 57, article 1, section 4, subdivision 8; proposing coding for new law in Minnesota Statutes, chapters 16B; 97B; 97C; proposing coding for new law as Minnesota Statutes, chapter 114E; repealing Minnesota Statutes 2006, sections 84.928, subdivision 8; 85.015, subdivision 11; 97A.475, subdivision 38; 97C.365; Laws 2006, chapter 236, article 1, section 2."

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

Senate Conferees: SATVEER S. CHAUDHARY, TOM SAXHAUG AND PAT PARISEAU.

House Conferees: DAVID DILL, KENT EKEN AND DENNIS OZMENT.

Dill moved that the report of the Conference Committee on S. F. No. 1131 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1131, A bill for an act relating to game and fish; modifying Lake Superior commercial fishing provisions; amending Minnesota Statutes 2006, section 97C.835, subdivisions 1, 3, 8; proposing coding for new law in Minnesota Statutes, chapter 97C.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 116 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilty	Lillie	Paulsen	Solberg
Anderson, S.	Dominguez	Holberg	Loeffler	Pelowski	Sviggum
Anzelc	Doty	Hoppe	Madore	Peppin	Swails
Atkins	Eastlund	Hornstein	Magnus	Peterson, A.	Thao
Beard	Eken	Hortman	Mahoney	Peterson, N.	Thissen
Benson	Emmer	Hosch	Marquart	Peterson, S.	Tillberry
Berns	Erhardt	Howes	Masin	Poppe	Tschumper
Bigham	Erickson	Huntley	McFarlane	Rukavina	Urdahl
Bly	Faust	Johnson	McNamara	Ruth	Ward
Brod	Finstad	Juhnke	Moe	Ruud	Wardlow
Brown	Fritz	Kahn	Morgan	Sailer	Welti
Brynaert	Gardner	Kalin	Morrow	Scalze	Westrom
Buesgens	Garofalo	Knuth	Mullery	Seifert	Winkler
Bunn	Gottwalt	Koenen	Murphy, M.	Sertich	Wollschlager
Carlson	Gunther	Kohls	Nelson	Severson	Zellers
Clark	Hamilton	Kranz	Nornes	Shimanski	Spk. Kelliher
Cornish	Hansen	Laine	Norton	Simon	
Dean	Haws	Lanning	Olin	Simpson	
Demmer	Heidgerken	Lesch	Otremba	Slawik	
Dill	Hilstrom	Lieder	Ozment	Smith	

Those who voted in the negative were:

Anderson, B.	Greiling	Jaros	Murphy, E.	Slocum
Davnie	Hackbarth	Lenczewski	Olson	Wagenius
DeLaForest	Hausman	Liebling	Paymar	Walker

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1262.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1262

A bill for an act relating to commerce; regulating the manufacture and sale of jewelry products containing lead; proposing coding for new law in Minnesota Statutes, chapter 325E.

May 19, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1262 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1262 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[325E.385] ITEMS CONTAINING LEAD PROHIBITED.**

Subdivision 1. **Definitions.** For purposes of this section, the following definitions apply.

(a) "Body piercing jewelry" means any part of jewelry that is manufactured or sold for placement in a new piercing or a mucous membrane, but does not include any part of that jewelry that is not placed within a new piercing or a mucous membrane.

(b) "Children" means children age six and younger.

(c) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children. For purposes of this section, children's jewelry includes, but is not limited to, jewelry that meets any of the following conditions:

(1) is represented in its packaging, display, or advertising as appropriate for use by children;

(2) is sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(3) is sized for children and not intended for use by adults; or

(4) is sold in any of the following:

(i) a vending machine;

(ii) retail store, catalog, or Web site in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) a discrete portion of a retail store, catalog, or Web site in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(d) "Class 1 material" means any of the following materials:

(1) stainless or surgical steel;

(2) karat gold;

(3) sterling silver;

(4) platinum, palladium, iridium, ruthenium, rhodium, or osmium;

(5) natural or cultured pearls;

(6) glass, ceramic, or crystal decorative components including cat's eye; cubic zirconia, including cubic zirconium or CZ; rhinestones; and cloisonne;

(7) a gemstone that is cut and polished for ornamental purposes, except that the following gemstones are not Class 1 materials: aragonite, bayldonite, boelite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadinite, and wulfenite;

(8) elastic, fabric, ribbon, rope, or string, unless it contains intentionally added lead and is listed as a Class 2 material;

(9) all natural decorative material including amber, bone, coral, feathers, fur, horn, leather, shell, and wood that is in its natural state and is not treated in a way that adds lead; or

(10) adhesive.

(e) "Class 2 material" means any of the following materials:

(1) electroplated metal that meets the following standards:

(i) on and before August 30, 2009, a metal alloy with less than ten percent lead by weight that is electroplated with suitable under and finish coats; or

(ii) on and after August 31, 2009, a metal alloy with less than six percent lead by weight that is electroplated with suitable under and finish coats;

(2) unplated metal with less than 1.5 percent lead that is not otherwise listed as a Class 1 material;

(3) plastic or rubber including acrylic, polystyrene, plastic beads and stones, and polyvinyl chloride (PVC) that meets the following standards:

(i) on and before August 30, 2009, less than 0.06 percent (600 parts per million) lead by weight; and

(ii) on and after August 31, 2009, less than 0.02 percent (200 parts per million) lead by weight; and

(4) a dye or surface coating containing less than 0.06 percent (600 parts per million) lead by weight.

(f) "Class 3 material" means any portion of jewelry that meets both of the following criteria:

(1) is not a Class 1 or Class 2 material; and

(2) contains less than 0.06 percent (600 parts per million) lead by weight.

(g) "Component" means any part of jewelry.

(h) "EPA reference methods 3050B (Acid Digestion of Sediments, Sludges, and Soils) or 3051 (Microwave Assisted Digestion/Sludge, Soils)" means those test methods incorporated by reference in Code of Federal Regulations, title 40, section 260.11, paragraph (11), subdivision (a).

(i) "Jewelry" means:

(1) any of the following ornaments worn by a person: anklet, arm cuff, bracelet, brooch, chain, crown, cuff link, decorated hair accessories, earring, necklace, pin, ring, or body piercing jewelry; or

(2) any bead, chain, link, pendant, or other component of such an ornament.

(j) "Surface coating" means a fluid, semifluid, or other material, with or without a suspension of finely divided coloring matter, that changes to a solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface. Surface coating does not include a printing ink or a material that actually becomes a part of the substrate including, but not limited to, pigment in a plastic article or a material that is actually bonded to the substrate, such as by electroplating or ceramic glazing.

Subd. 2. **Sale prohibited.** (a) No person shall manufacture any jewelry that is offered for sale in Minnesota unless the jewelry is made entirely from a Class 1, Class 2, or Class 3 material, or any combination thereof.

(b) No person shall offer for sale, sell, label, or distribute for free any jewelry represented to contain safe levels of lead, unless the jewelry is made entirely from a Class 1, Class 2, or Class 3 material, or any combination thereof.

(c) Notwithstanding paragraph (a), no person shall manufacture any children's jewelry that is offered for sale in Minnesota unless the children's jewelry is made entirely from one or more of the following materials:

(1) a nonmetallic material that is a Class 1 material;

(2) a nonmetallic material that is a Class 2 material;

(3) a metallic material that is either a Class 1 material or contains less than 0.06 percent (600 parts per million) lead by weight;

(4) glass or crystal decorative components that weigh in total no more than one gram, excluding any glass or crystal decorative component that contains less than 0.02 percent (200 parts per million) lead by weight and has no intentionally added lead;

(5) printing ink or ceramic glaze that contains less than 0.06 percent (600 parts per million) lead by weight; or

(6) Class 3 material that contains less than 0.02 percent (200 parts per million) lead by weight.

(d) Notwithstanding paragraph (b), no person shall offer for sale, sell, distribute for free, or label any jewelry as children's jewelry represented to contain safe levels of lead, unless the jewelry is made entirely from one or more of the following materials:

(1) a nonmetallic material that is a Class 1 material;

(2) a nonmetallic material that is a Class 2 material;

(3) a metallic material that is either a Class 1 material or contains less than 0.06 percent (600 parts per million) lead by weight;

(4) glass or crystal decorative components that weigh in total no more than one gram, excluding any glass or crystal decorative component that contains less than 0.02 percent (200 parts per million) lead by weight and has no intentionally added lead;

(5) printing ink or ceramic glaze that contains less than 0.06 percent (600 parts per million) lead by weight; or

(6) Class 3 material that contains less than 0.02 percent (200 parts per million) lead by weight.

(e) Notwithstanding paragraph (a), no person shall manufacture any body piercing jewelry that is offered for sale in Minnesota unless the body piercing jewelry is made of one or more of the following materials:

(1) surgical implant stainless steel; or

(2) surgical implant grade of titanium, niobium (Nb), solid 14-karat or higher white or yellow nickel-free gold, solid platinum, or a dense low-porosity plastic including, but not limited to, Tygon or polytetrafluoroethylene (PTFE), if the plastic contains no intentionally added lead.

(f) No person shall offer for sale, sell, label, or distribute for free any body piercing jewelry represented to contain safe levels of lead unless the body piercing jewelry is made of one or more of the following materials:

(1) surgical implant stainless steel; or

(2) surgical implant grade of titanium, niobium (Nb), solid 14-karat or higher white or yellow nickel-free gold, solid platinum, or a dense low-porosity plastic including, but not limited to, Tygon or polytetrafluoroethylene (PTFE), if the plastic contains no intentionally added lead.

(g) The prohibitions under this section do not apply to sales or free distribution of jewelry by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code or to isolated and occasional sales of jewelry not made in the normal course of business.

Subd. 3. Testing methods. (a) The testing methods for determining compliance with this section must be conducted using EPA reference method 3050B or 3051 for the material being tested, except as otherwise provided in subdivision 4 and in accordance with all of the following procedures:

(1) when preparing a sample, the laboratory shall make every effort to ensure that the sample removed from a jewelry piece is representative of the component to be tested, and is free of contamination from extraneous dirt and material not related to the component to be tested;

(2) all component samples must be washed before testing using standard laboratory detergent, rinsed with laboratory reagent-grade deionized water, and dried in a clean ambient environment;

(3) if a component is required to be cut or scraped to obtain a sample, the metal snips, scissors, or other cutting tools used for the cutting or scraping must be made of stainless steel and washed and rinsed before each use and between samples;

(4) a sample must be digested in a container that is known to be free of lead and with the use of an acid that is not contaminated by lead, including analytical reagent-grade digestion acids and reagent-grade deionized water;

(5) method blanks, consisting of all reagents used in sample preparation handled, digested, and made to volume in the same exact manner and in the same container type as samples, must be tested with each group of 20 or fewer samples tested; and

(6) the results for the method blanks must be reported with each group of sample results and must be below the stated reporting limit for sample results to be considered valid.

(b) A material does not meet an applicable lead standard set forth in this section if any of the following occurs:

(1) the mean lead level of one or two samples of the material exceeds 300 percent of the applicable limit for a component;

(2) the mean lead level of three samples of the material exceeds 200 percent of the applicable limit for a component; or

(3) the mean lead level of four or more samples of the material exceeds the applicable limit for a component.

Subd. 4. **Additional testing procedures.** In addition to the requirements of subdivision 3, the following procedures must be used for testing the following materials:

(1) for testing a metal plated with suitable undercoats and finish coats, the following protocols must be observed:

(i) digestion must be conducted using hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide;

(ii) the sample size must be 0.050 gram to one gram;

(iii) the digested sample may require dilution prior to analysis;

(iv) the digestion and analysis must achieve a reported detection limit no greater than 0.1 percent for samples; and

(v) all necessary dilutions must be made to ensure that measurements are made within the calibrated range of the analytical instrument;

(2) for testing unplated metal and metal substrates that are not a Class 1 material, the following protocols must be observed:

(i) digestion must be conducted using hot concentrated nitric acid with the option of using hydrochloric acid and hydrogen peroxide;

(ii) the sample size must be 0.050 gram to one gram;

(iii) the digested sample may require dilution prior to analysis;

(iv) the digestion and analysis must achieve a reported detection limit no greater than 0.01 percent for samples; and

(v) all necessary dilutions must be made to ensure that measurements are made within the calibrated range of the analytical instrument;

(3) for testing polyvinyl chloride (PVC), the following protocols must be observed:

(i) the digestion must be conducted using hot concentrated nitric acid with the option of using hydrochloric acid and hydrogen peroxide;

(ii) the sample size must be a minimum of 0.05 gram if using microwave digestion or 0.5 gram if using hotplate digestion, and must be chopped or comminuted prior to digestion;

(iii) digested samples may require dilution prior to analysis;

(iv) digestion and analysis must achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples; and

(v) all necessary dilutions must be made to ensure that measurements are made within the calibrated range of the analytical instrument;

(4) for testing plastic or rubber that is not polyvinyl chloride (PVC), including acrylic, polystyrene, plastic beads, or plastic stones, the following protocols must be observed:

(i) the digestion must be conducted using hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide;

(ii) the sample size must be a minimum of 0.05 gram if using microwave digestion or 0.5 gram if using hotplate digestion, and must be chopped or comminuted prior to digestion;

(iii) plastic beads or stones must be crushed prior to digestion;

(iv) digested samples may require dilution prior to analysis;

(v) digestion and analysis must achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples; and

(vi) all necessary dilutions must be made to ensure that measurements are made within the calibrated range of the analytical instrument;

(5) for testing coatings on glass and plastic pearls, the following protocols must be observed:

(i) the coating of glass or plastic beads must be scraped onto a surface free of dust, including a clean weighing paper or pan, using a clean stainless steel razor blade or other clean sharp instrument that will not contaminate the sample with lead. The substrate pearl material must not be included in the scrapings;

(ii) the razor blade or sharp instrument must be rinsed with deionized water, wiped to remove particulate matter, rinsed again, and dried between samples;

(iii) the scrapings must be weighed and not less than 50 micrograms of scraped coating must be used for analysis. If less than 50 micrograms of scraped coating is obtained from an individual pearl, multiple pearls from that sample must be scraped and composited to obtain a sufficient sample amount;

- (iv) the number of pearls used to make the composite must be noted;
- (v) the scrapings must be digested according to EPA reference method 3050B or 3051 or an equivalent procedure for hot acid digestion in preparation for trace lead analysis;
- (vi) the digestate must be diluted in the minimum volume practical for analysis;
- (vii) the digested sample must be analyzed according to specification of an approved and validated methodology for inductively coupled plasma mass spectrometry;
- (viii) a reporting limit of 0.001 percent (10 parts per million) in the coating must be obtained for the analysis;
and
- (ix) the sample result must be reported within the calibrated range of the instrument. If the initial test of the sample is above the highest calibration standard, the sample must be diluted and reanalyzed within the calibrated range of the instrument;
- (6) for testing dyes, paints, coatings, varnish, printing inks, ceramic glazes, glass, or crystal, the following testing protocols must be observed:
 - (i) the digestion must use hot concentrated nitric acid with the option of using hydrochloric acid or hydrogen peroxide;
 - (ii) the sample size must be not less than 0.050 gram, and must be chopped or comminuted prior to digestion;
 - (iii) the digested sample may require dilution prior to analysis;
 - (iv) the digestion and analysis must achieve a reported detection limit no greater than 0.001 percent (10 parts per million) for samples; and
 - (v) all necessary dilutions must be made to ensure that measurements are made within the calibrated range of the analytical instrument; and
- (7) for testing glass and crystal used in children's jewelry, the following testing protocols for determining weight must be used:
 - (i) a component must be free of any extraneous material, including adhesive, before it is weighed;
 - (ii) the scale used to weigh a component must be calibrated immediately before the components are weighed using S-class weights of one and two grams, as certified by the National Institute of Standards and Technology (NIST) of the United States Department of Commerce; and
 - (iii) the calibration of the scale must be accurate to within 0.01 gram.

Sec. 2. **EFFECTIVE DATE.**

This act is effective September 1, 2007, except that section 1, subdivision 2, paragraphs (a) and (c), are effective March 1, 2008."

Delete the title and insert:

"A bill for an act relating to commerce; regulating the manufacture and sale of jewelry products containing lead; proposing coding for new law in Minnesota Statutes, chapter 325E."

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

Senate Conferees: LINDA HIGGINS, KATIE SIEBEN AND DEBBIE J. JOHNSON.

House Conferees: PAUL THISSEN, LINDA SLOCUM AND LYNN WARDLOW.

Thissen moved that the report of the Conference Committee on S. F. No. 1262 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1262, A bill for an act relating to commerce; regulating the manufacture and sale of jewelry products containing lead; proposing coding for new law in Minnesota Statutes, chapter 325E.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 129 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dominguez	Holberg	Lillie	Ozment	Smith
Anderson, S.	Doty	Hoppe	Loeffler	Paulsen	Solberg
Anzelc	Eastlund	Hornstein	Madore	Paymar	Sviggum
Atkins	Eken	Hortman	Magnus	Pelowski	Swails
Beard	Emmer	Hosch	Mahoney	Peppin	Thao
Benson	Erhardt	Howes	Mariani	Peterson, A.	Thissen
Berns	Erickson	Huntley	Marquart	Peterson, N.	Tillberry
Bigham	Faust	Jaros	Masin	Peterson, S.	Tschumper
Bly	Finstad	Johnson	McFarlane	Poppe	Urdahl
Brod	Fritz	Juhnke	McNamara	Rukavina	Wagenius
Brown	Gardner	Kahn	Moe	Ruth	Walker
Brynaert	Garofalo	Kalin	Morgan	Ruud	Ward
Bunn	Gottwalt	Knuth	Morrow	Sailer	Wardlow
Carlson	Greiling	Koenen	Mullery	Scalze	Welti
Clark	Gunther	Kohls	Murphy, E.	Seifert	Westrom
Cornish	Hamilton	Kranz	Murphy, M.	Sertich	Winkler
Davnie	Hansen	Laine	Nelson	Severson	Wollschlager
Dean	Hausman	Lanning	Nornes	Shimanski	Zellers
DeLaForest	Haws	Lenczewski	Norton	Simon	Spk. Kelliher
Demmer	Heidgerken	Lesch	Olin	Simpson	
Dill	Hilstrom	Liebling	Olson	Slawik	
Dittrich	Hilty	Lieder	Otremba	Slocum	

Those who voted in the negative were:

Anderson, B. Buesgens Hackbarth

The bill was repassed, as amended by Conference, and its title agreed to.

CALENDAR FOR THE DAY

H. F. No. 599 was reported to the House.

There being no objection, H. F. No. 599 was temporarily laid over on Calendar for the Day.

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Hausman.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Sertich from the Committee on Rules and Legislative Administration to which was referred:

S. F. No. 108, A bill for an act relating to highways; designating the Walter F. Mondale Drive in Duluth; amending Minnesota Statutes 2006, section 161.14, subdivision 18, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

SECOND READING OF SENATE BILLS

S. F. No. 108 was read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1208, A bill for an act relating to state government; changing provisions for construction codes and licensing provisions; providing penalties and enforcement; modifying provisions relating to the limitation on certain actions; instructing the revisor to renumber certain statutory sections; appropriating money; providing appropriation reductions; amending Minnesota Statutes 2006, sections 16B.04, subdivision 2; 16B.60, subdivisions 4, 7, 8, 11; 16B.61; 16B.615, subdivision 4; 16B.617; 16B.6175; 16B.63; 16B.64, by adding a subdivision; 16B.65; 16B.70; 16B.72; 16B.73; 16B.735; 16B.74, subdivisions 1, 2, by adding subdivisions; 16B.741; 16B.744; 16B.745, subdivisions 1, 4; 16B.747; 16B.748; 16B.76; 31.175; 103I.621, subdivision 3; 144.122; 144.99, subdivision 1; 175.16, subdivision 1; 178.01; 178.02; 178.03, subdivision 3; 178.041, subdivision 1; 183.38; 183.39, subdivision 1; 183.411, subdivision 2; 183.42; 183.45; 183.46; 183.465; 183.466; 183.48; 183.501; 183.505; 183.51; 183.54, subdivisions 1, 3; 183.545, by adding a subdivision; 183.56; 183.57, subdivisions 1, 2, 5, 6; 183.59; 183.60; 183.61, subdivisions 2, 4; 214.01, subdivision 3; 214.04, subdivisions 1, 3; 299F.011, subdivision 1; 325E.37, subdivision 6; 325E.58; 326.01, subdivisions 2, 3, 5, 6, 6a, 6b, 6c, 6e, 6f, 6g, 6j, 6k, 6l, 7, 8, by adding subdivisions; 326.242; 326.243; 326.244, subdivisions 1a, 2, 3, 4, 5, by adding a subdivision; 326.2441; 326.245; 326.248; 326.37; 326.38; 326.39; 326.40; 326.401; 326.405; 326.42; 326.46; 326.461, by adding subdivisions; 326.47; 326.48; 326.50; 326.57, subdivision 1; 326.58; 326.59; 326.60; 326.601; 326.61, subdivisions 1, 2, 3, 4; 326.62; 326.65; 326.83, subdivisions 6, 7, 11, 18, 19, 20; 326.84; 326.841; 326.842; 326.86; 326.87; 326.88; 326.89; 326.90, subdivision 1; 326.91, subdivision 1; 326.92; 326.921; 326.93; 326.94; 326.95, subdivision 2; 326.96; 326.97; 326.975, subdivision 1; 326.992; 327.20, subdivision 1; 327.205; 327.31, subdivisions 2, 3, 4, 7, 15, by adding a subdivision; 327.32, subdivision 8; 327.33, subdivisions 2, 6, 7; 327.34, subdivision 3; 327.35, subdivisions 1, 2; 327A.01, subdivision 2; 327B.01, subdivisions 4, 5, 7, 17, by adding subdivisions; 327B.04, subdivisions 1, 4, 6, 7, 8, by adding a subdivision; 327B.05, subdivision 1; 327B.10; 363A.40, subdivision 1; 462.357, subdivision 6a; 462A.07, subdivision 8; 471.465; 471.466; 471.467; 471.471; 541.051; proposing coding for new law in Minnesota Statutes, chapters 326; 327B; proposing coding for new law as Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2006, sections 16B.665; 16B.747, subdivision 4; 183.001; 183.02; 183.375, subdivisions 1, 2, 3, 4, 5, 6; 183.41, subdivisions 1, 2, 3, 4; 183.44, subdivisions 1, 2, 3; 183.52; 183.54, subdivision 2; 183.545, subdivision 9; 183.61, subdivisions 1, 3, 5, 6; 326.01, subdivisions 4, 6h, 9, 10, 11, 12, 13; 326.241; 326.242, subdivisions 4, 9, 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 10; 326.244, subdivision 6; 326.246; 326.2461; 326.247; 326.40, subdivision 4; 326.41; 326.44; 326.45; 326.47, subdivision 5; 326.51; 326.52; 326.521; 326.64; 326.83, subdivisions 3, 4, 12, 13; 326.85; 326.875; 326.91, subdivisions 2, 3, 4; 326.945; 326.975; 326.98; 327B.05, subdivisions 2, 3, 4, 5, 6; Minnesota Rules, parts 2809.0230; 2891.0010; 2891.0030; 3800.2650; 3800.3580; 3800.3590; 3800.3630; 3800.3750; 3800.3835; 4715.5600; 4715.5900; 4717.7000, subpart 1, item I; 5225.0880; 5225.8600, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9; 5230.0010; 5230.0020; 5230.0040; 5230.0060, subpart 2; 5230.0100, subparts 1, 3, 4.

The Senate has appointed as such committee:

Senators Scheid, Sparks and Michel.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2285, A bill for an act relating to constitutional amendments; proposing an amendment to the Minnesota Constitution, article XI; increasing the sales tax rate by three-eighths of one percent and dedicating the receipts for natural resource and cultural heritage purposes; creating a natural heritage fund; creating a parks and trails fund; creating a clean water fund; creating a sustainable drinking water fund; creating an arts and cultural

heritage fund; amending Minnesota Statutes 2006, sections 114D.20, subdivision 6; 114D.30, subdivision 6; 114D.45; 297A.62, subdivision 1; 297A.94; 297B.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 85; 97A; 103H; 129D.

PATRICK E. FLAHAVEN, Secretary of the Senate

Sertich moved that the House refuse to concur in the Senate amendments to H. F. No. 2285, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1377.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1377

A bill for an act relating to state government; revising certain laws governing state boards and advisory groups; amending Minnesota Statutes 2006, sections 15.059, subdivision 5; 16B.181, subdivision 2; 16C.17; 21.112; 43A.318, subdivision 1; 62J.693, subdivision 2; 92.35; 129D.04, subdivision 1; 240.18, subdivision 4; 245.71; 245.97, by adding a subdivision; 252.282, subdivision 5; 353D.01, subdivision 1; 354C.12, subdivision 4; 356A.02, subdivision 1; Laws 1976, chapter 199, section 14, subdivision 1, as amended; repealing Minnesota Statutes 2006, sections 3.884; 16B.055; 16B.65, subdivision 5; 16B.76; 18B.305, subdivision 3; 43A.318, subdivision 3; 62J.692, subdivision 2; 115.54; 115A.9651, subdivision 5; 116C.93; 116O.091, subdivision 7; 125B.21; 127A.30; 145.9266, subdivisions 6, 7; 175.008; 241.021, subdivision 4b; 242.56, subdivision 3; 245.699; 252.282, subdivision 4; 256B.0625, subdivision 13a; 256B.77, subdivision 23; 256C.28; 299A.293; 299A.331; 326.41; 352.98, subdivision 6; 354B.25, subdivision 1a; 611A.25; 611A.361.

May 18, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1377 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1377 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL LAWS GOVERNING BOARDS AND ADVISORY GROUPS

Section 1. Minnesota Statutes 2006, section 15.059, subdivision 5, is amended to read:

Subd. 5. **Expiration date.** (a) Unless a different date is specified by law, the existence of each advisory council and committee expires on the date specified in the law establishing the group or on June 30, ~~2003~~ 2009, whichever is sooner. This subdivision applies whether or not the law establishing the group provides that the group is governed by this section. The secretary of state must notify the primary appointing authority or chair of an advisory council or committee of its scheduled expiration before the start of the annual legislative session immediately preceding the group's scheduled expiration.

(b) An advisory council or committee does not expire in accordance with paragraph (a) if it:

- (1) is an occupational licensure advisory group to a licensing board or agency;
- (2) administers and awards grants; or
- (3) is required by federal law or regulation.

ARTICLE 2

REPEAL OF EXPIRED ADVISORY GROUPS

Section 1. Minnesota Statutes 2006, section 16B.055, subdivision 1, is amended to read:

Subdivision 1. ~~**Governor's Advisory Council on Technology for People with Disabilities.**~~ **Federal Assistive Technology Act.** (a) ~~The Department of Administration shall serve as the lead agency to assist the Minnesota Governor's Advisory Council on Technology for People with Disabilities in carrying out all responsibilities pursuant to United States Code, title 29, section 2211 et seq., and any other responsibilities related to that program is~~ designated as the lead agency to carry out all the responsibilities under the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. The Minnesota Assistive Technology Advisory Council is established to fulfill the responsibilities required by the Assistive Technology Act, as provided by Public Law 108-364, as amended. Because the existence of this council is required by federal law, this council does not expire and the expiration date provided in section 15.059, subdivision 5, does not apply.

(b) The governor shall appoint the membership of the council as required by the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. After the governor has completed the appointments required by this subdivision, the commissioner of administration, or the commissioner's designee, shall convene the first meeting of the council following the appointments. Members shall serve two-year terms commencing July 1 of each odd-numbered year, and receive the compensation specified by the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. The members of the council shall select their chair at the first meeting following their appointment.

Sec. 2. Minnesota Statutes 2006, section 16B.181, subdivision 2, is amended to read:

Subd. 2. **Public entities; purchases from corrections industries.** (a) The commissioner of corrections, in consultation with the commissioner of administration, shall prepare updated lists of the items available for purchase from Department of Corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury may purchase items directly from corrections industries. The bid solicitation process is not required for these purchases.

(b) The commissioner of administration shall develop a contract or contracts to enable public entities to purchase items directly from corrections industries. The commissioner of administration, in consultation with the commissioner of corrections, shall determine the fair market price for listed items. The commissioner of administration shall require that all requests for bids or proposals, for items provided by corrections industries, be forwarded to the commissioner of corrections to enable corrections industries to submit bids. The commissioner of corrections shall consult with the commissioner of administration prior to introducing new products to the state agency market.

(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) The commissioners of administration and corrections shall develop annual performance measures outlining goals to maximize inmate work program participation. ~~The commissioners of administration and corrections shall appoint cochairs for a task force whose purpose is to determine additional methods to achieve the performance goals for public entity purchasing. The task force shall include representatives from the Minnesota House of Representatives, Minnesota Senate, the Minnesota State Colleges and Universities, University of Minnesota, Minnesota League of Cities, Minnesota Association of Counties, and administrators with purchasing responsibilities from the Minnesota state Departments of Corrections, Public Safety, Finance, Transportation, Natural Resources, Human Services, Health, and Employment and Economic Development. Notwithstanding section 15.059, the task force created in this paragraph expires on June 30, 2003.~~

(e) If performance goals for public entity purchasing are not achieved in two consecutive fiscal years, public entities shall purchase items available from corrections industries. The commissioner of administration shall be responsible for notifying public entities of this requirement.

Sec. 3. Minnesota Statutes 2006, section 16C.17, is amended to read:

16C.17 ENCOURAGEMENT OF PARTICIPATION; ~~ADVISORY COUNCIL.~~

Subdivision 1. ~~Commissioner of administration~~ **Commissioners' duties.** The commissioners of administration and employment and economic development shall publicize the provisions of the purchasing programs in sections 16C.16 to 16C.21, attempt to locate small businesses or small targeted group businesses able to perform under the programs, and encourage participation through education, technical assistance, mentoring, and other means. When the commissioner of administration determines that a small business or small targeted group business is unable to perform under a program established in sections 16C.16 to 16C.21, the commissioner shall inform the commissioner of employment and economic development who shall assist the small business or small targeted group business in attempting to remedy the causes of the inability to perform the award. In assisting the small business or small targeted group business, the commissioner of employment and economic development in cooperation with the commissioner of administration shall use management or financial assistance programs made available by or through the Department of Employment and Economic Development, other state or governmental agencies, or private sources.

~~Subd. 2. **Advisory council.** The Small Business Procurement Advisory Council consists of 13 members appointed by the commissioner of administration. A chair of the advisory council shall be elected from among the members. The appointments are subject to the appointments program provided by section 15.0597. The terms, compensation, and removal of members are as provided in section 15.059. Notwithstanding section 15.059, the council expires June 30, 2003.~~

~~Subd. 3. **Duties.** The Small Business Procurement Advisory Council shall:~~

~~(1) advise the commissioner of administration on matters relating to the small business and small targeted group business procurement program;~~

~~(2) review complaints or grievances from small businesses and small targeted group businesses who are doing or attempting to do business under the program; and~~

~~(3) review the reports of the commissioners of administration and employment and economic development provided by section 16C.18 to ensure compliance with the goals of the program.~~

Sec. 4. Minnesota Statutes 2006, section 21.112, is amended to read:

21.112 COMMISSIONER, DUTIES; SEED POTATOES.

Subdivision 1. **Duties, employees.** The commissioner shall provide the means and direct the work for the inspection, certification, promotion of quality, and creation of demand and sale of seed potatoes. The commissioner may enter into contracts and ground leases for planting and growing potatoes outside of the state for experimental and research purposes. The commissioner shall provide such forms as are necessary and keep a record of the work performed, and shall appoint, designate, or employ such officers, inspectors, and employees as may be deemed necessary and fix their compensation.

~~Subd. 2. **Advisory seed potato certification task force.** The commissioner may appoint an advisory seed potato certification task force. If the task force is appointed each member shall be a grower in Minnesota of certified seed potatoes. The terms, compensation and removal of members shall be as provided in section 15.059. The task force shall expire June 30, 2003.~~

Sec. 5. Minnesota Statutes 2006, section 43A.318, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meaning given them.

~~(b) **Advisory committee; committee.** "Advisory committee" or "committee" means the committee created under subdivision 3.~~

~~(c) **Committee member; member.** "Committee member" or "member" means a person serving on the advisory committee created under subdivision 3.~~

~~(d)~~ (b) **Eligible person.** "Eligible person" means:

(1) a person who is eligible for insurance and benefits under section 43A.24;

(2) a person who at the time of separation from employment was eligible to purchase coverage at personal expense under section 43A.27, subdivision 3, regardless of whether the person elected to purchase this coverage;

(3) a spouse of a person described in clause (1) or (2), regardless of the enrollment status in the program of the person described in clause (1) or (2); or

(4) a parent of a person described in clause (1), regardless of the enrollment status in the program of the person described in clause (1).

~~(e)~~ (c) **Program.** "Program" means the statewide public employees long-term care insurance program created under subdivision 2.

~~(f)~~ (d) **Qualified vendor.** "Qualified vendor" means an entity licensed or authorized to underwrite, provide, or administer group long-term care insurance benefits in this state.

Sec. 6. Minnesota Statutes 2006, section 129D.04, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The board shall through the following activities stimulate and encourage the creation, performance and appreciation of the arts in the state:

- (1) receive and consider any requests for grants, loans or other forms of assistance;
- (2) advise and serve as a technical resource at the request of sponsoring organizations and political subdivisions in the state on programs relating to the arts;
- (3) advise and recommend on existing or proposed activities of the departments of the state relating to the arts;
- (4) accept gifts and grants to the board and distribute the same in accordance with the instructions of the donor insofar as the instructions are consistent with law;
- (5) promulgate by rule procedures to be followed by the board in receiving and reviewing requests for grants, loans or other forms of assistance;
- (6) promulgate by rule standards consistent with this chapter to be followed by the board in the distribution of grants, loans, and other forms of assistance;
- (7) distribute according to the above procedures and standards grants, loans, and other forms of assistance for artistic activities to departments and agencies of the state, political subdivisions, sponsoring organizations and, in appropriate cases, to individuals engaged in the creation or performance of the arts; provided that a member of the board shall not participate in deliberations or voting on assistance to groups or persons in which that member has an interest as officer, director, employee, or recipient;
- (8) appoint advisory committees for a term of no more than four years which the board determines are essential to the performance of its powers and duties under this section; provided that no member of an advisory committee shall serve on a committee to which the member has an application pending for a grant, loan, or other form of assistance from the board or its predecessor;
- (9) serve as a fiscal agent to disburse appropriations for regional arts councils throughout the state.

Sec. 7. Minnesota Statutes 2006, section 240.18, subdivision 4, is amended to read:

Subd. 4. **Rules; advisory committees.** The commission shall adopt rules governing the distribution of the fund. ~~The commission may establish advisory committees to advise it on the distribution of money under this section, provided that the members of an advisory committee shall serve without compensation.~~

Sec. 8. Minnesota Statutes 2006, section 245.71, is amended to read:

245.71 CONDITIONS TO FEDERAL AID FOR MENTALLY ILL.

Subdivision 1. **Federal aid or block grants.** The commissioner of human services may comply with all conditions and requirements necessary to receive federal aid or block grants with respect to the establishment, construction, maintenance, equipment or operation, for all the people of this state, of adequate facilities and services as specified in section 245.70.

~~Subd. 2. **Planning council.** The commissioner may establish a state Mental Health Services Planning Council to advise on matters relating to coordination of mental health services among state agencies, the unmet needs for services, including services for minorities or other underserved groups, and the allocation and adequacy of mental health services within the state. The commissioner may establish special committees within the planning council authority to address the needs of special population groups. Members of a state advisory planning council must be broadly representative of other state agencies involved with mental health, service providers, advocates, consumers, local elected officials, age groups, underserved and minority groups, and geographic areas of the state.~~

Sec. 9. Minnesota Statutes 2006, section 245.97, is amended by adding a subdivision to read:

Subd. 7. **Duration.** The committee does not expire and the expiration date provided in section 15.059, subdivision 5, does not apply to this section.

Sec. 10. Minnesota Statutes 2006, section 252.282, subdivision 5, is amended to read:

Subd. 5. **Responsibilities of commissioner.** (a) In collaboration with counties, and providers, ~~and the statewide advisory committee~~, the commissioner shall ensure that services recognize the preferences and needs of persons with developmental disabilities and related conditions through a recurring systemic review and assessment of ICF/MR facilities within the state.

(b) The commissioner shall publish a notice in the State Register no less than biannually to announce the opportunity for counties or providers to submit requests for payment rate adjustments associated with plans for downsizing, relocation, and closure of ICF/MR facilities.

(c) The commissioner shall designate funding parameters to counties and to the statewide advisory committee for the overall implementation of system needs within the fiscal resources allocated by the legislature.

(d) The commissioner shall contract with ICF/MR providers. ~~The initial contracts shall cover the period from October 1, 2000, to December 31, 2001. Subsequent~~ Contracts shall be for two-year periods beginning January 1, 2002.

Sec. 11. Minnesota Statutes 2006, section 256C.28, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The Minnesota Commission Serving Deaf and Hard-of-hearing People consists of seven members appointed at large and one member from each advisory committee established under section 256C.24, subdivision 3. At least 50 percent of the members must be deaf or deaf-blind or hard of hearing. Members shall include persons who are deaf, deaf-blind, and hard of hearing, parents of children who are deaf, deaf-blind, and hard of hearing, and representatives of county and regional human services, including representatives of private service providers. Commission members are appointed by the governor for a three-year term and shall serve no more than two consecutive terms. The commission shall select one member as chair. Notwithstanding section 15.059, the commission does not expire.

Sec. 12. Minnesota Statutes 2006, section 353D.01, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The public employees defined contribution plan is administered by the Public Employees Retirement Association under supervision of the association board of trustees. ~~To assist it in governing the operations of the plan, the board may appoint an advisory committee of not more than nine members who are representative of the employers and employees who participate in the plan.~~

Sec. 13. **REPEALER.**

Minnesota Statutes 2006, sections 3.884; 16B.055, subdivisions 2 and 3; 16B.65, subdivision 5; 16B.76; 18B.305, subdivision 3; 43A.318, subdivision 3; 62J.692, subdivision 2; 115.54; 115A.9651, subdivision 5; 116C.93; 116O.091, subdivision 7; 125B.21; 145.9266, subdivisions 6 and 7; 175.008; 241.021, subdivision 4b; 242.56, subdivision 3; 245.699; 252.282, subdivision 4; 256B.0625, subdivision 13a; 256B.77, subdivision 23; 299A.293; 299A.331; 326.41; 352.98, subdivision 6; 354B.25, subdivision 1a; 611A.25; and 611A.361, are repealed.

ARTICLE 3

CONFORMING CHANGES

Section 1. Minnesota Statutes 2006, section 62J.693, subdivision 2, is amended to read:

Subd. 2. **Grant application process.** (a) The commissioner of health shall make recommendations for a process for the submission, review, and approval of research grant applications. The process shall give priority for grants to applications that are intended to gather preliminary data for submission for a subsequent proposal for funding from a federal agency or foundation, which awards research money on a competitive, peer-reviewed basis. Grant recipients must be able to demonstrate the ability to comply with federal regulations on human subjects research in accordance with Code of Federal Regulations, title 45, section 46, and shall conduct the proposed research. Grants may be awarded to the University of Minnesota, the Mayo Clinic, or any other public or private organization in the state involved in medical research. The commissioner shall report to the legislature by January 15, 2000, with recommendations.

(b) ~~The commissioner may consult with the Medical Education and Research Advisory Committee established in section 62J.692 in developing these recommendations or may~~ appoint a research advisory committee to provide advice and oversight on the grant application process. If the commissioner appoints a research advisory committee, the committee shall be governed by section 15.059 for membership terms and removal of members.

Sec. 2. Minnesota Statutes 2006, section 354C.12, subdivision 4, is amended to read:

Subd. 4. **Administrative expenses.** (a) The Board of Trustees of the Minnesota State Colleges and Universities is authorized to pay the necessary and reasonable administrative expenses of the supplemental retirement plan and may bill participants to recover these expenses. The administrative fees or charges may be charged to participants as an annual fee, an asset-based fee, a percentage of contributions to the plan, or a contribution thereof.

(b) Any recovered or assessed amounts that are not needed for the necessary and reasonable administrative expenses of the plan must be refunded to member accounts.

(c) The Board of Trustees shall report annually, before October 1, to the ~~advisory committee created in section 354B.25, subdivision 1a, legislature~~ on administrative expenses of the plan. The report must include a detailed accounting of charges for administrative expenses collected from plan participants and expenditure of the administrative expense charges. The administrative expense charges collected from plan participants must be kept in a separate account from any other funds under control of the Board of Trustees and may be used only for the necessary and reasonable administrative expenses of the plan.

Sec. 3. Minnesota Statutes 2006, section 356A.02, subdivision 1, is amended to read:

Subdivision 1. **Fiduciary status.** For purposes of this chapter, the following persons are fiduciaries:

- (1) any member of the governing board of a covered pension plan;
- (2) the chief administrative officer of a covered pension plan or of the State Board of Investment;
- (3) any member of the State Board of Investment; and
- (4) any member of the Investment Advisory Council; and
- ~~(5) any member of the advisory committee established under section 354B.25."~~

Delete the title and insert:

"A bill for an act relating to state government; revising certain laws governing state boards and advisory groups; amending Minnesota Statutes 2006, sections 15.059, subdivision 5; 16B.055, subdivision 1; 16B.181, subdivision 2; 16C.17; 21.112; 43A.318, subdivision 1; 62J.693, subdivision 2; 129D.04, subdivision 1; 240.18, subdivision 4; 245.71; 245.97, by adding a subdivision; 252.282, subdivision 5; 256C.28, subdivision 1; 353D.01, subdivision 1; 354C.12, subdivision 4; 356A.02, subdivision 1; repealing Minnesota Statutes 2006, sections 3.884; 16B.055, subdivisions 2, 3; 16B.65, subdivision 5; 16B.76; 18B.305, subdivision 3; 43A.318, subdivision 3; 62J.692, subdivision 2; 115.54; 115A.9651, subdivision 5; 116C.93; 116O.091, subdivision 7; 125B.21; 145.9266, subdivisions 6, 7; 175.008; 241.021, subdivision 4b; 242.56, subdivision 3; 245.699; 252.282, subdivision 4; 256B.0625, subdivision 13a; 256B.77, subdivision 23; 299A.293; 299A.331; 326.41; 352.98, subdivision 6; 354B.25, subdivision 1a; 611A.25; 611A.361."

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

Senate Conferees: Ann H. Rest, Claire A. Robling and Sandra L. Pappas.

House Conferees: Kathy Tingelstad, Jeanne Poppe and Gene Pelowski, Jr.

Tingelstad moved that the report of the Conference Committee on S. F. No. 1377 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1377, A bill for an act relating to state government; revising certain laws governing state boards and advisory groups; amending Minnesota Statutes 2006, sections 15.059, subdivision 5; 16B.181, subdivision 2; 16C.17; 21.112; 43A.318, subdivision 1; 62J.693, subdivision 2; 92.35; 129D.04, subdivision 1; 240.18, subdivision 4; 245.71; 245.97, by adding a subdivision; 252.282, subdivision 5; 353D.01, subdivision 1; 354C.12, subdivision 4; 356A.02, subdivision 1; Laws 1976, chapter 199, section 14, subdivision 1, as amended; repealing Minnesota Statutes 2006, sections 3.884; 16B.055; 16B.65, subdivision 5; 16B.76; 18B.305, subdivision 3; 43A.318, subdivision 3; 62J.692, subdivision 2; 115.54; 115A.9651, subdivision 5; 116C.93; 116O.091, subdivision 7; 125B.21; 127A.30; 145.9266, subdivisions 6, 7; 175.008; 241.021, subdivision 4b; 242.56, subdivision 3; 245.699; 252.282, subdivision 4; 256B.0625, subdivision 13a; 256B.77, subdivision 23; 256C.28; 299A.293; 299A.331; 326.41; 352.98, subdivision 6; 354B.25, subdivision 1a; 611A.25; 611A.361.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 134 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Lieder	Ozment	Solberg
Anderson, B.	Dittrich	Hilty	Lillie	Paulsen	Sviggum
Anderson, S.	Dominguez	Holberg	Loeffler	Paymar	Swails
Anzelc	Doty	Hoppe	Madore	Pelowski	Thao
Atkins	Eastlund	Hornstein	Magnus	Peppin	Thissen
Beard	Eken	Hortman	Mahoney	Peterson, A.	Tillberry
Benson	Emmer	Hosch	Mariani	Peterson, N.	Tingelstad
Berns	Erhardt	Howes	Marquart	Peterson, S.	Tschumper
Bigham	Erickson	Huntley	Masin	Poppe	Urdahl
Bly	Faust	Jaros	McFarlane	Rukavina	Wagenius
Brod	Finstad	Johnson	McNamara	Ruth	Walker
Brown	Fritz	Juhnke	Moe	Ruud	Ward
Brynaert	Gardner	Kahn	Morgan	Sailer	Wardlow
Buesgens	Garofalo	Kalin	Morrow	Scalze	Welti
Bunn	Gottwalt	Knuth	Mullery	Seifert	Westrom
Carlson	Greiling	Koenen	Murphy, E.	Sertich	Winkler
Clark	Gunther	Kohls	Murphy, M.	Severson	Wollschlager
Cornish	Hackbarth	Kranz	Nelson	Shimanski	Zellers
Davnie	Hamilton	Laine	Nornes	Simon	Spk. Kelliher
Dean	Hansen	Lanning	Norton	Simpson	
DeLaForest	Hausman	Lenczewski	Olin	Slawik	
Demmer	Haws	Lesch	Olson	Slocum	
Dettmer	Heidgerken	Liebling	Otremba	Smith	

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 430.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 430

A bill for an act relating to retirement; various retirement plans; authorizing an optional annuity election for the surviving spouse of a deceased former legislator; permitting the optional early division of legislators retirement plan retirement allowances upon a marriage dissolution; expanding the membership of the general state employees retirement plan and the State Patrol retirement plan; permitting withholding of insurance premiums from public safety employee annuities; providing special coverage to privatized employees of Lakefield Nursing Home, Lakeview Nursing Home, Oakland Park Nursing Home, and Hutchinson Area Health Care; permitting various prior

service credit purchases; exempting certain Anoka County employees from reemployed annuitant earnings limitations; permitting certain combined service annuity back payments; permitting a delayed disability benefit application; making various administrative changes in various statewide retirement plans; modifying disability determination procedures and disability benefits in various plans administered by the Public Employees Retirement Association; authorizing investment in the State Board of Investment by the Minneapolis Employees Retirement Fund; relaxing certain Minneapolis Employees Retirement Fund liquidity transfer requirements; expanding the coverage group of the state employees correctional retirement plan to include various Department of Corrections and Department of Human Services employees; modifying various aspects of the volunteer fire supplemental benefit coverage; correcting various 2006 drafting errors; establishing a pilot postretirement adjustment; requiring a study and report; modifying certain Minneapolis Police Relief Association surviving spouse benefit amounts and validating prior payments; increasing the amount available for distribution by the Minneapolis Firefighters Relief Association as a postretirement adjustment; including the Public Employees Retirement Association staff in the state's postretirement option; extending the 2006 special retirement incentive to 2009 and making certain modifications; authorizing an additional postretirement adjustment for surviving spouses receiving benefits from the Thief River Falls Police Trust Fund; amending Minnesota Statutes 2006, sections 3.85, subdivision 10; 3A.02, subdivisions 1, 5; 3A.05; 13.632, subdivision 1; 43A.346, subdivisions 1, 2; 126C.41, subdivision 4; 352.01, subdivisions 2a, 2b, 11; 352.12, subdivision 2a; 352.27; 352.91, subdivisions 3d, 3e, 3f, 4b; 352.951; 352.98, by adding a subdivision; 352B.01, subdivision 2; 352D.02, subdivisions 1, 3; 352D.06, subdivision 3; 353.01, subdivisions 2a, 2b, 6, 16, 28, 37, by adding subdivisions; 353.03, subdivisions 3, 3a, 4; 353.27, by adding a subdivision; 353.28, subdivision 6; 353.29, subdivision 3; 353.30, subdivisions 1a, 1b, 1c; 353.32, subdivisions 1a, 1b; 353.33, subdivisions 1, 2, 4, 6, 7a; 353.34, subdivision 3; 353.651, subdivision 4; 353.656, subdivisions 1, 1a, 3, 4, 5a, 6a, 8, 10, by adding subdivisions; 353.657, subdivisions 1, 2, 2a, 3; 353B.08, subdivision 11; 353E.06, subdivisions 1, 2, 4, 8; 353F.02, subdivision 4; 353F.04, subdivision 1; 354.05, subdivision 13; 354.093; 354.094; 354.095; 354.096, subdivision 2; 354.35; 354.44, subdivision 6; 354.45, subdivision 1a; 354.48, subdivision 3; 354A.12, subdivisions 3b, 3c, 3d; 354B.21, subdivision 3; 355.01, subdivision 3h; 356.195, subdivision 1; 356.405; 356.46, subdivision 3; 356.87; 356A.06, subdivision 6; 422A.01, subdivision 13a; 422A.05, subdivision 2c; 422A.06, subdivisions 3, 5, 7, 8; 422A.101, subdivision 3; 423A.02, subdivisions 3, 5; 423B.10, subdivision 1; 423C.06, subdivision 2; 424A.10, subdivisions 1, 2, 3; 490.121, subdivisions 15a, 21f; 626.84, subdivision 1; Laws 1981, chapter 68, section 42, subdivision 1, as amended; Laws 2006, chapter 271, article 2, sections 12, subdivision 1; 13, subdivision 3; article 3, section 43; article 14, section 2, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 353E; 354; 356; repealing Minnesota Statutes 2006, sections 352.031; 353.30, subdivision 1; 353.33, subdivisions 6a, 6b, 8; 353.34, subdivision 7; 353.656, subdivisions 5, 9, 11, 12; 353.69; 354.071; 354.49, subdivision 5; 354A.12, subdivision 3d; 354A.29, subdivision 6; 356.90; 422A.101, subdivision 4.

May 20, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 430 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment.

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

Senate Conferees: DON BETZOLD, DAN LARSON, MARY A. OLSON, ANN LYNCH AND BETSY L. WERGIN.

House Conferees: MARY MURPHY, STEVE SMITH, PAUL THISSEN, PHYLLIS KAHN AND MICHAEL V. NELSON.

Murphy, M., moved that the report of the Conference Committee on S. F. No. 430 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 430, A bill for an act relating to retirement; various retirement plans; authorizing an optional annuity election for the surviving spouse of a deceased former legislator; permitting the optional early division of legislators retirement plan retirement allowances upon a marriage dissolution; expanding the membership of the general state employees retirement plan and the State Patrol retirement plan; permitting withholding of insurance premiums from public safety employee annuities; providing special coverage to privatized employees of Lakefield Nursing Home, Lakeview Nursing Home, Oakland Park Nursing Home, and Hutchinson Area Health Care; permitting various prior service credit purchases; exempting certain Anoka County employees from reemployed annuitant earnings limitations; permitting certain combined service annuity back payments; permitting a delayed disability benefit application; making various administrative changes in various statewide retirement plans; modifying disability determination procedures and disability benefits in various plans administered by the Public Employees Retirement Association; authorizing investment in the State Board of Investment by the Minneapolis Employees Retirement Fund; relaxing certain Minneapolis Employees Retirement Fund liquidity transfer requirements; expanding the coverage group of the state employees correctional retirement plan to include various Department of Corrections and Department of Human Services employees; modifying various aspects of the volunteer fire supplemental benefit coverage; correcting various 2006 drafting errors; establishing a pilot postretirement adjustment; requiring a study and report; modifying certain Minneapolis Police Relief Association surviving spouse benefit amounts and validating prior payments; increasing the amount available for distribution by the Minneapolis Firefighters Relief Association as a postretirement adjustment; including the Public Employees Retirement Association staff in the state's postretirement option; extending the 2006 special retirement incentive to 2009 and making certain modifications; authorizing an additional postretirement adjustment for surviving spouses receiving benefits from the Thief River Falls Police Trust Fund; amending Minnesota Statutes 2006, sections 3.85, subdivision 10; 3A.02, subdivisions 1, 5; 3A.05; 13.632, subdivision 1; 43A.346, subdivisions 1, 2; 126C.41, subdivision 4; 352.01, subdivisions 2a, 2b, 11; 352.12, subdivision 2a; 352.27; 352.91, subdivisions 3d, 3e, 3f, 4b; 352.951; 352.98, by adding a subdivision; 352B.01, subdivision 2; 352D.02, subdivisions 1, 3; 352D.06, subdivision 3; 353.01, subdivisions 2a, 2b, 6, 16, 28, 37, by adding subdivisions; 353.03, subdivisions 3, 3a, 4; 353.27, by adding a subdivision; 353.28, subdivision 6; 353.29, subdivision 3; 353.30, subdivisions 1a, 1b, 1c; 353.32, subdivisions 1a, 1b; 353.33, subdivisions 1, 2, 4, 6, 7a; 353.34, subdivision 3; 353.651, subdivision 4; 353.656, subdivisions 1, 1a, 3, 4, 5a, 6a, 8, 10, by adding subdivisions; 353.657, subdivisions 1, 2, 2a, 3; 353B.08, subdivision 11; 353E.06, subdivisions 1, 2, 4, 8; 353F.02, subdivision 4; 353F.04, subdivision 1; 354.05, subdivision 13; 354.093; 354.094; 354.095; 354.096, subdivision 2; 354.35; 354.44, subdivision 6; 354.45, subdivision 1a; 354.48, subdivision 3; 354A.12, subdivisions 3b, 3c, 3d; 354B.21, subdivision 3; 355.01, subdivision 3h; 356.195, subdivision 1; 356.405; 356.46, subdivision 3; 356.87; 356A.06, subdivision 6; 422A.01, subdivision 13a; 422A.05, subdivision 2c; 422A.06, subdivisions 3, 5, 7, 8; 422A.101, subdivision 3; 423A.02, subdivisions 3, 5; 423B.10, subdivision 1; 423C.06, subdivision 2; 424A.10, subdivisions 1, 2, 3; 490.121, subdivisions 15a, 21f; 626.84, subdivision 1; Laws 1981, chapter 68, section 42, subdivision 1, as amended; Laws 2006, chapter 271, article 2, sections 12, subdivision 1; 13, subdivision 3; article 3, section 43; article 14, section 2, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 353E; 354; 356; repealing Minnesota Statutes 2006, sections 352.031; 353.30, subdivision 1; 353.33, subdivisions 6a, 6b, 8; 353.34, subdivision 7; 353.656, subdivisions 5, 9, 11, 12; 353.69; 354.071; 354.49, subdivision 5; 354A.12, subdivision 3d; 354A.29, subdivision 6; 356.90; 422A.101, subdivision 4.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 92 yeas and 42 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Huntley	Mahoney	Paymar	Thao
Anzelc	Eken	Jaros	Mariani	Pelowski	Thissen
Atkins	Erhardt	Johnson	Marquart	Peterson, A.	Tillberry
Benson	Faust	Juhnke	Masin	Peterson, S.	Tingelstad
Bigham	Fritz	Kahn	McNamara	Poppe	Tschumper
Bly	Gardner	Kalin	Moe	Rukavina	Wagenius
Brown	Greiling	Knuth	Morgan	Ruud	Walker
Brynaert	Hansen	Koenen	Morrow	Sailer	Ward
Bunn	Hausman	Laine	Mullery	Scalze	Welti
Carlson	Haws	Lenczewski	Murphy, E.	Sertich	Winkler
Clark	Hilstrom	Lesch	Murphy, M.	Simon	Wollschlager
Cornish	Hilty	Liebling	Nelson	Slawik	Spk. Kelliher
Davnie	Hornstein	Lieder	Norton	Slocum	
Dill	Hortman	Lillie	Olin	Smith	
Dittrich	Hosch	Loeffler	Otremba	Solberg	
Dominguez	Howes	Madore	Ozment	Swails	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Garofalo	Hoppe	Olson	Shimanski
Anderson, S.	Demmer	Gottwalt	Kohls	Paulsen	Simpson
Beard	Dettmer	Gunther	Kranz	Peppin	Svigum
Berns	Eastlund	Hackbarth	Lanning	Peterson, N.	Urdahl
Brod	Emmer	Hamilton	Magnus	Ruth	Wardlow
Buesgens	Erickson	Heidgerken	McFarlane	Seifert	Westrom
Dean	Finstad	Holberg	Nornes	Severson	Zellers

The bill was repassed, as amended by Conference, and its title agreed to.

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Hausman.

MESSAGES FROM THE SENATE, Continued

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 122, A bill for an act relating to commerce; regulating sales of American flags; proposing coding for new law in Minnesota Statutes, chapter 325E.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Rukavina moved that the House concur in the Senate amendments to H. F. No. 122 and that the bill be repassed as amended by the Senate.

Pursuant to rule 1.50, Simon moved that the House be allowed to continue in session after 12:00 midnight. The motion prevailed.

Westrom moved that the House refuse to concur in the Senate amendments to H. F. No. 122, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses.

A roll call was requested and properly seconded.

The question was taken on the Westrom motion and the roll was called. There were 36 yeas and 98 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Cornish	Emmer	Heidgerken	McNamara	Severson
Anderson, S.	Dean	Erickson	Holberg	Nornes	Shimanski
Beard	DeLaForest	Finstad	Hoppe	Olson	Simpson
Berns	Demmer	Gottwalt	Kohls	Paulsen	Sviggun
Brod	Dettmer	Hackbarth	Magnus	Ruth	Westrom
Buesgens	Eastlund	Hamilton	McFarlane	Seifert	Zellers

Those who voted in the negative were:

Abeler	Erhardt	Jaros	Mahoney	Peppin	Thissen
Anzelc	Faust	Johnson	Mariani	Peterson, A.	Tillberry
Atkins	Fritz	Juhnke	Marquart	Peterson, N.	Tingelstad
Benson	Gardner	Kahn	Masin	Peterson, S.	Tschumper
Bigham	Garofalo	Kalin	Moe	Poppe	Urdahl
Bly	Greiling	Knuth	Morgan	Rukavina	Wagenius
Brown	Gunther	Koenen	Morrow	Ruud	Walker
Brynaert	Hansen	Kranz	Mullery	Sailer	Ward
Bunn	Hausman	Laine	Murphy, E.	Scalze	Wardlow
Carlson	Haws	Lanning	Murphy, M.	Sertich	Welti
Clark	Hilstrom	Lenczewski	Nelson	Simon	Winkler
Davnie	Hilty	Lesch	Norton	Slawik	Wollschlager
Dill	Hornstein	Liebling	Olin	Slocum	Spk. Kelliher
Dittrich	Hortman	Lieder	Otremba	Smith	
Dominguez	Hosch	Lillie	Ozment	Solberg	
Doty	Howes	Loeffler	Paymar	Swails	
Eken	Huntley	Madore	Pelowski	Thao	

The motion did not prevail.

The question recurred on the Rukavina motion that the House concur in the Senate amendments to H. F. No. 122 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 122, A bill for an act relating to state government; appropriating money for jobs, economic development, and housing; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; changing codes and licensing provisions; providing penalties; amending Minnesota Statutes 2006, sections 13.7931, by adding a subdivision; 16B.61, subdivision 1a; 16B.63, subdivision 5; 16B.65, subdivisions 1, 5a; 16B.70, subdivision 2; 116J.551, subdivision 1; 116J.554, subdivision 2; 116J.555, subdivision 1; 116J.575, subdivisions 1, 1a; 116J.966, subdivision 1; 116L.01, by adding a subdivision; 116L.04, subdivision 1a; 116L.17, subdivision 1; 116L.20, subdivision 1; 116L.666, subdivision 1; 116M.18, subdivision 6a; 154.003; 177.27, subdivisions 1, 4, 8, 9, 10; 177.28, subdivision 1; 177.30; 177.43, subdivisions 3, 4, 6, by adding a subdivision; 178.01; 178.02; 178.03, subdivision 3; 178.041, subdivision 1; 179A.04, subdivision 3; 181.932, subdivision 1; 181.935; 182.65, subdivision 2; 190.096; 268.196, by adding a subdivision; 268A.01, subdivision 13, by adding a subdivision; 268A.085, subdivision 1; 268A.15, by adding a subdivision; 298.227; 325E.37, subdivision 6; 326.01, subdivision 6g; 326.242, subdivisions 3d, 5, 8, 11, by adding a subdivision; 326.2441; 326.37, subdivision 1, by adding a subdivision; 326.38; 326.40, subdivision 1; 326.401, subdivision 2; 326.405; 326.42, subdivision 1; 326.46; 326.47, subdivision 2; 326.48, subdivisions 1, 2, by adding a subdivision; 326.50; 326.975, subdivision 1; 326.992; 327.33, subdivisions 2, 6; 327B.04, subdivision 7; 341.21, by adding a subdivision; 341.22; 341.25; 341.27; 341.28, subdivision 2, by adding a subdivision; 341.32, subdivision 2; 341.321; 462.39, by adding a subdivision; 462A.21, subdivision 8b; 462A.33, subdivision 3; 469.021; 469.334; 471.471, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 116O; 154; 179; 181; 181A; 182; 325E; 326; proposing coding for new law as Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2006, sections 16B.747, subdivision 4; 16C.18, subdivision 2; 176.042; 183.375, subdivision 5; 183.545, subdivision 9; 268.035, subdivision 9; 326.241; 326.44; 326.45; 326.52; 326.64; 326.975.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 110 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Erhardt	Huntley	Mahoney	Pelowski	Thao
Anderson, S.	Faust	Jaros	Mariani	Peppin	Thissen
Anzelc	Fritz	Johnson	Marquart	Peterson, A.	Tillberry
Atkins	Gardner	Juhnke	Masin	Peterson, N.	Tingelstad
Benson	Garofalo	Kahn	McFarlane	Peterson, S.	Tschumper
Bigham	Gottwalt	Kalin	McNamara	Poppe	Urdahl
Bly	Greiling	Knuth	Moe	Rukavina	Wagenius
Brod	Gunther	Koenen	Morgan	Ruth	Walker
Brown	Hamilton	Kranz	Morrow	Ruud	Ward
Brynaert	Hansen	Laine	Mullery	Sailer	Wardlow
Bunn	Hausman	Lanning	Murphy, E.	Scalze	Welti
Carlson	Haws	Lenczewski	Murphy, M.	Sertich	Westrom
Clark	Heidgerken	Lesch	Nelson	Simon	Winkler
Davnie	Hilstrom	Liebling	Nornes	Simpson	Wollschlager
Dill	Hilty	Lieder	Norton	Slawik	Spk. Kelliher
Dittrich	Hornstein	Lillie	Olin	Slocum	
Dominguez	Hortman	Loeffler	Otremba	Smith	
Doty	Hosch	Madore	Ozment	Solberg	
Eken	Howes	Magnus	Paymar	Swails	

Those who voted in the negative were:

Anderson, B.	Cornish	Dettmer	Finstad	Kohls	Severson
Beard	Dean	Eastlund	Hackbarth	Olson	Shimanski
Berns	DeLaForest	Emmer	Holberg	Paulsen	Sviggum
Buesgens	Demmer	Erickson	Hoppe	Seifert	Zellers

The bill was repassed, as amended by the Senate, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 145.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 145

A bill for an act relating to energy; providing for community-based energy development; requiring a plan to reduce greenhouse gas emissions; amending Minnesota Statutes 2006, sections 216B.1612, subdivisions 1, 2, 3, 5, by adding a subdivision; 216B.1691, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216F.

May 19, 2007

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 145 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 145 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL PROVISIONS

Section 1. TITLE.

This act may be cited as the Next Generation Energy Act of 2007.

Sec. 2. Minnesota Statutes 2006, section 216C.05, is amended to read:

216C.05 FINDINGS AND PURPOSE.

Subdivision 1. **Energy planning.** The legislature finds and declares that continued growth in demand for energy will cause severe social and economic dislocations, and that the state has a vital interest in providing for: increased efficiency in energy consumption, the development and use of renewable energy resources wherever possible, and the creation of an effective energy forecasting, planning, and education program.

The legislature further finds and declares that the protection of life, safety, and financial security for citizens during an energy crisis is of paramount importance.

Therefore, the legislature finds that it is in the public interest to review, analyze, and encourage those energy programs that will minimize the need for annual increases in fossil fuel consumption by 1990 and the need for additional electrical generating plants, and provide for an optimum combination of energy sources consistent with environmental protection and the protection of citizens.

The legislature intends to monitor, through energy policy planning and implementation, the transition from historic growth in energy demand to a period when demand for traditional fuels becomes stable and the supply of renewable energy resources is readily available and adequately utilized.

Subd. 2. **Energy policy goals.** It is the energy policy of the state of Minnesota that:

(1) the per capita use of fossil fuel as an energy input be reduced by 15 percent by the year 2015, through increased reliance on energy efficiency and renewable energy alternatives; and

(2) 25 percent of the total energy used in the state be derived from renewable energy resources by the year 2025.

ARTICLE 2

ENERGY EFFICIENCY AND CONSERVATION

Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 1, is amended to read:

Subdivision 1. **Notice.** Unless the commission otherwise orders, no public utility shall change a rate which has been duly established under this chapter, except upon 60 days' notice to the commission. The notice shall include statements of facts, expert opinions, substantiating documents, and exhibits, supporting the change requested, and state the change proposed to be made in the rates then in force and the time when the modified rates will go into effect. If the filing utility does not have an approved energy conservation improvement plan on file with the department, it shall also include in its notice an energy conservation plan pursuant to section 216B.241. A filing utility subject to rate regulation under section 216B.026 shall reference in its notice the energy conservation improvement plans of the generation and transmission cooperative providing energy conservation improvement programs to members of the filing utility pursuant to section 216B.241. The filing utility shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county in the area affected. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Sec. 2. Minnesota Statutes 2006, section 216B.16, subdivision 6b, is amended to read:

Subd. 6b. **Energy conservation improvement.** (a) Except as otherwise provided in this subdivision, all investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph ~~(e)~~ (i), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

(b) ~~After December 31, 1999, Investments and expenses for energy conservation improvements shall not be included by the commission in the determination of (i) just and reasonable electric and gas rates for retail electric and gas service provided to large electric customer facilities that have been exempted by the commissioner of the department pursuant to section 216B.241, subdivision 1a, paragraph (b); or (ii) just and reasonable gas rates for large energy facilities. However, no public utility shall be prevented from recovering its investment in energy conservation improvements from all customers that were made on or before December 31, 1999, in compliance with the requirements of section 216B.241.~~

(c) The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements. These rate schedules may be applicable to less than all the customers in a class of retail customers if necessary to reflect the ~~differing minimum spending~~ requirements of section 216B.241; ~~subdivision 1a. After December 31, 1999,.~~ The commission shall allow a public utility, without requiring a general rate filing under this section, to reduce the electric and gas rates applicable to large electric customer facilities that have been exempted by the commissioner of the department pursuant to section 216B.241, subdivision 1a, paragraph (b), and to reduce the gas rate applicable to a large energy facility by an amount that reflects the elimination of energy conservation improvement investments or expenditures for those facilities ~~required on or before December 31, 1999.~~ In the event that the commission has set electric or gas rates based on the use of an accounting methodology that results in the cost of conservation improvements being recovered from utility customers over a period of years, the rate reduction may occur in a series of steps to coincide with the recovery of balances due to the utility for conservation improvements made by the utility on or before December 31, ~~1999~~ 2007.

(d) Investments and expenses of a public utility shall not include electric utility infrastructure costs as defined in section 216B.1636, subdivision 1, paragraph (b).

Sec. 3. **[216B.1636] RECOVERY OF ELECTRIC UTILITY INFRASTRUCTURE COSTS.**

Subdivision 1. **Definitions.** (a) "Electric utility" means a public utility as defined in section 216B.02, subdivision 4, that furnishes electric service to retail customers.

(b) "Electric utility infrastructure costs" or "EUIC" means costs for electric utility infrastructure projects that were not included in the electric utility's rate base in its most recent general rate case.

(c) "Electric utility infrastructure projects" means projects owned by an electric utility that:

(1) replace or modify existing electric utility infrastructure, including utility-owned buildings, if the replacement or modification is shown to conserve energy or use energy more efficiently, consistent with section 216B.241, subdivision 1c; or

(2) conserve energy or use energy more efficiently by using waste heat recovery converted into electricity as defined in section 216B.241, subdivision 1, paragraph (n).

Subd. 2. **Filing.** (a) The commission may approve an electric utility's petition for a rate schedule to recover EUIC under this section. An electric utility may petition the commission to recover a rate of return, income taxes on the rate of return, incremental property taxes, if any, plus incremental depreciation expense associated with EUIC.

(b) The filing is subject to the following:

(1) an electric utility may submit a filing under this section no more than once per year; and

(2) an electric utility must file sufficient information to satisfy the commission regarding the proposed EUIC or be subject to denial by the commission. The information includes, but is not limited to:

- (i) the location, description, and costs associated with the project;
 - (ii) evidence that the electric utility infrastructure project will conserve energy or use energy more efficiently than similar utility facilities currently used by the electric utility;
 - (iii) the proposed schedule for implementation;
 - (iv) a description of the costs, and salvage value, if any, associated with the existing infrastructure replaced or modified as a result of the project;
 - (v) the proposed rate design and an explanation of why the proposed rate design is in the public interest;
 - (vi) the magnitude and timing of any known future electric utility projects that the utility may seek to recover under this section;
 - (vii) the magnitude of EUIC in relation to the electric utility's base revenue as approved by the commission in the electric utility's most recent general rate case, exclusive of fuel cost adjustments;
 - (viii) the magnitude of EUIC in relation to the electric utility's capital expenditures since its most recent general rate case;
 - (ix) the amount of time since the utility last filed a general rate case and the utility's reasons for seeking recovery outside of a general rate case;
 - (x) documentation supporting the calculation of the EUIC; and
 - (xi) a cost and benefit analysis showing that the electric utility infrastructure project is in the public interest.
- (c) Upon approval of the proposed projects and associated EUIC rate schedule, the utility may implement the electric utility infrastructure projects.

Subd. 3. **Commission authority; orders.** The commission may issue orders necessary to implement and administer this section.

Sec. 4. **[216B.2401] ENERGY CONSERVATION POLICY GOAL.**

It is the energy policy of the state of Minnesota to achieve annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly through energy conservation improvement programs and rate design, and indirectly through energy codes and appliance standards, programs designed to transform the market or change consumer behavior, energy savings resulting from efficiency improvements to the utility infrastructure and system, and other efforts to promote energy efficiency and energy conservation.

Sec. 5. Minnesota Statutes 2006, section 216B.241, is amended to read:

216B.241 ENERGY CONSERVATION IMPROVEMENT.

Subdivision 1. **Definitions.** For purposes of this section and section 216B.16, subdivision 6b, the terms defined in this subdivision have the meanings given them.

- (a) "Commission" means the Public Utilities Commission.

(b) "Commissioner" means the commissioner of commerce.

(c) "Customer facility" means all buildings, structures, equipment, and installations at a single site.

(d) "Department" means the Department of Commerce.

(e) "Energy conservation" means demand-side management of energy supplies resulting in a net reduction in energy use. Load management that reduces overall energy use is energy conservation.

(f) "Energy conservation improvement" means a project that results in energy efficiency or energy conservation. Energy conservation improvement may include waste heat recovery converted into electricity but does not include electric utility infrastructure projects approved by the commission under section 216B.1636.

(g) "Energy efficiency" means measures or programs, including energy conservation measures or programs, that target consumer behavior, equipment, processes, or devices designed to produce either an absolute decrease in consumption of electric energy or natural gas or a decrease in consumption of electric energy or natural gas on a per unit of production basis without a reduction in the quality or level of service provided to the energy consumer.

~~(g)~~ (h) "Gross annual retail energy sales" means annual electric sales to all retail customers in a utility's or association's Minnesota service territory or natural gas throughput to all retail customers, including natural gas transportation customers, on a utility's distribution system in Minnesota. For purposes of this section, gross annual retail energy sales exclude gas sales to a large energy facility and gas and electric sales to a large electric customer facility exempted by the commissioner under subdivision 1a, paragraph (b).

(i) "Investments and expenses of a public utility" includes the investments and expenses incurred by a public utility in connection with an energy conservation improvement, including but not limited to:

(1) the differential in interest cost between the market rate and the rate charged on a no-interest or below-market interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement;

(2) the difference between the utility's cost of purchase or installation of energy conservation improvements and any price charged by a public utility to a customer for such improvements.

~~(h)~~ (j) "Large electric customer facility" means a customer facility that imposes a peak electrical demand on an electric utility's system of not less than 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electrical demand for billing purposes, and for which electric services are provided at retail on a single bill by a utility operating in the state.

~~(i)~~ (k) "Large energy facility" has the meaning given it in section 216B.2421, subdivision 2, clause (1).

(l) "Load management" means an activity, service, or technology to change the timing or the efficiency of a customer's use of energy that allows a utility or a customer to respond to wholesale market fluctuations or to reduce ~~the overall peak~~ demand for energy or capacity.

(m) "Low-income programs" means energy conservation improvement programs that directly serve the needs of low-income persons, including low-income renters.

(n) "Waste heat recovery converted into electricity" means an energy recovery process that converts otherwise lost energy from the heat of exhaust stacks or pipes used for engines or manufacturing or industrial processes, or the reduction of high pressure in water or gas pipelines.

Subd. 1a. **Investment, expenditure, and contribution; public utility.** (a) For purposes of this subdivision and subdivision 2, "public utility" has the meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation improvements under this subdivision and subdivision 2 the following amounts:

(1) for a utility that furnishes gas service, 0.5 percent of its gross operating revenues from service provided in the state;

(2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues from service provided in the state; and

(3) for a utility that furnishes electric service and that operates a nuclear-powered electric generating plant within the state, two percent of its gross operating revenues from service provided in the state.

For purposes of this paragraph (a), "gross operating revenues" do not include revenues from large electric customer facilities exempted by the commissioner under paragraph (b).

(b) The owner of a large electric customer facility may petition the commissioner to exempt both electric and gas utilities serving the large energy customer facility from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the facility. At a minimum, the petition must be supported by evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility. If a petition is filed on or before October 1 of any year, the order of the commissioner to exempt revenues attributable to the facility can be effective no earlier than January 1 of the following year. The commissioner shall not grant an exemption if the commissioner determines that granting the exemption is contrary to the public interest. The commissioner may, after investigation, rescind any exemption granted under this paragraph upon a determination that cost-effective the customer is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements are available at the large electric customer facility. ~~For the purposes of this paragraph, "cost-effective" means that the projected total cost of the energy conservation improvement at the large electric customer facility is less than the projected present value of the energy and demand savings resulting from the energy conservation improvement.~~ For the purposes of investigations by the commissioner under this paragraph, the owner of any large electric customer facility shall, upon request, provide the commissioner with updated information comparable to that originally supplied in or with the owner's original petition under this paragraph.

(c) The commissioner may require investments or spending greater than the amounts required under this subdivision for a public utility whose most recent advance forecast required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100 megawatts or greater within five years under midrange forecast assumptions.

(d) A public utility or owner of a large electric customer facility may appeal a decision of the commissioner under paragraph (b) or (c) to the commission under subdivision 2. In reviewing a decision of the commissioner under paragraph (b) or (c), the commission shall rescind the decision if it finds that the required investments or spending will:

(1) not result in cost-effective energy conservation improvements; or

(2) otherwise not be in the public interest.

~~(e) Each utility shall determine what portion of the amount it sets aside for conservation improvement will be used for conservation improvements under subdivision 2 and what portion it will contribute to the energy and conservation account established in subdivision 2a. A public utility may propose to the commissioner to designate that all or a portion of funds contributed to the account established in subdivision 2a be used for research and~~

~~development projects that can best be implemented on a statewide basis. Contributions must be remitted to the commissioner by February 1 of each year. Nothing in this subdivision prohibits a public utility from spending or investing for energy conservation improvement more than required in this subdivision.~~

Subd. 1b. **Conservation improvement by cooperative association or municipality.** (a) This subdivision applies to:

- (1) a cooperative electric association that provides retail service to its members;
- (2) a municipality that provides electric service to retail customers; and
- (3) a municipality with ~~gross operating revenues in excess of \$5,000,000 from sales of~~ more than 1,000,000,000 cubic feet in annual throughput sales to natural gas to retail customers.

(b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:

(1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and

(2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.

(c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large energy facility or a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b).

(d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

(e) Load-management activities ~~that do not reduce energy use but that increase the efficiency of the electric system~~ may be used to meet 50 percent of the conservation investment and spending requirements of this subdivision.

(f) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

(g) ~~At least every four years, on a schedule determined by the commissioner, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, Each municipality or cooperative shall file energy conservation improvement plans by June 1 on a schedule determined by order of the commissioner, but at least every three years. Plans received by June 1 must be approved or approved as modified by the commissioner by December 1 of the same year. The municipality or cooperative shall also~~ provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. The commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. ~~Up to three percent of a utility's conservation spending obligation under this section may be used for program pre evaluation, testing, and monitoring and program evaluation. The overview and evaluation filed by a municipality with less than 60,000,000 kilowatt hours in annual retail sales of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.~~

(h) ~~The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low income" means an income at or below 50 percent of the state median income.~~

(i) ~~As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. A municipality or association may propose to the commissioner to designate that all or a portion of funds contributed to the account be used for research and development projects that can best be implemented on a statewide basis. Any amount contributed must be remitted to the commissioner by February 1 of each year.~~

~~(j) (h) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires until July 1, 2007. From July 1, 2007, through June 30, 2011, expenditures made to refurbish a district heating or cooling system are considered to be load-management activities under paragraph (e). This paragraph expires July 1, 2011.~~

~~(i) The commissioner shall consider and may require a utility, association, or other entity providing energy efficiency and conservation services under this section to undertake a program suggested by an outside source, including a political subdivision, nonprofit corporation, or community organization.~~

Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving goals for energy conservation improvement expenditures and shall evaluate an energy conservation improvement program on how well it meets the goals set.

(b) Each individual utility and association shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average.

(c) The commissioner must adopt a filing schedule that is designed to have all utilities and associations operating under an energy savings plan by calendar year 2010.

(d) In its energy conservation improvement plan filing, a utility or association may request the commissioner to adjust its annual energy savings percentage goal based on its historical conservation investment experience, customer class makeup, load growth, a conservation potential study, or other factors the commissioner determines warrants an adjustment. The commissioner may not approve a plan that provides for an annual energy savings goal of less than one percent of gross annual retail energy sales from energy conservation improvements. A utility or association may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to the minimum energy savings goal of at least one percent for energy conservation improvements. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.

(e) An energy savings goal is not satisfied by attaining the revenue expenditure requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the energy savings goal established in this subdivision.

(f) An association or utility is not required to make energy conservation investments to attain the energy savings goals of this subdivision that are not cost-effective even if the investment is necessary to attain the energy savings goals. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the utility, participants, and society. In addition, the commissioner shall consider the rate at which an association or municipal utility is increasing its energy savings and its expenditures on energy conservation.

(g) On an annual basis, the commissioner shall produce and make publicly available a report on the annual energy savings and estimated carbon dioxide reductions achieved by the energy conservation improvement programs for the two most recent years for which data is available. The commissioner shall report on program performance both in the aggregate and for each entity filing an energy conservation improvement plan for approval or review by the commissioner.

(h) By January 15, 2010, the commissioner shall report to the legislature whether the spending requirements under subdivisions 1a and 1b are necessary to achieve the energy savings goals established in this subdivision.

Subd. 1d. ~~Cooperative conservation investment increase phase in~~ **Technical assistance.** ~~The increase in required conservation improvement expenditures by a cooperative electric association that results from the amendments in Laws 2001, chapter 212, article 8, section 6, to subdivision 1b, paragraph (a), clause (1), must be phased in as follows:~~

- ~~(1) at least 25 percent shall be effective in year 2002;~~
- ~~(2) at least 50 percent shall be effective in year 2003;~~
- ~~(3) at least 75 percent shall be effective in year 2004; and~~
- ~~(4) all of the increase shall be effective in year 2005 and thereafter.~~

The commissioner shall evaluate energy conservation improvement programs on the basis of cost-effectiveness and the reliability of the technologies employed. The commissioner shall, by order, establish, maintain, and update energy savings assumptions that must be used when filing energy conservation improvement programs. The commissioner shall establish an inventory of the most effective energy conservation programs, techniques, and technologies, and encourage all Minnesota utilities to implement them, where appropriate, in their service territories. The commissioner shall describe these programs in sufficient detail to provide a utility reasonable guidance concerning implementation. The commissioner shall prioritize the opportunities in order of potential energy savings and in order of cost-effectiveness. The commissioner may contract with a third party to carry out any of the

commissioner's duties under this subdivision, and to obtain technical assistance to evaluate the effectiveness of any conservation improvement program. The commissioner may assess up to \$800,000 annually until June 30, 2009, and \$450,000 annually thereafter for the purposes of this subdivision. The assessments must be deposited in the state treasury and credited to the energy and conservation account created under subdivision 2a. An assessment made under this subdivision is not subject to the cap on assessments provided by section 216B.62, or any other law.

Subd. 1e. **Applied research and development grants.** The commissioner may, by order, approve and make grants for applied research and development projects of general applicability that identify new technologies or strategies to maximize energy savings, improve the effectiveness of energy conservation programs, or document the carbon dioxide reductions from energy conservation programs. When approving projects, the commissioner shall consider proposals and comments from utilities and other interested parties. The commissioner may assess up to \$3,600,000 annually for the purposes of this subdivision. The assessments must be deposited in the state treasury and credited to the energy and conservation account created under subdivision 2a. An assessment made under this subdivision is not subject to the cap on assessments provided by section 216B.62, or any other law.

Subd. 1f. **Facilities energy efficiency.** (a) The commissioner of administration and the commissioner of commerce shall maintain and, as needed, revise the sustainable building design guidelines developed under section 16B.325.

(b) The commissioner of administration and the commissioner of commerce shall maintain and update the benchmarking tool developed under Laws 2001, chapter 212, article 1, section 3, so that all public buildings can use the benchmarking tool to maintain energy use information for the purposes of establishing energy efficiency benchmarks, tracking building performance, and measuring the results of energy efficiency and conservation improvements.

(c) The commissioner shall require that utilities include in their conservation improvement plans programs that facilitate professional engineering verification to qualify a building as Energy Star-labeled, Leadership in Energy and Environmental Design (LEED) certified, or Green Globes-certified. The state goal is to achieve certification of 1,000 commercial buildings as Energy Star-labeled, and 100 commercial buildings as LEED-certified or Green Globes-certified by December 31, 2010.

(d) The commissioner may assess up to \$500,000 annually for the purposes of this subdivision. The assessments must be deposited in the state treasury and credited to the energy and conservation account created under subdivision 2a. An assessment made under this subdivision is not subject to the cap on assessments provided by section 216B.62, or any other law.

Subd. 2. **Programs.** (a) The commissioner may require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover no more than a ~~four-year~~ three-year period. Public utilities shall file conservation improvement plans by June 1, on a schedule determined by order of the commissioner, but at least every ~~four~~ three years. Plans received by a public utility by June 1 must be approved or approved as modified by the commissioner by December 1 of that same year. ~~The commissioner shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting.~~ The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The commissioner's order must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, material, or project constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable.

(b) The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department.

(c) Each public utility subject to subdivision 1a may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility.

(d) A public utility may not spend for or invest in energy conservation improvements that directly benefit a large energy facility or a large electric customer facility for which the commissioner has issued an exemption pursuant to subdivision 1a, paragraph (b). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision ~~or~~ a nonprofit corporation, or community organization.

~~(e) The commissioner may, by order, establish a list of programs that may be offered as energy conservation improvements by a public utility, municipal utility, cooperative electric association, or other entity providing conservation services pursuant to this section. The list of programs may include rebates for high efficiency appliances, rebates or subsidies for high efficiency lamps, small business energy audits, and building recommissioning. The commissioner may, by order, change this list to add or subtract programs as the commissioner determines is necessary to promote efficient and effective conservation programs.~~

~~(f) The commissioner shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low income persons, in proportion to the amount the utility has historically spent on such programs based on the most recent three year average relative to the utility's total conservation spending under this section, unless an insufficient number of appropriate programs are available.~~

~~(g)~~ (e) A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

~~(h)~~ (f) The commissioner may order a public utility to include, with the filing of the utility's proposed conservation improvement plan under paragraph (a), the results of an independent audit of the utility's conservation improvement programs and expenditures performed by the department or an auditor with experience in the provision of energy conservation and energy efficiency services approved by the commissioner and chosen by the utility. The audit must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility that is the result of the spending and investments. The audit must evaluate the cost-effectiveness of the utility's conservation programs.

~~(i) Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program audit and evaluation.~~

Subd. 2a. **Energy and conservation account.** ~~The energy and conservation account is established in the special revenue fund in the state treasury. The commissioner must deposit money contributed under subdivisions 1a and 1b assessed or contributed under subdivisions 1d, 1e, 1f, and 7 in the state treasury and credit it to the energy and conservation account in the general special revenue fund. Money in the account is appropriated to the department commissioner for programs designed to meet the energy conservation needs of low income persons and to make energy conservation improvements in areas not adequately served under subdivision 2, including research and development projects included in the definition of energy conservation improvement in subdivision 1 the purposes of subdivisions 1d, 1e, 1f, and 7. Interest on money in the account accrues to the account. Using information collected under section 216C.02, subdivision 1, paragraph (b), the commissioner must, to the extent possible, allocate enough money to programs for low income persons to assure that their needs are being adequately addressed. The commissioner must request the commissioner of finance to transfer money from the account to the commissioner of education for an energy conservation program for low income persons. In establishing programs, the commissioner must consult political subdivisions and nonprofit and community organizations, especially organizations engaged in providing energy and weatherization assistance to low income persons. At least one program must address the need for energy conservation improvements in areas in which a high percentage of residents use fuel oil or propane to fuel their source of home heating. The commissioner may contract with a political subdivision, a nonprofit or community organization, a public utility, a municipality, or a cooperative electric association to implement its programs. The commissioner may provide grants to any person to conduct research and development projects in accordance with this section.~~

Subd. 2b. **Recovery of expenses.** The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department and contributions and assessments to the energy and conservation account, unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. The commission shall allow a cooperative electric association subject to rate regulation under section 216B.026, to recover expenses resulting from energy conservation improvement programs, load management programs, and assessments and contributions to the energy and conservation account unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. In addition, a utility may file annually, or the Public Utilities Commission may require the utility to file, and the commission may approve, rate schedules containing provisions for the automatic adjustment of charges for utility service in direct relation to changes in the expenses of the utility for real and personal property taxes, fees, and permits, the amounts of which the utility cannot control. A public utility is eligible to file for adjustment for real and personal property taxes, fees, and permits under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75 percent of its gross revenues from provision of electric service, excluding gross operating revenues from electric service provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), and 0.6 percent of its gross revenues from provision of gas service, excluding gross operating revenues from gas services provided in the state to large electric customer facilities for which the commissioner has issued an exemption under subdivision 1a, paragraph (b), for that year for energy conservation improvements under this section.

Subd. 2c. **Performance incentives.** By December 31, 2008, the commission shall review any incentive plan for energy conservation improvement it has approved under section 216B.16, subdivision 6c, and adjust the utility performance incentives to recognize making progress toward and meeting the energy savings goals established in subdivision 1c.

Subd. 3. **Ownership of energy conservation improvement.** An energy conservation improvement made to or installed in a building in accordance with this section, except systems owned by the utility and designed to turn off, limit, or vary the delivery of energy, are the exclusive property of the owner of the building except to the extent that the improvement is subjected to a security interest in favor of the utility in case of a loan to the building owner. The utility has no liability for loss, damage or injury caused directly or indirectly by an energy conservation improvement except for negligence by the utility in purchase, installation, or modification of the product.

Subd. 4. **Federal law prohibitions.** If investments by public utilities in energy conservation improvements are in any manner prohibited or restricted by federal law and there is a provision under which the prohibition or restriction may be waived, then the commission, the governor, or any other necessary state agency or officer shall take all necessary and appropriate steps to secure a waiver with respect to those public utility investments in energy conservation improvements included in this section.

Subd. 5. **Efficient lighting program.** (a) Each public utility, cooperative electric association, and municipal utility that provides electric service to retail customers shall include as part of its conservation improvement activities a program to strongly encourage the use of fluorescent and high-intensity discharge lamps. The program must include at least a public information campaign to encourage use of the lamps and proper management of spent lamps by all customer classifications.

(b) A public utility that provides electric service at retail to 200,000 or more customers shall establish, either directly or through contracts with other persons, including lamp manufacturers, distributors, wholesalers, and retailers and local government units, a system to collect for delivery to a reclamation or recycling facility spent fluorescent and high-intensity discharge lamps from households and from small businesses as defined in section 645.445 that generate an average of fewer than ten spent lamps per year.

(c) A collection system must include establishing reasonably convenient locations for collecting spent lamps from households and financial incentives sufficient to encourage spent lamp generators to take the lamps to the collection locations. Financial incentives may include coupons for purchase of new fluorescent or high-intensity discharge lamps, a cash back system, or any other financial incentive or group of incentives designed to collect the maximum number of spent lamps from households and small businesses that is reasonably feasible.

(d) A public utility that provides electric service at retail to fewer than 200,000 customers, a cooperative electric association, or a municipal utility that provides electric service at retail to customers may establish a collection system under paragraphs (b) and (c) as part of conservation improvement activities required under this section.

(e) The commissioner of the Pollution Control Agency may not, unless clearly required by federal law, require a public utility, cooperative electric association, or municipality that establishes a household fluorescent and high-intensity discharge lamp collection system under this section to manage the lamps as hazardous waste as long as the lamps are managed to avoid breakage and are delivered to a recycling or reclamation facility that removes mercury and other toxic materials contained in the lamps prior to placement of the lamps in solid waste.

(f) If a public utility, cooperative electric association, or municipal utility contracts with a local government unit to provide a collection system under this subdivision, the contract must provide for payment to the local government unit of all the unit's incremental costs of collecting and managing spent lamps.

(g) All the costs incurred by a public utility, cooperative electric association, or municipal utility for promotion and collection of fluorescent and high-intensity discharge lamps under this subdivision are conservation improvement spending under this section.

Subd. 6. **Renewable energy research.** (a) A public utility that owns a nuclear generation facility in the state shall spend five percent of the total amount that utility is required to spend under this section to support basic and applied research and demonstration activities at the University of Minnesota Initiative for Renewable Energy and the Environment for the development of renewable energy sources and technologies. The utility shall transfer the required amount to the University of Minnesota on or before July 1 of each year and that annual amount shall be deducted from the amount of money the utility is required to spend under this section. The University of Minnesota shall transfer at least ten percent of these funds to at least one rural campus or experiment station.

(b) Research funded under this subdivision shall include:

(1) development of environmentally sound production, distribution, and use of energy, chemicals, and materials from renewable sources;

(2) processing and utilization of agricultural and forestry plant products and other bio-based, renewable sources as a substitute for fossil-fuel-based energy, chemicals, and materials using a variety of means including biocatalysis, biorefining, and fermentation;

(3) conversion of state wind resources to hydrogen for energy storage and transportation to areas of energy demand;

(4) improvements in scalable hydrogen fuel cell technologies; and

(5) production of hydrogen from bio-based, renewable sources; and sequestration of carbon.

(c) Notwithstanding other law to the contrary, the utility may, but is not required to, spend more than two percent of its gross operating revenues from service provided in this state under this section or section 216B.2411.

(d) This subdivision expires June 30, 2008.

Subd. 7. Low-income programs. (a) The commissioner shall ensure that each utility and association provides low-income programs. When approving spending and energy savings goals for low-income programs, the commissioner shall consider historic spending and participation levels, energy savings for low-income programs, and the number of low-income persons residing in the utility's service territory. A utility that furnishes gas service must spend at least 0.2 percent of its gross operating revenue from residential customers in the state on low-income programs. A utility or association that furnishes electric service must spend at least 0.1 percent of its gross operating revenue from residential customers in the state on low-income programs. For a generation and transmission cooperative association, this requirement shall apply to each association's members' aggregate gross operating revenue from sale of electricity to residential customers in the state. Beginning in 2010, a utility or association that furnishes electric service must spend 0.2 percent of its gross operating revenue from residential customers in the state on low-income programs.

(b) To meet the requirements of paragraph (a), a utility or association may contribute money to the energy and conservation account. An energy conservation improvement plan must state the amount, if any, of low-income energy conservation improvement funds the utility or association will contribute to the energy and conservation account. Contributions must be remitted to the commissioner by February 1 of each year.

(c) The commissioner shall establish low-income programs to utilize money contributed to the energy and conservation account under paragraph (b). In establishing low-income programs, the commissioner shall consult political subdivisions, utilities, and nonprofit and community organizations, especially organizations engaged in providing energy and weatherization assistance to low-income persons. Money contributed to the energy and conservation account under paragraph (b) must provide programs for low-income persons, including low-income renters, in the service territory of the utility or association providing the money. The commissioner shall record and report expenditures and energy savings achieved as a result of low-income programs funded through the energy and conservation account in the report required under subdivision 1c, paragraph (g). The commissioner may contract with a political subdivision, nonprofit or community organization, public utility, municipality, or cooperative electric association to implement low-income programs funded through the energy and conservation account.

(d) A utility or association may petition the commissioner to modify its required spending under paragraph (a) if the utility or association and the commissioner have been unable to expend the amount required under paragraph (a) for three consecutive years.

Subd. 8. **Assessment.** The commission or department may assess utilities subject to this section in proportion to their respective gross operating revenue from sales of gas or electric service within the state during the last calendar year to carry out the purposes of subdivisions 1d, 1e, and 1f. Those assessments are not subject to the cap on assessments provided by section 216B.62, or any other law.

Sec. 6. **[216B.2412] DECOUPLING OF ENERGY SALES FROM REVENUES.**

Subdivision 1. **Definition and purpose.** For the purpose of this section, "decoupling" means a regulatory tool designed to separate a utility's revenue from changes in energy sales. The purpose of decoupling is to reduce a utility's disincentive to promote energy efficiency.

Subd. 2. **Decoupling criteria.** The commission shall, by order, establish criteria and standards for decoupling. The commission shall design the criteria and standards to mitigate the impact on public utilities of the energy savings goals under section 216B.241 without adversely affecting utility ratepayers. In designing the criteria, the commission shall consider energy efficiency, weather, and cost of capital, among other factors.

Subd. 3. **Pilot programs.** The commission shall allow one or more rate-regulated utilities to participate in a pilot program to assess the merits of a rate-decoupling strategy to promote energy efficiency and conservation. Each pilot program must utilize the criteria and standards established in subdivision 2 and be designed to determine whether a rate-decoupling strategy achieves energy savings. On or before a date established by the commission, the commission shall require electric and gas utilities that intend to implement a decoupling program to file a decoupling pilot plan, which shall be approved or approved as modified by the commission. A pilot program may not exceed three years in length. Any extension beyond three years can only be approved in a general rate case, unless that decoupling program was previously approved as part of a general rate case. The commission shall report on the programs annually to the chairs of the house of representatives and senate committees with primary jurisdiction over energy policy.

Sec. 7. **[216C.03] STATE GOVERNMENT ENERGY SAVINGS PLAN.**

The commissioner of commerce, in coordination with the commissioners of the agencies listed in section 15.01, the chancellor of the Minnesota State Colleges and Universities, and the president of the University of Minnesota, shall identify policy options, barriers, and economic benefits and costs for state government operations to achieve the energy savings goals in section 216B.2401 and the resulting carbon emission reductions. The commissioner of commerce must issue a report to the legislature by February 1, 2008.

Sec. 8. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change the reference to "section 216B.241, subdivision 1, paragraph (i)" found in section 216B.2411, subdivision 1, to read "section 216B.241, subdivision 1."

Sec. 9. **EFFECTIVE DATE.**

This article is effective July 1, 2007.

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2006, section 123B.65, subdivision 2, is amended to read:

Subd. 2. **Energy efficiency contract.** (a) Notwithstanding any law to the contrary, a school district may enter into a guaranteed energy savings contract with a qualified provider to significantly reduce energy or operating costs.

(b) Before entering into a contract under this subdivision, the board shall comply with clauses (1) to (5).

(1) The board must seek proposals from multiple qualified providers by publishing notice of the proposed guaranteed energy savings contract in the board's official newspaper and in other publications if the board determines that additional publication is necessary to notify multiple qualified providers.

(2) The school board must select the qualified provider that best meets the needs of the board. The board must provide public notice of the meeting at which it will select the qualified provider.

(3) The contract between the board and the qualified provider must describe the methods that will be used to calculate the costs of the contract and the operational and energy savings attributable to the contract.

(4) The qualified provider shall issue a report to the board giving a description of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and giving detailed calculations of the amounts by which energy or operating costs will be reduced and the projected payback schedule in years.

(5) The board must provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

(c) The board must provide a copy of any contract entered into under paragraph (a) and the report provided under paragraph (b), clause (4), to the commissioner of commerce within 30 days of the effective date of the contract.

Sec. 2. Minnesota Statutes 2006, section 216C.052, subdivision 8a, as added by Laws 2007, chapter 57, article 2, section 26, is amended to read:

Subd. 8a. **Manitoba Hydro information.** By January 1, 2008, and each year thereafter, the task force shall request the Manitoba Hydro-Electric Board to provide the following information for each community that is a signatory to the Northern Flood Agreement, including South Indian Lake:

(1) median household income and number of residents employed full time and part time;

(2) the number of outstanding claims filed against Manitoba Hydro by individuals and communities and the number of claims settled by Manitoba Hydro; and

(3) the amount of shoreline damaged by flooding and erosion and the amount of shoreline restored and cleaned.

Nothing in this section shall be construed as a directive to the government of Canada or the province of Manitoba.

For the purposes of this subdivision, "Northern Flood Agreement" means the agreement entered into by the Northern Flood Committee, Incorporated, the Manitoba Hydro-Electric Board, the province of Manitoba, and the government of Canada on December 16, 1977.

Sec. 3. Minnesota Statutes 2006, section 216C.31, is amended to read:

216C.31 ENERGY AUDIT PROGRAMS.

The commissioner shall develop ~~and administer~~ state programs of energy audits of residential and commercial buildings including ~~those required by United States Code, title 42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue to administer the residential energy audit program as originally established under the provisions of United States Code, title 42, sections 8211 to 8222; through July 1, 1986 irrespective of any prior expiration date provided in United States Code, title 42, section 8216. The commissioner may approve temporary programs if they are likely to result in the installation of as many conservation measures as would have been installed had the utility met the requirements of United States Code, title 42, sections 8211 to 8222. The Consumer Services Division and the attorney general may release information on consumer comments about the operation of the program to the commissioner the training and qualifications necessary for the auditing of residential and commercial buildings under the auspices of a program created under section 216B.241.~~

Sec. 4. Minnesota Statutes 2006, section 471.345, subdivision 13, is amended to read:

Subd. 13. **Energy efficiency projects.** The following definitions apply to this subdivision.

(a) "Energy conservation measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and includes:

- (1) insulation of the building structure and systems within the building;
- (2) storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (3) automatic energy control systems;
- (4) heating, ventilating, or air conditioning system modifications or replacements;
- (5) replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;
- (6) energy recovery systems;
- (7) cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
- (8) energy conservation measures that provide long-term operating cost reductions.

(b) "Guaranteed energy savings contract" means a contract for the evaluation and recommendations of energy conservation measures, and for one or more energy conservation measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 15 years from the date of final installation, and the savings are guaranteed to the extent necessary to make payments for the systems.

(c) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures. A qualified provider to whom the contract is awarded shall give a sufficient bond to the municipality for its faithful performance.

Notwithstanding any law to the contrary, a municipality may enter into a guaranteed energy savings contract with a qualified provider to significantly reduce energy or operating costs.

Before entering into a contract under this subdivision, the municipality shall provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

Before installation of equipment, modification, or remodeling, the qualified provider shall first issue a report, summarizing estimates of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates of the amounts by which energy or operating costs will be reduced.

A guaranteed energy savings contract that includes a written guarantee that savings will meet or exceed the cost of energy conservation measures is not subject to competitive bidding requirements of section 471.345 or other law or city charter. The contract is not subject to section 123B.52.

A municipality may enter into a guaranteed energy savings contract with a qualified provider if, after review of the report, it finds that the amount it would spend on the energy conservation measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over 15 years from the date of installation if the recommendations in the report were followed, and the qualified provider provides a written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The guaranteed energy savings contract may provide for payments over a period of time, not to exceed 15 years.

A municipality may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract must provide for payments of not less than 1/15 of the price to be paid within two years from the date of the first operation, and the remaining costs to be paid monthly, not to exceed a 15-year term from the date of the first operation.

A municipality entering into a guaranteed energy savings contract shall provide a copy of the contract and the report from the qualified provider to the commissioner of commerce within 30 days of the effective date of the contract.

Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective. The municipality shall include in its annual appropriations measure for each later fiscal year any amounts payable under guaranteed energy savings contracts during the year. Failure of a municipality to make such an appropriation does not affect the validity of the guaranteed energy savings contract or the municipality's obligations under the contracts.

Sec. 5. Minnesota Statutes 2006, section 504B.161, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) In every lease or license of residential premises, the landlord or licensor covenants:

(1) that the premises and all common areas are fit for the use intended by the parties;

(2) to keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee; ~~and~~

(3) to make the premises reasonably energy efficient by installing weatherstripping, caulking, storm windows, and storm doors when any such measure will result in energy procurement cost savings, based on current and projected average residential energy costs in Minnesota, that will exceed the cost of implementing that measure, including interest, amortized over the ten-year period following the incurring of the cost; and

(4) to maintain the premises in compliance with the applicable health and safety laws of the state, including the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter occupied residences prescribed by section 216C.27, subdivisions 1 and 3, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

(b) The parties to a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Sec. 6. **NUCLEAR ENERGY STUDY.**

The legislative electric energy task force shall conduct an analysis of the economic and environmental costs of constructing a 600-megawatt nuclear-powered electric generating plant in Minnesota. The analysis must include predesign, design and construction costs, and waste storage costs. The study must compare these costs with the costs of constructing a pulverized coal plant with carbon capture and sequestration technology and a coal-gasification plant with carbon capture and sequestration technology. The study's findings must be submitted in a report to the chairs and ranking minority members of the committees of the house of representatives and senate with primary jurisdiction over energy policy by March 1, 2008.

Sec. 7. **REPEALER.**

Minnesota Statutes 2006, sections 216B.165; 216C.27; and 216C.30, subdivision 5, and Minnesota Rules, parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140; 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220; 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500; 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120; 7655.0200; 7655.0210; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270; 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400; 7655.0410; and 7655.0420, are repealed, effective July 1, 2007.

Sec. 8. **EFFECTIVE DATE.**

This article is effective July 1, 2007.

ARTICLE 4

C-BED AND RELATED ISSUES

Section 1. Minnesota Statutes 2006, section 216B.1612, subdivision 1, is amended to read:

Subdivision 1. **Tariff establishment.** A tariff shall be established to optimize local, regional, and state benefits from ~~wind~~ renewable energy development and to facilitate widespread development of community-based ~~wind~~ renewable energy projects throughout Minnesota.

Sec. 2. Minnesota Statutes 2006, section 216B.1612, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying owner" means:

(1) a Minnesota resident;

(2) a limited liability company that is organized under ~~the laws of this state~~ chapter 322B and that is made up of members who are Minnesota residents;

(3) a Minnesota nonprofit organization organized under chapter 317A;

(4) a Minnesota cooperative association organized under chapter 308A or 308B, ~~other than including~~ a rural electric cooperative association or a generation and transmission cooperative on behalf of and at the request of a member distribution utility;

(5) a Minnesota political subdivision or local government ~~other than including, but not limited to,~~ a municipal electric utility, or a municipal power agency on behalf of and at the request of a member distribution utility, ~~including, but not limited to,~~ a county, statutory or home rule charter city, town, school district, or public or private higher education institution or any other local or regional governmental organization such as a board, commission, or association; or

(6) a tribal council.

(d) "Net present value rate" means a rate equal to the net present value of the nominal payments to a project divided by the total expected energy production of the project over the life of its power purchase agreement.

(e) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing any adverse or unsafe consequences; and

(2) is consistent with the utility's resource needs as identified in its most recent resource plan submitted under section 216B.2422.

(f) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1, paragraph (a).

(g) "Community-based energy development project" or "C-BED project" means a new ~~wind~~ renewable energy project that either as a stand-alone project or part of a partnership under subdivision 8:

(1) has no single qualifying owner owning more than 15 percent of a C-BED wind energy project that consists of more than two turbines; or unless: (i) the C-BED wind energy project consists of only one or two turbines; or (ii) the qualifying owner is a public entity listed under paragraph (b), clause (5), that is not a municipal utility;

(2) for C-BED projects of one or two turbines, is owned entirely by one or more qualifying owners, with demonstrates that at least 51 percent of the total financial benefits gross revenues from a power purchase agreement over the life of the project ~~flowing~~ will flow to qualifying owners and other local entities; and

(3) has a resolution of support adopted by the county board of each county in which the project is to be located, or in the case of a project located within the boundaries of a reservation, the tribal council for that reservation.

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

Sec. 3. Minnesota Statutes 2006, section 216B.1612, subdivision 3, is amended to read:

Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must have a rate schedule that allows for a ~~rate up to a 2.7 cents per kilowatt hour~~ net present value rate over the 20-year life of the power purchase agreement. The tariff must provide for a rate that is higher in the first ten years of the power purchase agreement than in the last ten years. The discount rate required to calculate the net present value must be the utility's normal discount rate used for its other business purposes.

(b) The commission shall consider mechanisms to encourage the aggregation of C-BED projects.

(c) The commission shall require that qualifying and nonqualifying owners provide sufficient security to secure performance under the power purchase agreement, and shall prohibit the transfer of the C-BED project to a nonqualifying owner during the initial 20 years of the contract.

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

Sec. 4. Minnesota Statutes 2006, section 216B.1612, subdivision 4, is amended to read:

Subd. 4. **Utilities to offer tariff.** By December 1, ~~2005~~ 2007, each public utility providing electric service at retail shall file for commission approval a community-based energy development tariff consistent with subdivision 3. Within 90 days of the first commission approval order under this subdivision, each municipal power agency and generation and transmission cooperative electric association shall adopt a community-based energy development tariff as consistent as possible with subdivision 3.

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

Sec. 5. Minnesota Statutes 2006, section 216B.1612, subdivision 5, is amended to read:

Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691 that needs to construct new generation, or purchase the output from new generation, as part of its plan to satisfy its good faith objective and standard under that section ~~should~~ must take reasonable steps to determine if one or more C-BED projects are available that meet the utility's cost and reliability requirements, applying standard reliability criteria, to fulfill some or all of the identified need at minimal impact to customer rates.

Nothing in this section shall be construed to obligate a utility to enter into a power purchase agreement under a C-BED tariff developed under this section.

(b) Each utility shall include in its resource plan submitted under section 216B.2422 a description of its efforts to purchase energy from C-BED projects, including a list of the projects under contract and the amount of C-BED energy purchased.

(c) The commission shall consider the efforts and activities of a utility to purchase energy from C-BED projects when evaluating its good faith effort towards meeting the renewable energy objective under section 216B.1691.

(d) A municipal power agency or generation and transmission cooperative shall, when issuing a request for proposals for C-BED projects to satisfy its standard obligation under section 216B.1691, provide notice to its member distribution utilities that they may propose, in partnership with other qualifying owners, a C-BED project for the consideration of the municipal power agency or generation and transmission cooperative.

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

Sec. 6. Minnesota Statutes 2006, section 216B.1612, subdivision 7, is amended to read:

Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer and a utility shall negotiate the rate and power purchase agreement terms consistent with the tariff established under subdivision 4.

(b) At the discretion of the developer, a community-based project developer and a utility may negotiate a power purchase agreement with terms different from the tariff established under subdivision 4.

(c) A qualifying owner, or any combination of qualifying owners, may develop a joint venture project with a nonqualifying ~~wind~~ renewable energy project developer. However, the terms of the C-BED tariff may only apply to the portion of the energy production of the total project that is directly proportional to the equity share of the project owned by the qualifying owners.

(d) A project that is operating under a power purchase agreement under a C-BED tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for production incentives under section 216C.41.

(e) A public utility must receive commission approval of a power purchase agreement for a C-BED tariffed project. The commission shall provide the utility's ratepayers an opportunity to address the reasonableness of the proposed power purchase agreement. Unless a party objects to a contract within 30 days of submission of the contract to the commission the contract is deemed approved.

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

Sec. 7. Minnesota Statutes 2006, section 216B.1612, is amended by adding a subdivision to read:

Subd. 8. **Community energy partnerships.** A utility providing electric service to retail or wholesale customers in Minnesota and an independent power producer may, subject to the limits specified in this section, participate in a community-based energy project, including as an owner, equity partner, or provider of technical or financial assistance.

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

Sec. 8. Minnesota Statutes 2006, section 216B.1645, is amended by adding a subdivision to read:

Subd. 2b. **Cost recovery for owned renewable facilities.** (a) A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243. The commission may approve, or approve as modified, a rate schedule that:

(1) allows a utility to recover directly from customers on a timely basis the costs of qualifying renewable energy projects, including:

(i) return on investment;

(ii) depreciation;

(iii) ongoing operation and maintenance costs;

(iv) taxes; and

(v) costs of transmission and other ancillary expenses directly allocable to transmitting electricity generated from a project meeting the specifications of this paragraph;

(2) provides a current return on construction work in progress, provided that recovery of these costs from Minnesota ratepayers is not sought through any other mechanism;

(3) allows recovery of other expenses incurred that are directly related to a renewable energy project, provided that the utility demonstrates to the commission's satisfaction that the expenses improve project economics, ensure project implementation, or facilitate coordination with the development of transmission necessary to transport energy produced by the project to market;

(4) allocates recoverable costs appropriately between wholesale and retail customers;

(5) terminates recovery when costs have been fully recovered or have otherwise been reflected in a utility's rates.

(b) A petition filed under this subdivision must include:

(1) a description of the facilities for which costs are to be recovered;

(2) an implementation schedule for the facilities;

(3) the utility's costs for the facilities;

(4) a description of the utility's efforts to ensure that costs of the facilities are reasonable and were prudently incurred; and

(5) a description of the benefits of the project in promoting the development of renewable energy in a manner consistent with this chapter.

Sec. 9. [216B.1681] CURTAILMENT PAYMENTS.

The commission shall conduct a study of curtailment payments for wind energy projects to assess whether utilities are unduly discriminating among project ownership structures in regard to the contractual availability of curtailment payments. The commission shall submit the study to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy by January 15, 2008.

Sec. 10. Minnesota Statutes 2006, section 216B.1691, is amended by adding a subdivision to read:

Subd. 7. Utility acquisition of resources. A competitive resource acquisition process established by the commission prior to June 1, 2007, shall not apply to a utility for the construction, ownership, and operation of generation facilities used to satisfy the requirements of this section unless, upon a finding that it is in the public interest, the commission issues an order on or after June 1, 2007, that requires compliance by a utility with a competitive resource acquisition process. A utility that owns a nuclear generation facility and intends to construct, own, or operate facilities under this section shall file with the commission on or before March 1, 2008, a renewable energy plan setting forth the manner in which the utility proposes to meet the requirements of this section, including

a proposed schedule for purchasing renewable energy from C-BED and non-C-BED projects. The utility shall update the plan as necessary in its filing under section 216B.2422. The commission shall approve the plan unless it determines, after public hearing and comment, that the plan is not in the public interest. As part of its determination of public interest, the commission shall consider the plan's allocation of projects among C-BED, non-C-BED, and utility-owned projects, balancing the state's interest in:

(1) promoting the policy of economic development in rural areas through the development of renewable energy projects, as expressed in subdivision 9;

(2) maintaining the reliability of the state's electric power grid; and

(3) minimizing cost impacts on ratepayers.

Sec. 11. Minnesota Statutes 2006, section 216C.052, is amended to read:

216C.052 RELIABILITY ADMINISTRATOR.

Subdivision 1. **Responsibilities.** (a) There is established the position of reliability administrator in the ~~Public Utilities Commission~~ Department of Commerce. The administrator shall act as a source of independent expertise and a technical advisor to the commissioner, the commission and the public on issues related to the reliability of the electric system. In conducting its work, the administrator shall provide assistance to the ~~commission~~ commissioner in administering and implementing the ~~commission's~~ department's duties under sections 216B.1612, 216B.1691, 216B.2422, 216B.2425, and 216B.243; chapters 216E, 216F, and 216G; and rules associated with those provisions- ~~Subject to resource constraints, the reliability administrator may also~~ and shall also:

(1) model and monitor the use and operation of the energy infrastructure in the state, including generation facilities, transmission lines, natural gas pipelines, and other energy infrastructure;

(2) develop and present to the commission and parties technical analyses of proposed infrastructure projects, and provide technical advice to the commission;

(3) present independent, factual, expert, and technical information on infrastructure proposals and reliability issues at public meetings hosted by the task force, the Environmental Quality Board, the department, or the commission.

(b) Upon request and subject to resource constraints, the administrator shall provide technical assistance regarding matters unrelated to applications for infrastructure improvements to the task force, the department, or the commission.

(c) The administrator may not advocate for any particular outcome in a commission proceeding, but may give technical advice to the commission as to the impact on the reliability of the energy system of a particular project or projects.

Subd. 2. **Administrative issues.** (a) The ~~commission~~ commissioner may select the administrator ~~who shall serve for a four-year term~~. The administrator must have at least five years of experience working as a power systems engineer or transmission planner, or in a position dealing with power system reliability issues, and may not have been a party or a participant in a commission energy proceeding for at least one year prior to selection by the ~~commission~~ commissioner. The ~~commission~~ commissioner shall oversee and direct the work of the administrator, annually review the expenses of the administrator, and annually approve the budget of the administrator. ~~Pursuant to commission approval,~~ The administrator may hire staff and may contract for technical expertise in performing duties when existing state resources are required for other state responsibilities or when special expertise is required. The salary of the administrator is governed by section 15A.0815, subdivision 2.

(b) Costs relating to a specific proceeding, analysis, or project are not general administrative costs. For purposes of this section, "energy utility" means public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing natural gas or electric service in the state.

(c) The ~~commission~~ Department of Commerce shall pay:

(1) the general administrative costs of the administrator, not to exceed \$1,000,000 in a fiscal year, and shall assess energy utilities for those administrative costs. These costs must be consistent with the budget approved by the ~~commission~~ commissioner under paragraph (a). The ~~commission~~ department shall apportion the costs among all energy utilities in proportion to their respective gross operating revenues from sales of gas or electric service within the state during the last calendar year, and shall then render a bill to each utility on a regular basis; and

(2) costs relating to a specific proceeding analysis or project and shall render a bill to the specific energy utility or utilities participating in the proceeding, analysis, or project directly, either at the conclusion of a particular proceeding, analysis, or project, or from time to time during the course of the proceeding, analysis, or project.

(d) For purposes of administrative efficiency, the ~~commission~~ department shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision. The amount of the bills rendered by the ~~commission~~ department under paragraph (c) must be paid by the energy utility into an account in the special revenue fund in the state treasury within 30 days from the date of billing and is appropriated to the ~~commission~~ department for the purposes provided in this section. The commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover amounts paid by utilities under this section. All amounts assessed under this section are in addition to amounts appropriated to the commission and the department by other law.

Subd. 3. **Assessment and appropriation.** In addition to the amount noted in subdivision 2, the ~~commission~~ commissioner may assess utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually through June 30, 2008. The amounts assessed under this subdivision are appropriated to the ~~commission~~ commissioner, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

Subd. 4. **Expiration.** Subdivisions 1 and 2 expire June 30, ~~2007~~ 2012. Subdivision 3 expires June 30, 2008.

Sec. 12. **[216F.011] SIZE DETERMINATION.**

(a) The total size of a combination of wind energy conversion systems for the purpose of determining what jurisdiction has siting authority under this chapter must be determined according to this section. The nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that:

(1) is located within five miles of the wind energy conversion system;

(2) is constructed within the same 12-month period as the wind energy conversion system; and

(3) exhibits characteristics of being a single development, including, but not limited to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue sharing arrangements, and common debt or equity financing.

(b) The commissioner shall provide forms and assistance for project developers to make a request for a size determination. Upon written request of a project developer, the commissioner of commerce shall provide a written size determination within 30 days of receipt of the request and of any information requested by the commissioner. In the case of a dispute, the chair of the Public Utilities Commission shall make the final size determination.

(c) An application to a county for a permit under this chapter for a wind energy conversion system is not complete without a size determination made under this section.

EFFECTIVE DATE. This section is effective January 15, 2008.

Sec. 13. **[216F.08] PERMIT AUTHORITY; ASSUMPTION BY COUNTIES.**

(a) A county board may, by resolution and upon written notice to the Public Utilities Commission, assume responsibility for processing applications for permits required under this chapter for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to an appropriate county officer or employee. Processing by a county shall be done in accordance with procedures and processes established under chapter 394.

(b) A county board that exercises its option under paragraph (a) may issue, deny, modify, impose conditions upon, or revoke permits pursuant to this section. The action of the county board about a permit application is final, subject to appeal as provided in section 394.27.

(c) The commission shall, by order, establish general permit standards, including appropriate property line setbacks, governing site permits for LWECS under this section. The order must consider existing and historic commission standards for wind permits issued by the commission. The general permit standards shall apply to permits issued by counties and to permits issued by the commission for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. The commission or a county may grant a variance from a general permit standard if the variance is found to be in the public interest.

(d) The commission and the commissioner of commerce shall provide technical assistance to a county with respect to the processing of LWECS site permit applications.

EFFECTIVE DATE. This section is effective January 15, 2008.

Sec. 14. **[216F.081] APPLICATION OF COUNTY STANDARDS.**

A county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the commission's permit standards. The commission, in considering a permit application for LWECS in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards.

Sec. 15. Minnesota Statutes 2006, section 500.30, subdivision 2, is amended to read:

Subd. 2. **Like any conveyance.** Any property owner may grant a solar or wind easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded, and indexed in the office of the recorder of the county in which the easement is granted. No duly recorded easement shall be unenforceable on account of lack of privity of estate or privity of contract; such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that an easement may terminate upon the conditions stated therein or pursuant to the provisions of

section 500.20. A wind easement, easement to install wind turbines on real property, option, or lease of wind rights shall also terminate after seven years from the date the easement is created or lease is entered into, if a wind energy project on the property to which the easement or lease applies does not begin commercial operation within the seven-year period.

EFFECTIVE DATE. This section is effective the day following final enactment, and applies to wind easements created and wind rights leases entered into on and after the effective date of this section.

Sec. 16. **RESOURCE ASSESSMENT.**

The reliability administrator shall conduct an engineering assessment of Minnesota's electricity resource needs through 2025, with a focus on baseload resources. The reliability administrator may contract with an independent entity to conduct all or part of the study. The assessment must consider additional generation and transmission resources necessary to meet the state's renewable energy standard under Laws 2007, chapter 3, section 1, subdivision 2a, and projected energy savings resulting from the implementation of article 2. The assessment, among other activities, must review and evaluate the most recent Minnesota utility demand forecasts, integrated resource plans filed under section 216B.2422, and transmission projects reports filed under section 216B.2425, including the assumptions underlying them, and provide independent projections of demand and baseload and nonbaseload generation and transmission resources available to meet projected demand in 2010, 2015, 2020, and 2025. The reliability administrator shall manage the assessment process and shall appoint a technical review committee to review the assessment's proposed methods, assumptions, and preliminary data and results. The reliability administrator must submit a report on the assessment to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy. The cost of the assessment is recoverable under section 216C.052, subdivision 2.

Sec. 17. **STATEWIDE STUDY OF DISPERSED GENERATION POTENTIAL.**

Subdivision 1. **Definition.** "Dispersed generation" means an electric generation project with a generating capacity between ten and 40 megawatts that utilizes an "eligible energy technology," as defined in Minnesota Statutes, section 216B.1691, subdivision 1, paragraph (a).

Subd. 2. **Study participants.** Each electric utility subject to Minnesota Statutes, section 216B.1691, must participate collaboratively in conducting a two-phase study of the potential for dispersed generation projects that can be developed in Minnesota.

Subd. 3. **First phase study content; report.** In the first phase of the study, participants must analyze the impacts of the addition of a total of 600 megawatts of new dispersed generation projects distributed among the following Minnesota electric transmission planning zones: the Northeast zone, the Northwest zone, the Southeast zone, the Southwest zone, and the West-Central zone. Study participants must use a generally accepted 2010 year transmission system model including all transmission facilities expected to be operating in 2010. The study must take into consideration regional projected load growth, planned changes in the bulk transmission network, and the long-range transmission conceptual plan being developed under Laws 2007, chapter 3, section 2. In determining locations for the installation of dispersed generation projects that consist of wind energy conversion systems, the study should consider, at a minimum, wind resource availability, existing and contracted wind projects, and current dispersed generation projects in the Midwest Independent System Operator interconnection queue. The study must analyze the impacts of individual projects and all projects in aggregate on the transmission system, and identify specific modifications to the transmission system necessary to remedy any problems caused by the installation of dispersed generation projects, including cost estimates for the modifications. The study must analyze the additional dispersed generation projects connected at the lowest voltage level transmission that exists in the vicinity of the

projected generation sites. A preliminary analysis to identify transmission system problems must be conducted with the projects installed at initially selected locations. The technical review committee may, after reviewing the locations selected for installation, recommend moving the installation sites once to new locations to reduce undesirable transmission system impacts. The commissioner of commerce must submit a report containing the findings and recommendations of the first phase of the study to the commission no later than June 15, 2008.

Subd. 4. **Second phase study content; report.** In the second phase of the study, participants must analyze the impacts of an additional total of 600 megawatts of dispersed generation projects installed among the five transmission planning zones, or a higher total capacity amount if agreed to by both the utilities and the technical review committee. The utilities must employ an analysis method similar to that used in the first phase of the study, and must use the most recent information available, including information developed in the first phase. The second phase of the study must use a generally accepted 2013 year transmission system model including all transmission facilities that are expected to be in service at that time. The commissioner of commerce must submit a report containing the findings and recommendations of the second phase of the study to the commission no later than September 15, 2009.

Subd. 5. **Technical review committee.** Prior to the start of the first phase of the study, the commissioner of commerce must appoint a technical review committee consisting of between ten and 15 individuals with experience and expertise in electric transmission system engineering, renewable energy generation technology, and dispersed generation project development, including representatives from the federal Department of Energy, the Midwest Independent System Operator, and stakeholder interests. The technical review committee must oversee both phases of the study, and must:

(1) make recommendations to the utilities regarding the proposed methods and assumptions to be used in the technical study;

(2) in conjunction with the appropriate utilities, hold public meetings on each phase of the study in each electricity transmission planning zone prior to the beginning of each phase of study, after the impact analysis is completed, and when a draft final report is available;

(3) establish procedures for handling commercially sensitive information; and

(4) review the initial and final drafts of the study and make recommendations for improvement, including problems associated with the interconnections among utility systems that may be amenable to solution through cooperation between the utilities in each zone. During each phase of the study, the technical review committee may recommend that the installation of dispersed generation projects be moved to new locations that cause fewer undesirable transmission system impacts.

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

Sec. 18. WIND DEVELOPMENT PROPERTY AGREEMENTS; STUDY.

The Legislative Electric Energy Task Force shall study whether the state should regulate easements, leases, and other agreements to acquire an interest in real property for the purpose of wind energy development. The purpose of the study is to determine whether the duration and other terms of those interests should be limited to promote wind energy development. The task force must report the results of its study and any recommendations to the chairs of the energy finance and policy committees of the legislature by February 1, 2008.

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

Sec. 19. **C-BED ADVISORY TASK FORCE.**

Subdivision 1. **Members.** The Legislative Electric Energy Task Force shall oversee and appoint an advisory task force on community-based energy development (C-BED) under Minnesota Statutes, section 15.059, subdivision 6, consisting of representatives of the Department of Commerce, the Public Utilities Commission, public utilities, independent power producers, municipal utilities, rural cooperatives, landowners currently engaged in C-BED and non-C-BED wind development projects, advocacy organizations for wind developers, and environmental organizations, as well as wind energy experts, tribal representatives, and clean energy advocates.

Subd. 2. **Issues.** The task force shall study and make recommendations to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy in a report submitted by January 15, 2008, on the following issues:

- (1) the definition of a C-BED qualifying owner;
- (2) the definition of gross revenues with respect to community benefits;
- (3) the ability of Minnesota and non-Minnesota financial institutions to provide capital;
- (4) compliance and enforcement;
- (5) wind easements;
- (6) feed-in tariffs for community energy;
- (7) community energy models/project structure;
- (8) credits toward utility renewable energy standard requirements for utility participation;
- (9) utility compensation for additional work for community ownership projects;
- (10) types of incentives, compensation, and encouragement for utility participation; and
- (11) other topics related to and impacting the C-BED program, as determined by the task force.

Subd. 3. **Expiration.** This section, and the advisory task force on community-based energy development, expires January 16, 2008.

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

Sec. 20. **TRANSFERRING RELIABILITY ADMINISTRATOR RESPONSIBILITIES.**

All responsibilities, as defined in Minnesota Statutes, section 15.039, subdivision 1, held by the Public Utilities Commission relating to the reliability administrator under Minnesota Statutes, section 216C.052, are transferred to the Minnesota Department of Commerce under Minnesota Statutes, section 15.039.

Sec. 21. **TRANSMISSION AUTHORITY AND INTERCONNECTION EVALUATIONS.**

The reliability administrator shall, in consultation with interested stakeholders:

(1) review the structures, powers, and duties for constructing, owning, maintaining, and operating transmission facilities of state transmission authorities established in Kansas, North Dakota, South Dakota, and Wyoming, and evaluate whether the existence of a similar organization in Minnesota would have the potential to increase the reliability and efficiency of the electrical grid in the state; hasten the development of needed transmission lines; accelerate the development of renewable energy projects, especially in rural areas of the state; and reduce delivered energy costs to Minnesota ratepayers; and

(2) assess the potential for and barriers to interconnecting dispersed generation projects to locations on the electric grid where a generator interconnection would not be subject to the interconnection rules of the Federal Energy Regulatory Commission or the Midwest Independent System Operator.

No technical or engineering analyses are necessary in order to complete these duties. The reliability administrator must report its findings and any recommendations to the chairs of the senate and house of representatives committees with jurisdiction over energy policy by February 15, 2008.

ARTICLE 5

GLOBAL CLIMATE CHANGE; GREENHOUSE GAS EMISSIONS

Section 1. **[216H.01] DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Statewide greenhouse gas emissions.** "Statewide greenhouse gas emissions" include emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride emitted by anthropogenic sources within the state and from the generation of electricity imported from outside the state and consumed in Minnesota. Carbon dioxide that is injected into geological formations to prevent its release to the atmosphere in compliance with applicable laws, and carbon dioxide associated with the combustion of fuels other than coal, petroleum, and natural gas are not counted as contributing to statewide greenhouse gas emissions.

Sec. 2. **[216H.02] GREENHOUSE GAS EMISSIONS CONTROL.**

Subdivision 1. **Greenhouse gas emissions reduction goal.** It is the goal of the state to reduce statewide greenhouse gas emissions across all sectors producing those emissions to a level at least 15 percent below 2005 levels by 2015, to a level at least 30 percent below 2005 levels by 2025, and to a level at least 80 percent below 2005 levels by 2050. The levels shall be reviewed based on the climate change action plan study.

Subd. 2. **Climate change action plan.** By February 1, 2008, the commissioner of commerce, in consultation with the commissioners of the Pollution Control Agency, the Housing Finance Agency, and the Departments of Natural Resources, Agriculture, Employment and Economic Development, and Transportation, and the chair of the Metropolitan Council, shall submit to the legislature a climate change action plan that meets the requirements of this section.

Subd. 3. **Stakeholder process.** The plan required by subdivision 2 must be developed through a structured, broadly inclusive stakeholder-based review of potential policies and initiatives that will reduce statewide greenhouse gas emissions from a broad range of sources and activities. The commissioner shall engage a nationally recognized independent expert entity to conduct the stakeholder process. The report of the stakeholder process must form the basis for the plan submitted by the commissioner under subdivision 2.

Subd. 4. General elements of the plan. The plan must:

(1) estimate 1990 and 2005 greenhouse gas emissions in the state and make projections of emissions in 2015, 2025, and 2050;

(2) identify, evaluate, and integrate a broad range of statewide greenhouse gas reduction options for all emission sectors in the state;

(3) assess the costs, benefits, and feasibility of implementing the options;

(4) recommend an integrated set of reduction options and strategies for implementing the options that will achieve the goals in subdivision 1, including analysis of the associated costs and benefits to Minnesotans;

(5) estimate the statewide greenhouse gas emissions reductions anticipated from implementation of existing state policies;

(6) recommend a system to require the reporting of statewide greenhouse gas emissions, identifying which facilities must report, and how emission estimates should be made; and

(7) evaluate the option of exempting a project from the prohibitions contained in section 216H.03, subdivision 3, if the project contributes a specified fee per ton of carbon dioxide emissions emitted annually by the project, the proceeds of which would be used to fund permanent, quantifiable, verifiable, and enforceable reductions in greenhouse gas emissions that would not otherwise have occurred.

Subd. 5. Specific plan requirements. (a) The plan must evaluate and recommend interim goals as steps to achieve the goals in subdivision 1.

(b) The plan must determine the feasibility, assess the costs and benefits, and recommend how the state could adopt a regulatory system that imposes a cap on the aggregate air pollutant emissions of a group of sources, requires those subject to the cap to own an allowance for each ton of the air pollutant emitted, and allows for market-based trading of those allowances. The evaluation must contain an analysis of the state implementing a cap and trade system alone, in coordination with other states, and as a requirement of federal law applying to all states. The plan must recommend the parameters of a cap and trade system that includes a cap that would prevent significant increases in greenhouse gas emissions above current levels with a schedule for lowering the cap periodically to achieve the goals in subdivision 1 and interim goals recommended under paragraph (a). The plan must consider cost savings and cost increases on energy consumers in the state.

(c) The plan must include recommendations for improvements in the emissions inventory and recommend whether the state should require greenhouse gas emissions reporting from specific sources and, if so, which sources should be required to report. The plan must also evaluate options for an emissions registry after reviewing registries in other states and recommend a registry that will insure the greatest opportunity for Minnesota entities to obtain marketable credits.

Subd. 6. Regional activities. The state must, to the extent possible, with other states in the Midwest region, develop and implement a regional approach to reducing greenhouse gas emissions from activities in the region, including consulting on a regional cap and trade system. The commissioner of commerce shall coordinate Minnesota's regional activities under this subdivision and report to the legislative committees in the senate and house of representatives with jurisdiction over energy and environmental policy by February 1, 2008, and February 1, 2009, on the progress made and recommendations for further action. The commissioner of commerce, as part of the activities required under this subdivision, must meet with responsible officials from bordering states, other states in the Midwest region, and states in other regions of the country to: (1) determine whether other states are interested

in establishing and cooperating in a multistate or regional greenhouse gas cap and trade allowance program; (2) identify and prepare an inventory of greenhouse gas reduction resources available to support a multistate or regional greenhouse gas cap and trade allowance program; (3) seek cooperation on a regional inventory of greenhouse gas emission sources; and (4) prepare an inventory of available renewable energy resources within a state or region. The commissioner of commerce must develop a definition of scope of this regional activity that is in addition to the components described in clauses (1) to (4). The commissioner must report on the additional scoping definitions to the chairs and ranking minority members of the legislative committees with jurisdiction over energy and environmental finance and policy on or before the commencement of the 2008 regular legislative session.

Sec. 3. [216H.03] FAILURE TO ADOPT GREENHOUSE GAS CONTROL PLAN.

Subdivision 1. Definition; new large energy facility. For the purpose of this section, "new large energy facility" means a large energy facility, as defined in section 216B.2421, subdivision 2, clause (1), that is not in operation as of January 1, 2007, but does not include a facility that (1) uses natural gas as a primary fuel, (2) is designed to provide peaking, intermediate, emergency backup, or contingency services, (3) uses a simple cycle or combined cycle turbine technology, and (4) is capable of achieving full load operations within 45 minutes of startup for a simple cycle facility, or is capable of achieving minimum load operations within 185 minutes of startup for a combined cycle facility.

Subd. 2. Definition; statewide power sector carbon dioxide emissions. For the purpose of this section, "statewide power sector carbon dioxide emissions" means the total annual emissions of carbon dioxide from the generation of electricity within the state and all emissions of carbon dioxide from the generation of electricity imported from outside the state and consumed in Minnesota. Emissions of carbon dioxide associated with transmission and distribution line losses are included in this definition. Carbon dioxide that is injected into geological formations to prevent its release to the atmosphere in compliance with applicable laws, and emissions of carbon dioxide associated with the combustion of biomass, as defined in section 216B.2411, subdivision 2, paragraph (c), clauses (1) to (4), are not counted as contributing to statewide power sector carbon dioxide emissions.

Subd. 3. Long-term increased emissions from power plants prohibited. Unless preempted by federal law, until a comprehensive and enforceable state law or rule pertaining to greenhouse gases that directly limits and substantially reduces, over time, statewide power sector carbon dioxide emissions is enacted and in effect, and except as allowed in subdivisions 4 to 7, on and after August 1, 2009, no person shall:

(1) construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions;

(2) import or commit to import from outside the state power from a new large energy facility that would contribute to statewide power sector carbon dioxide emissions; or

(3) enter into a new long-term power purchase agreement that would increase statewide power sector carbon dioxide emissions. For purposes of this section, a long-term power purchase agreement means an agreement to purchase 50 megawatts of capacity or more for a term exceeding five years.

Subd. 4. Exception for facilities that offset emissions. (a) The prohibitions in subdivision 3 do not apply if the project proponent demonstrates to the Public Utilities Commission's satisfaction that it will offset the new contribution to statewide power sector carbon dioxide emissions with a carbon dioxide reduction project identified in paragraph (b) and in compliance with paragraph (c).

(b) A project proponent may offset in an amount equal to or greater than the proposed new contribution to statewide power sector carbon dioxide emissions in either, or a combination of both, of the following ways:

(1) by reducing an existing facility's contribution to statewide power sector carbon dioxide emissions; or

(2) by purchasing carbon dioxide allowances from a state or group of states that has a carbon dioxide cap and trade system in place that produces verifiable emissions reductions.

(c) The Public Utilities Commission shall not find that a proposed carbon dioxide reduction project identified in paragraph (b) acceptably offsets a new contribution to statewide power sector carbon dioxide emissions unless the proposed offsets are permanent, quantifiable, verifiable, enforceable, and would not have otherwise occurred. This section does not exempt emissions that have been offset under this subdivision and emissions exempted under subdivisions 5 to 7 from a cap and trade system if adopted by the state.

Subd. 5. **Exception for new steel production facility.** The prohibitions in subdivision 3 do not apply to increases in statewide power sector carbon dioxide emissions from a new steel production project located in a taconite relief area that has filed an application for an air quality permit from the Pollution Control Agency prior to January 1, 2007.

Subd. 6. **Exception for iron nugget production facility.** The prohibitions in subdivision 3 do not apply to an iron nugget production facility that began construction prior to January 31, 2007, nor to associated mining activities and beneficiation facilities with a concentrate capacity of up to three million tons annually. For the purposes of this subdivision, "iron nugget" means a product with at least 90 percent iron content.

Subd. 7. **Other exemptions.** The prohibitions in subdivision 3 do not apply to:

(1) a new large energy facility under consideration by the Public Utilities Commission pursuant to proposals or applications filed with the Public Utilities Commission before April 1, 2007, or to any power purchase agreement related to a facility described in this clause. The exclusion of pending proposals and applications from the prohibitions in subdivision 3 does not limit the applicability of any other law and is not an expression of legislative intent regarding whether any pending proposal or application should be approved or denied;

(2) a contract not subject to commission approval that was entered into prior to April 1, 2007, to purchase power from a new large energy facility that was approved by a comparable authority in another state prior to that date, for which municipal or public power district bonds have been issued, and on which construction has begun; or

(3) a new large energy facility or a power purchase agreement between a Minnesota utility and a new large energy facility located outside Minnesota that the Public Utilities Commission has determined is essential to ensure the long-term reliability of Minnesota's electric system, to allow electric service for increased industrial demand, or to avoid placing a substantial financial burden on Minnesota ratepayers. An order of the commission granting an exemption under this clause is stayed until the June 1 following the next regular or annual session of the legislature that begins after the date of the commission's final order.

Subd. 8. **Enforcement.** Whenever the commission or the Department of Commerce determines that any person is violating or about to violate this section, it may refer the matter to the attorney general who shall take appropriate legal action. This section may be enforced by the attorney general on the same basis as a law listed in section 8.31, subdivision 1, except that the remedies provided by section 8.31, subdivision 3a, do not apply to a violation of this section.

Sec. 4. **[216H.06] GREENHOUSE GAS EMISSIONS CONSIDERATION IN RESOURCE PLANNING.**

By January 1, 2008, the Public Utilities Commission shall establish an estimate of the likely range of costs of future carbon dioxide regulation on electricity generation. The estimate, which may be made in a commission order, must be used in all electricity generation resource acquisition proceedings. The estimates, and annual updates, must be made following informal proceedings conducted by the commissioners of commerce and pollution control that allow interested parties to submit comments.

ARTICLE 6

RENEWABLE ENERGY STANDARDS

Section 1. Minnesota Statutes 2006, section 216B.1691, subdivision 5, as amended by Laws 2007, chapter 3, section 1, subdivision 5, is amended to read:

Subd. 5. **Technology based on fuel combustion.** (a) Electricity produced by fuel combustion through fuel blending or co-firing under paragraph (b) may only count toward a utility's objectives or standards if the generation facility:

(1) was constructed in compliance with new source performance standards promulgated under the federal Clean Air Act for a generation facility of that type; or

(2) employs the maximum achievable or best available control technology available for a generation facility of that type.

(b) An eligible energy technology may blend or co-fire a fuel listed in subdivision 1, paragraph (a), clause ~~(4)~~ (5), with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that clause can be counted toward an electric utility's renewable energy objectives.

Sec. 2. Minnesota Statutes 2006, section 216B.1691, subdivision 7, as added by Laws 2007, chapter 3, section 1, subdivision 7, is amended to read:

Subd. 7. **Compliance.** The commission must regularly investigate whether an electric utility is in compliance with its good-faith objective under subdivision 2 and standard obligation under subdivision 2a. If the commission finds noncompliance, it may order the electric utility to construct facilities, purchase energy generated by eligible energy technology, purchase renewable energy credits, or engage in other activities to achieve compliance. If an electric utility fails to comply with an order under this subdivision, the commission may impose a financial penalty on the electric utility in an amount not to exceed the estimated cost of the electric utility to achieve compliance. The penalty may not exceed the lesser of the cost of constructing facilities or purchasing credits. The commission must deposit financial penalties imposed under this subdivision in the energy and conservation account established in the special revenue fund under section 216B.241, subdivision 2a. This subdivision is in addition to and does not limit any other authority of the commission to enforce this section."

Delete the title and insert:

"A bill for an act relating to energy; modifying and adding provisions relating to energy efficiency and conservation, energy savings and audits, energy projects and information, residential energy requirements, a nuclear energy study, community-based energy development and related issues, the reliability administrator, an electricity resource assessment, wind energy conversion systems and authority of counties, greenhouse gas emissions and renewable energy standards; requiring studies; making technical and clarifying changes; amending Minnesota Statutes 2006, sections 123B.65, subdivision 2; 216B.16, subdivisions 1, 6b; 216B.1612, subdivisions 1, 2, 3, 4, 5, 7, by adding a subdivision; 216B.1645, by adding a subdivision; 216B.1691, subdivisions 5, as amended, 7, as added, by adding a subdivision; 216B.241; 216C.05; 216C.052; 216C.31; 471.345, subdivision 13; 500.30, subdivision 2; 504B.161, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 216B; 216C; 216F; proposing coding for new law as Minnesota Statutes, chapter 216H; repealing Minnesota Statutes 2006, sections 216B.165; 216C.27; 216C.30, subdivision 5; Minnesota Rules, parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140; 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220;

7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500; 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120; 7655.0200; 7655.0210; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270; 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400; 7655.0410; 7655.0420."

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

Senate Conferees: YVONNE PRETTNER SOLON, GARY W. KUBLY, D. SCOTT DIBBLE, JIM CARLSON AND JULIE A. ROSEN.

House Conferees: BILL HILTY, AARON PETERSON, MARIA RUUD, JEREMY KALIN AND JOHN BERNS.

Hilty moved that the report of the Conference Committee on S. F. No. 145 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 145, A bill for an act relating to energy; providing for community-based energy development; requiring a plan to reduce greenhouse gas emissions; amending Minnesota Statutes 2006, sections 216B.1612, subdivisions 1, 2, 3, 5, by adding a subdivision; 216B.1691, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216F.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 125 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hoppe	Lillie	Ozment	Slocum
Anderson, S.	Dominguez	Hornstein	Loeffler	Paulsen	Smith
Anzelc	Doty	Hortman	Madore	Paymar	Solberg
Atkins	Eastlund	Hosch	Magnus	Pelowski	Swails
Beard	Eken	Howes	Mahoney	Peppin	Thao
Benson	Erhardt	Huntley	Mariani	Peterson, A.	Thissen
Berns	Erickson	Jaros	Marquart	Peterson, N.	Tillberry
Bigham	Faust	Johnson	Masin	Peterson, S.	Tingelstad
Bly	Fritz	Juhnke	McFarlane	Poppe	Tschumper
Brod	Gardner	Kahn	McNamara	Rukavina	Urdahl
Brown	Garofalo	Kalin	Moe	Ruth	Wagenius
Brynaert	Gottwalt	Knuth	Morgan	Ruud	Walker
Bunn	Greiling	Koenen	Morrow	Sailer	Ward
Carlson	Gunther	Kohls	Mullery	Scalze	Wardlow
Clark	Hamilton	Kranz	Murphy, E.	Seifert	Welti
Cornish	Hansen	Laine	Murphy, M.	Sertich	Westrom
Davnie	Hausman	Lanning	Nelson	Severson	Winkler
Dean	Haws	Lenczewski	Nornes	Shimanski	Wollschlager
DeLaForest	Heidgerken	Lesch	Norton	Simon	Zellers
Demmer	Hilstrom	Liebling	Olin	Simpson	Spk. Kelliher
Dill	Hilty	Lieder	Otremba	Slawik	

Those who voted in the negative were:

Anderson, B.	Dettmer	Finstad	Holberg	Sviggum
Buesgens	Emmer	Hackbarth	Olson	

The bill was repassed, as amended by Conference, and its title agreed to.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2285:

Sertich, Wagenius, Hansen, Moe and Ozment.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Sertich from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Sunday, May 20, 2007:

H. F. Nos. 683 and 2468; and S. F. Nos. 470, 345, 13, 65, 599, 886, 590, 1274 and 1196.

CALENDAR FOR THE DAY

Sertich moved that the Calendar for the Day be continued. The motion prevailed.

MOTION TO FIX TIME TO CONVENE

Sertich moved that when the House adjourns today it adjourn until 9:00 a.m., Monday, May 21, 2007. The motion prevailed.

MOTIONS AND RESOLUTIONS

Moe moved that the names of Sailer and Hortman be added as authors on H. F. No. 2527. The motion prevailed.

Mariani moved that S. F. No. 984 be recalled from the Transportation Finance Division and be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

MOTION TO SUSPEND RULES

Seifert moved that the rules of the House be so far suspended that H. F. No. 2529 be recalled from the Committee on Finance, be given its second and third readings and be placed upon its final passage.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 47 yeas and 87 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Garofalo	Howes	Ozment	Smith
Anderson, B.	DeLaForest	Gottwalt	Kohls	Paulsen	Sviggum
Anderson, S.	Demmer	Gunther	Lanning	Peppin	Tingelstad
Beard	Dettmer	Hackbarth	Magnus	Ruth	Urdahl
Berns	Eastlund	Hamilton	McFarlane	Seifert	Wardlow
Brod	Emmer	Heidgerken	McNamara	Severson	Westrom
Buesgens	Erickson	Holberg	Nornes	Shimanski	Zellers
Cornish	Finstad	Hoppe	Olson	Simpson	

Those who voted in the negative were:

Anzelc	Eken	Jaros	Madore	Paymar	Swails
Atkins	Erhardt	Johnson	Mahoney	Pelowski	Thao
Benson	Faust	Juhnke	Mariani	Peterson, A.	Thissen
Bigham	Fritz	Kahn	Marquart	Peterson, N.	Tillberry
Bly	Gardner	Kalin	Masin	Peterson, S.	Tschumper
Brown	Greiling	Knuth	Moe	Poppe	Wagenius
Brynaert	Hansen	Koenen	Morgan	Rukavina	Walker
Bunn	Hausman	Kranz	Morrow	Ruud	Ward
Carlson	Haws	Laine	Mullery	Sailer	Welti
Clark	Hilstrom	Lenczewski	Murphy, E.	Scalze	Winkler
Davnie	Hilty	Lesch	Murphy, M.	Sertich	Wollschlager
Dill	Hornstein	Liebling	Nelson	Simon	Spk. Kelliher
Dittrich	Hortman	Lieder	Norton	Slawik	
Dominguez	Hosch	Lillie	Olin	Slocum	
Doty	Huntley	Loeffler	Otremba	Solberg	

The motion did not prevail.

ADJOURNMENT

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Hausman declared the House stands adjourned until 9:00 a.m., Monday, May 21, 2007.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives