

STATE OF MINNESOTA

EIGHTY-SEVENTH SESSION — 2011

 FORTY-SIXTH DAY

SAINT PAUL, MINNESOTA, MONDAY, MAY 2, 2011

The House of Representatives convened at 3:00 p.m. and was called to order by Kurt Zellers, Speaker of the House.

Prayer was offered by the Reverend Bill Arant, Riverside Church, Big Lake, Minnesota.

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	Davnie	Hancock	Kriesel	Morrow	Scalze
Anderson, B.	Dean	Hansen	Laine	Mullery	Schomacker
Anderson, D.	Dettmer	Hausman	Lanning	Murdock	Scott
Anderson, P.	Dill	Hayden	Leidiger	Murphy, E.	Shimanski
Anderson, S.	Dittrich	Hilstrom	LeMieur	Murphy, M.	Simon
Anzelc	Doepke	Hilty	Lenczewski	Murray	Slawik
Atkins	Downey	Holberg	Lesch	Myhra	Slocum
Banaian	Drazkowski	Hoppe	Liebling	Nelson	Stensrud
Barrett	Eken	Hornstein	Lillie	Nornes	Swedzinski
Beard	Erickson	Hortman	Loeffler	Norton	Thissen
Benson, J.	Fabian	Hosch	Lohmer	O'Driscoll	Torkelson
Benson, M.	Falk	Howes	Loon	Paymar	Urdahl
Bills	Franson	Huntley	Mack	Pelowski	Vogel
Brynaert	Fritz	Johnson	Mahoney	Peppin	Wagenius
Buesgens	Garofalo	Kahn	Marquart	Persell	Ward
Carlson	Gauthier	Kath	Mazorol	Petersen, B.	Wardlow
Champion	Gottwalt	Kelly	McDonald	Peterson, S.	Westrom
Clark	Greene	Kieffer	McElfrick	Poppe	Winkler
Cornish	Greiling	Kiel	McFarlane	Quam	Woodard
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Spk. Zellers
Daudt	Gunther	Knuth	Melin	Runbeck	
Davids	Hackbarth	Koenen	Moran	Sanders	

A quorum was present.

Hamilton, Mariani, Smith and Tillberry were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. There being no objection, further reading of the Journal was dispensed with and the Journal was approved as corrected by the Chief Clerk.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 27, 2011

The Honorable Kurt Zellers
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Zellers:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State H. F. No. 613.

Sincerely,

MARK DAYTON
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Kurt Zellers
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2011 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2011</i>	<i>Date Filed 2011</i>
	613	17	4:00 p.m. April 27	April 27

Sincerely,

MARK RITCHIE
Secretary of State

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 122, A bill for an act relating to insurance; regulating dental provider contracts and provider audits; amending Minnesota Statutes 2010, sections 62Q.76, by adding a subdivision; 62Q.78, by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 62Q.76, is amended by adding a subdivision to read:

Subd. 8. Dental provider contract. "Dental provider contract" means a written agreement between a dentist or dental clinic and dental organization to provide dental care services.

Sec. 2. Minnesota Statutes 2010, section 62Q.78, is amended by adding a subdivision to read:

Subd. 4. Contract amendment. An amendment or change in terms of an existing contract between a dental organization and a dentist must be disclosed to the dentist at least 90 days before the effective date of the proposed change.

Sec. 3. Minnesota Statutes 2010, section 62Q.78, is amended by adding a subdivision to read:

Subd. 5. Provider audits. (a) A dental organization is prohibited from recovering payments or otherwise withholding payments from a provider.

(b) Notwithstanding paragraph (a), a dental organization may recover payments or withhold payments from a provider after an audit or investigation where the following circumstances are met:

(1) the dental organization has conducted an audit or investigation of the provider's actual patient records and claims submissions, reviewed all relevant information and documentation, and made verified findings following the audit or investigation;

(2) looks back no more than 42 months from the date the audit or investigation results are given to the provider, except for an audit of public programs or where fraud has occurred; and

(3) the payments or withholding amount do not rely, in any way, on mathematical extrapolation or other statistical modeling.

(c) If a dental organization conducts a provider audit, the dental organization must use a licensed dentist whose license is in good standing to review the charts.

(d) As part of any provider audit process, a dental organization shall:

(1) provide a written explanation to the provider of the reason for the audit and the process the dental organization intends to use to audit the patient charts, as well as a written explanation of the processes available to the provider once the dental organization completes its review of the audited patient records; and

(2) allow the provider at least 75 days from the date that the provider receives the verified audit or investigation findings to review, meet, and negotiate an informal resolution to the audit or investigation.

Sec. 4. Minnesota Statutes 2010, section 62Q.78, is amended by adding a subdivision to read:

Subd. 6. **Payment for covered services.** (a) No contract of any dental plan or dental organization that covers any dental services or dental provider agreement with a dentist may require, directly or indirectly, that a dentist provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the dental plan or dental organization unless the dental services are covered services.

(b) A dental plan or dental organization or other person providing third-party administrator services shall not make available any providers in its dentist network to a plan that sets dental fees for any services except covered services.

(c) "Covered services" means dental care services for which a reimbursement is available under an enrollee's plan contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, co-payments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective August 1, 2011, and apply to dental plans and provider agreements entered into or renewed on or after that date."

With the recommendation that when so amended the bill pass.

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 182, A bill for an act relating to environment; requiring a study on state and local water management.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 210, A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot in most situations; providing for the issuance of voter identification cards at no charge; establishing a procedure for provisional balloting; creating challenged voter eligibility list; specifying other election administration procedures; allowing use of electronic polling place rosters; setting standards for use of electronic polling place rosters; creating legislative task force on electronic roster implementation; enacting procedures related to recounts; appropriating money; amending Minnesota Statutes 2010, sections 13.69, subdivision 1; 135A.17, subdivision 2; 171.01, by adding a subdivision; 171.06, subdivisions 1, 2, 3, by adding a subdivision; 171.061, subdivisions 1, 3, 4; 171.07, subdivisions 1a, 4, 9, 14, by adding a subdivision; 171.071; 171.11; 171.14; 200.02, by adding a subdivision; 201.021; 201.022, subdivision 1; 201.061, subdivisions 3, 4, 7; 201.071, subdivision 3;

201.081; 201.121, subdivisions 1, 3; 201.171; 201.221, subdivision 3; 203B.04, subdivisions 1, 2; 203B.06, subdivision 5; 203B.121, subdivision 1; 204B.14, subdivision 2; 204B.40; 204C.10; 204C.12, subdivisions 3, 4; 204C.14; 204C.20, subdivisions 1, 2, 4, by adding a subdivision; 204C.23; 204C.24, subdivision 1; 204C.32; 204C.33, subdivision 1; 204C.37; 204C.38; 204D.24, subdivision 2; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.86, subdivisions 1, 2; 209.021, subdivision 1; 209.06, subdivision 1; 211B.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 200; 201; 204C; proposing coding for new law as Minnesota Statutes, chapters 204E; 206A; repealing Minnesota Statutes 2010, sections 203B.04, subdivision 3; 204C.34; 204C.35; 204C.36; 204C.361.

Reported the same back with the following amendments:

Page 2, line 18, delete everything after "3b"

Page 2, line 19, delete everything before the period

Page 6, line 7, before "Social" insert "last four digits of the applicant's"

Page 29, line 25, delete ", and other sources as the secretary may determine appropriate"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 229, A bill for an act relating to public safety; authorizing judges to prohibit certain juvenile sex offenders from residing near their victims; amending Minnesota Statutes 2010, section 260B.198, subdivision 1, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 233, A bill for an act relating to state government; requiring the Department of Human Services to issue a request for proposals for a Medicaid fraud detection and business intelligence contract.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Davids from the Committee on Taxes to which was referred:

H. F. No. 247, A bill for an act relating to taxation; providing for voluntary contributions to the state on the income tax form; proposing coding for new law in Minnesota Statutes, chapter 290.

Reported the same back with the following amendments:

Page 1, line 8, delete "\$....." and insert "\$10"

Page 1, line 23, after "2010" insert ", and the commissioner of revenue shall finance the cost of implementing this section out of existing appropriations"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 371, A bill for an act relating to insurance; requiring local government employees to approve participation in or withdrawal from the public employees insurance program; amending Minnesota Statutes 2010, sections 43A.316, subdivision 5; 471.61, subdivision 2b; 471.611, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 21, delete everything after "employees" and insert "unless (1) the eligible employer and exclusive representative of the employees of an appropriate bargaining unit, certified under section 179A.12, agree to the change, and (2) it is approved by a majority of all insurance eligible employees of the appropriate bargaining unit"

Page 1, delete lines 22 to 23

Page 1, line 24, delete everything before the period

Page 1, line 25, after "employees" insert "of the appropriate bargaining unit"

Page 2, delete section 2

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Reform.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 441, A bill for an act relating to public safety; 911 telephone service; providing for collection of 911 fees from prepaid wireless telecommunications services; amending Minnesota Statutes 2010, sections 403.02, by adding a subdivision; 403.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 403.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Hamilton from the Committee on Agriculture and Rural Development Policy and Finance to which was referred:

H. F. No. 467, A bill for an act relating to public safety; directing the commissioner of corrections to implement a gardening program at state correctional facilities; proposing coding for new law in Minnesota Statutes, chapter 241.

Reported the same back with the following amendments:

Page 1, line 13, delete everything after the period

Page 1, delete line 14

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 545, A bill for an act relating to state government; requiring state budget documents to include federal insolvency contingency planning; amending Minnesota Statutes 2010, section 16A.10, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Davids from the Committee on Taxes to which was referred:

H. F. No. 548, A bill for an act relating to property taxation; including the sale of game birds and waterfowl in the definition of agricultural products; amending Minnesota Statutes 2010, section 273.13, subdivision 23.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 554, A bill for an act relating to the Mississippi River Parkway Commission; changing its expiration date; amending Minnesota Statutes 2010, section 161.1419, subdivision 8.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 556, A bill for an act relating to public safety; amending provisions for juvenile prostitutes found in need of protection or services; defining sexually exploited youth; increasing penalty assessments imposed in certain prostitution crimes and amending distribution of the assessment; clarifying and recodifying certain provisions and modifying certain definitions in the prostitution laws; appropriating money to the commissioner of public safety to develop a statewide victim services model; requiring a report to the legislature; amending Minnesota Statutes 2010, sections 260B.007, subdivisions 6, 16; 260C.007, subdivisions 6, 11, by adding a subdivision; 609.321, subdivisions 4, 8, 9; 609.324, subdivisions 2, 3, by adding subdivisions; 609.3241; 626.558, subdivision 2a; repealing Minnesota Statutes 2010, sections 260B.141, subdivision 5; 260C.141, subdivision 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
SEXUALLY EXPLOITED YOUTH

Section 1. Minnesota Statutes 2010, section 260B.007, subdivision 6, is amended to read:

Subd. 6. **Delinquent child.** (a) Except as otherwise provided in ~~paragraph~~ paragraphs (b) and (c), "delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;

(3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or

(4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

(c) The term delinquent child does not include a child who is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Sec. 2. Minnesota Statutes 2010, section 260B.007, subdivision 16, is amended to read:

Subd. 16. **Juvenile petty offender; juvenile petty offense.** (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense that would be a misdemeanor if committed by an adult.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 518B.01_; 588.20_; 609.224_; 609.2242_; 609.324, subdivision 2 or 3; 609.5632_; 609.576_; 609.66_; 609.746_; 609.748_; 609.79_; or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260B.225;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender." The term juvenile petty offender does not include a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) ~~has engaged in prostitution as defined in section 609.321, subdivision 9~~ is a sexually exploited youth as defined in subdivision 31;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.301, subdivision 3, is not in the best interests of the child.

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

Sec. 4. Minnesota Statutes 2010, section 260C.007, subdivision 11, is amended to read:

Subd. 11. **Delinquent child.** "Delinquent child" ~~means a child:~~

~~(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 19 and 28; or~~

~~(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult has the meaning given in section 260B.007, subdivision 6.~~

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

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342, 609.343, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;

(3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or

(4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

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

Sec. 6. Minnesota Statutes 2010, section 609.321, subdivision 8, is amended to read:

Subd. 8. **Prostitute.** "Prostitute" means an individual 18 years of age or older who engages in prostitution.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2010, section 609.3241, is amended to read:

609.3241 PENALTY ASSESSMENT AUTHORIZED.

(a) When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than ~~\$250~~ \$500 and not more than ~~\$500~~ \$750 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise

the court shall impose an assessment of not less than ~~\$500~~ \$750 and not more than \$1,000. ~~The mandatory minimum portion of the assessment is to be used for the purposes described in section 626.558, subdivision 2a, shall be distributed as provided in paragraph (c) and is in addition to the surcharge required by section 357.021, subdivision 6. Any portion of the assessment imposed in excess of the mandatory minimum amount shall be deposited in an account in the special revenue fund and is appropriated annually to the commissioner of public safety. The commissioner, with the assistance of the General Crime Victims Advisory Council, shall use money received under this section for grants to agencies that provide assistance to individuals who have stopped or wish to stop engaging in prostitution. Grant money may be used to provide these individuals with medical care, child care, temporary housing, and educational expenses.~~

(b) The court may not waive payment of the minimum assessment required by this section. If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum assessment to not less than \$100. The court also may authorize payment of the assessment in installments.

(c) The assessment collected under paragraph (a) must be distributed as follows:

(1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);

(2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth; and

(3) 40 percent of the assessment must be forwarded to the commissioner of public safety to be deposited in the safe harbor for youth account in the special revenue fund and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

(d) A safe harbor for youth account is established as a special account in the state treasury.

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

Sec. 8. Minnesota Statutes 2010, section 626.558, subdivision 2a, is amended to read:

Subd. 2a. ~~Juvenile prostitution~~ **Sexually exploited youth outreach program.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for ~~juveniles who are engaging in prostitution~~ sexually exploited youth, including homeless, runaway, and truant youth who are at risk of sexual exploitation. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. ~~The county may finance these services by means of the penalty assessment authorized by section 609.3241.~~ A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

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

Sec. 9. **SAFE HARBOR FOR SEX TRAFFICKED YOUTH; SEXUALLY EXPLOITED YOUTH; STATEWIDE VICTIM SERVICES MODEL.**

(a) If sufficient funding from outside sources is donated, the commissioner of public safety shall develop a statewide model as provided in this section. By June 30, 2012, the commissioner of public safety, in consultation with the commissioners of health and human services, shall develop a victim services model to address the needs of sexually exploited youth and youth at risk of sexual exploitation. The commissioner shall take into consideration the findings and recommendations as reported to the legislature on the results of the safe harbor for sexually exploited youth pilot project authorized by Laws 2006, chapter 282, article 13, section 4, paragraph (b). In addition, the commissioner shall seek recommendations from prosecutors, public safety officials, public health professionals, child protection workers, and service providers.

(b) By January 15, 2013, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house of representatives divisions having jurisdiction over health and human services and criminal justice funding and policy on the development of the statewide model, including recommendations for additional legislation or funding for services for sexually exploited youth or youth at risk of sexual exploitation.

(c) As used in this section, "sexually exploited youth" has the meaning given in section 260C.007, subdivision 31.

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

Sec. 10. **REPEALER.**

Minnesota Statutes 2010, sections 260B.141, subdivision 5; and 260C.141, subdivision 6, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2014.

ARTICLE 2
PROSTITUTION CRIMES

Section 1. Minnesota Statutes 2010, section 609.321, subdivision 4, is amended to read:

Subd. 4. **Patron.** "Patron" means an individual who ~~hires or offers or agrees~~ engages in prostitution by hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2010, section 609.321, subdivision 8, is amended to read:

Subd. 8. **Prostitute.** "Prostitute" means an individual who engages in prostitution by being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2010, section 609.321, subdivision 9, is amended to read:

Subd. 9. **Prostitution.** "Prostitution" means ~~engaging or offering or agreeing to engage for hire~~ hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact, or being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2010, section 609.324, subdivision 2, is amended to read:

Subd. 2. **Prostitution in public place; penalty for patrons.** Whoever, while acting as a patron, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires ~~or~~, offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision ~~while acting as a patron~~ must, at a minimum, be sentenced to pay a fine of at least \$1,500.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2010, section 609.324, subdivision 3, is amended to read:

Subd. 3. **General prostitution crimes; penalties for patrons.** (a) Whoever, while acting as a patron, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or ~~above~~ older; or

(2) hires ~~or~~, offers to hire, or agrees to hire an individual 18 years of age or ~~above~~ older to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph ~~while acting as a patron~~ must, at a minimum, be sentenced to pay a fine of at least \$500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph ~~while acting as a patron~~ must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least \$1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2010, section 609.324, is amended by adding a subdivision to read:

Subd. 6. **Prostitution in public place; penalty for prostitutes.** Whoever, while acting as a prostitute, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2010, section 609.324, is amended by adding a subdivision to read:

Subd. 7. **General prostitution crimes; penalties for prostitutes.** (a) Whoever, while acting as a prostitute, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to crimes committed on or after that date."

Amend the title as follows:

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 611, A bill for an act relating to economic development; creating a small business loan guarantee program; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[116J.881] SMALL BUSINESS LOAN GUARANTEE PROGRAM.**

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

(b) "Borrower" means a small business receiving an eligible loan under this section.

(c) "Commissioner" means the commissioner of employment and economic development.

(d) "Eligible loan" means a loan to a small business to be used for business purposes exclusively in Minnesota, including: construction; remodeling or renovation; leasehold improvements; the purchase of land and buildings; business acquisitions, including employee stock ownership plan financing; machinery or equipment purchases, maintenance, or repair; expenses related to moving into or within Minnesota; and working capital when the working capital is secured by fixed assets.

(e) "Loan guarantee" means a guarantee of 70 percent of the loan amount provided by a QED lender. The guaranteed portion of the loan must not exceed \$1,500,000.

(f) "Loan guarantee trust fund" means a dedicated fund established under this section for the purpose of compensation for defaulted loan guarantees and for program administration.

(g) "Loan purchaser" means an institutional investor that purchases, holds, and services small business loans on a nonrecourse basis from QED lenders participating in the small business loan guarantee program.

(h) "Qualified economic development lender" or "QED lender" means a public entity or a private nonprofit economic development organization whose headquarters is located in Minnesota with not less than three years of active lending experience that provides financing to small businesses in partnership with banks and other commercial lenders, and that originates subordinated loans to small businesses for sale to the secondary market.

(i) "Secondary market" means the market in which loans are sold to investors, either directly or through an intermediary.

(j) "Small business" means a business employing no more than 500 persons in Minnesota.

(k) "Subordinated loan" means a loan secured by a lien that is lower in priority than one or more specified other liens.

Subd. 2. **Loan guarantee program.** A small business loan guarantee program to support the origination and sale of eligible subordinated loans to the secondary market by providing a credit enhancement in the form of a partial guarantee of small business loans that are made to Minnesota businesses by a QED lender is created in the Department of Employment and Economic Development. A loan guarantee shall be provided for eligible loans under this section only when a bank or other commercial lender provides at least 50 percent of the total amount loaned to the small business. The loan guarantee shall apply only to the portion of the loan that was made by the QED lender.

Subd. 3. **Required provisions.** Loan guarantees under this section for loans to be sold on the secondary market by QED lenders shall provide that:

(1) principal and interest payments made by the borrower under the terms of the loan are applied by the loan purchaser to reduce the guaranteed and nonguaranteed portion of the loan on a proportionate basis. The nonguaranteed portion shall not receive preferential treatment over the guaranteed portion;

(2) the loan purchaser shall not accelerate repayment of the loan or exercise other remedies if the borrower defaults, unless:

(i) the borrower fails to make a required payment of principal or interest;

(ii) the commissioner consents in writing; or

(iii) the loan guarantee agreement provides for accelerated repayment or other remedies.

In the event of a default, the loan purchaser may not make a demand for payment pursuant to the guarantee unless the commissioner agrees in writing that the default has materially affected the rights or security of the parties, and finds that the loan purchaser is entitled to receive payment pursuant to the loan guarantee;

(3) there is a written commitment from one or more secondary market investors to purchase the loan, subject to the provision of a state loan guarantee;

(4) the QED lender has timely prepared and delivered to the commissioner, annually by the date specified in the loan guarantee, an audited or reviewed financial statement for the loan, prepared by a certified public accountant according to generally accepted accounting principles, and documentation that the borrower used the loan proceeds solely for purposes of its Minnesota operations;

(5) the commissioner has access to the original loan documents prior to approval of the state credit enhancement to facilitate the sale of the loan to the secondary market;

(6) the QED lender maintains adequate records and documents concerning the original loan so that the commissioner may determine the borrower's financial condition and compliance with program requirements; and

(7) orderly liquidation of collateral securing the original loan is provided for in the event of default, with an option on the part of the commissioner to acquire the loan purchaser's interest in the assets pursuant to the loan guarantee.

Subd. 4. Loan guarantee trust fund established. A loan guarantee trust fund is created in the state treasury to pay for defaulted loan guarantees. The commissioner shall administer this fund and provide annual reports concerning the performance of the fund to the chairs of the standing committees of the house of representatives and senate having jurisdiction over economic development issues.

Subd. 5. Limitation. At no time shall total outstanding loan guarantees for loans sold to the secondary market exceed five times the amount on deposit in the loan guarantee trust fund.

Subd. 6. Guarantee fee. Participating QED lenders shall pay a fee to the fund of 0.25 percent of the principal amount of each guaranteed loan upon approval of each loan guarantee. The guarantee fee, along with any interest earnings from the trust fund, shall be used only for the administration of the small business loan guarantee program and as additional loan loss reserves.

Subd. 7. Loan guarantee application. The commissioner shall prepare a form for QED lenders to use in applying for loan guarantees under this section. The form shall include the following information:

(1) the name and contact information for the QED lender, including the name and title of a contact person;

(2) the names of the financial institutions, including the names and titles of contact persons, that are participating in the total financing being provided to the small business borrower, along with the dollar amount of the loan provided by the financial institution;

(3) the percentage and dollar amount of the subordinated debt loan provided to the Minnesota small business by the QED lender; and

(4) the loan guarantee amount that is requested from the program.

Subd. 8. Notice and application process. Subject to the availability of funds under subdivision 4, the commissioner shall publish a notice regarding the opportunity for QED lenders to originate loans for which the loan guarantee may be secured as the loans are prepared for sale to the secondary market. The commissioner shall decide whether to provide a loan guarantee for each loan based on:

(1) the completeness of the loan guarantee application;

(2) the availability of funds in the loan guarantee trust fund; and

(3) execution of agreements that satisfy requirements established in subdivision 3."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 615, A bill for an act relating to drivers' licenses; modifying driver education requirements for obtaining an instruction permit; amending Minnesota Statutes 2010, section 171.05, subdivision 2.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 642, A bill for an act relating to public safety; providing for a child certified as an adult to be detained in a juvenile facility prior to trial and verdict; amending Minnesota Statutes 2010, section 260B.125, subdivision 8.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 650, A bill for an act relating to transportation; regulating driver education and driver examination related to carbon monoxide poisoning; making technical changes; amending Minnesota Statutes 2010, sections 171.0701; 171.13, subdivision 1, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 738, A bill for an act relating to public safety; modifying certain harassment restraining order provisions; amending Minnesota Statutes 2010, section 609.748, subdivisions 4, 5, 6.

Reported the same back with the following amendments:

Page 2, line 22, delete "temporary"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 834, A bill for an act relating to insurance; making changes in the public employee insurance program administrated by Minnesota Management and Budget for local government employees; requiring that the program pay certain taxes and assessments on the same basis as private sector health insurers; amending Minnesota Statutes 2010, sections 43A.316, subdivisions 9, 10; 62E.02, subdivision 23; 62E.10, subdivision 1; 297I.05, subdivision 12; repealing Minnesota Statutes 2010, section 297I.15, subdivision 3.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Reform.

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 844, A bill for an act relating to workforce development; providing for a public library representative to the Governor's Workforce Development Council; amending Minnesota Statutes 2010, section 116L.665, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 9, delete the new language and reinstate the stricken language

Page 1, line 13, delete the new language and reinstate the stricken language

Page 2, line 26, delete "advisory member of" and insert "adviser to"

Amend the title as follows:

Page 1, line 2, delete "representative" and insert "adviser"

With the recommendation that when so amended the bill pass.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 955, A bill for an act relating to public safety; transferring responsibility for maintaining the level III predatory offender Web site from the Department of Corrections to the Bureau of Criminal Apprehension; amending Minnesota Statutes 2010, section 244.052, subdivisions 4, 4b.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 988, A bill for an act relating to public defenders; modifying provisions providing for representation by a public defender; amending Minnesota Statutes 2010, sections 609.131, subdivision 1; 611.16; 611.17; 611.18; 611.20, subdivision 4; repealing Minnesota Statutes 2010, section 611.20, subdivision 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 609.131, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. Prior to the appointment of a public defender to represent a defendant charged with a misdemeanor, the court shall inquire of the prosecutor whether the prosecutor intends to certify the case as a petty misdemeanor. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the ~~defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor~~ defendant is not eligible for the appointment of a public defender.

Sec. 2. Minnesota Statutes 2010, section 611.16, is amended to read:

611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.

Any person described in section 611.14 ~~or any other person entitled by law to representation by counsel~~, may at any time request the court in which the matter is pending, or the court in which the conviction occurred, to appoint a public defender to represent the person. In a proceeding defined by ~~clause (2) of section 611.14~~, clause (2), application for the appointment of a public defender may also be made to a judge of the Supreme Court.

Sec. 3. Minnesota Statutes 2010, section 611.17, is amended to read:

611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) ~~the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means tested governmental benefits; or~~ is charged with a misdemeanor and has an annual household income not greater than 125 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);

(2) the defendant is charged with a gross misdemeanor and has an annual household income not greater than 150 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);

(3) the defendant is charged with a felony and has an annual household income not greater than 175 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2); or

~~(2)~~ (4) the court determines that the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make an appropriate inquiry into the determination of financial circumstances eligibility under paragraph (a) of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances ~~that might be relevant to the applicant's eligibility for a public defender~~. The state public defender shall furnish appropriate forms for the financial statements, which must be used by the district courts throughout the state. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender ~~appointed by the court to represent the applicant~~ except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. ~~In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry.~~ The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and
- (4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that the accused is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, reduced in part or waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

(d) The court shall not appoint a public defender to a defendant who is financially able to retain counsel but refuses to do so, refuses to execute the financial statement or refuses to provide information necessary to determine financial eligibility under this section, or waives appointment of a public defender under section 611.19.

Sec. 4. Minnesota Statutes 2010, section 611.18, is amended to read:

611.18 APPOINTMENT OF PUBLIC DEFENDER.

If it appears to a court that a person requesting the appointment of counsel satisfies the requirements of this chapter, the court shall order the appropriate public defender to represent the person ~~at all further stages of the proceeding through appeal, if any.~~ For a person appealing from a conviction, or a person pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction, according to the standards of sections 611.14, clause (2), and 611.25, subdivision 1, paragraph (a), clause (2), the state chief appellate public defender shall be appointed. For a person covered by section 611.14, clause (1), ~~a (3), or (4),~~ the chief district public defender shall be appointed to represent that person. ~~If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender.~~ If at any stage of the proceedings, ~~including an appeal,~~ the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the appropriate public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, ~~and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel.~~ The representation may be made available at the discretion of the public defender, ~~upon the request of the person or someone on the person's behalf.~~ Any law enforcement officer may notify the public defender of the arrest of any such person.

Sec. 5. Minnesota Statutes 2010, section 611.20, subdivision 3, is amended to read:

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

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

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

Sec. 6. Minnesota Statutes 2010, section 611.20, subdivision 4, is amended to read:

Subd. 4. **Employed defendants; ability to pay.** (a) A court shall order a defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, or who is or becomes able to make partial payments for counsel, to reimburse the state for the cost of the public defender. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may

accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. ~~The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule.~~ If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. ~~The percentage to be withheld may be determined under subdivision 6.~~ In determining the percentage to be withheld, the court shall consider the income and assets of the defendant based on the financial statement provided by the defendant when applying for the public defender under section 611.17.

(b) If a court determines under section 611.17 that a defendant is financially unable to pay the reasonable costs charged by private counsel due to the cost of a private retainer fee, the court shall evaluate the defendant's ability to make partial payments or reimbursement.

Sec. 7. Minnesota Statutes 2010, section 611.27, subdivision 1, is amended to read:

Subdivision 1. ~~County payment responsibility~~ **District public defender budget.** (a) A chief district public defender shall annually submit a comprehensive budget to the state Board of Public Defense. The budget shall be in compliance with standards and forms required by the board. The chief district public defender shall, at times and in the form required by the board, submit reports to the board concerning its operations, including the number of cases handled and funds expended for these services.

(b) Money appropriated to the state Board of Public Defense for the board's administration, for the state public defender, for the judicial district public defenders, and for the public defense corporations shall be expended as determined by the board. In distributing funds to district public defenders, the board shall consider the geographic distribution of public defenders, the equity of compensation among the judicial districts, public defender case loads, and the results of the weighted case load study.

Sec. 8. Minnesota Statutes 2010, section 611.27, subdivision 5, is amended to read:

Subd. 5. **District public defender budgets and county payment responsibility.** The board of public defense ~~may only shall fund all those items and services in necessary for the district public defender budgets which were included in the original budgets of district public defender offices as of January 1, 1990. All other public defense related costs remain the responsibility of the counties unless the state specifically appropriates for these. The cost of additional state funding of these items and services must be offset by reductions in local aids in the same manner as the original state takeover.~~ to satisfy its obligations under this chapter. Except as provided in section 611.26, subdivision 3a, counties shall not pay and no court shall order any county to pay for representation of individuals charged with a crime.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, section 611.20, subdivision 6, is repealed."

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 997, A bill for an act relating to civil actions; regulating the imposition of certain civil penalties by state agencies; awarding fees and expenses to prevailing parties in certain actions involving state agencies; amending Minnesota Statutes 2010, sections 15.471, subdivision 6, by adding a subdivision; 15.472; proposing coding for new law in Minnesota Statutes, chapter 15.

Reported the same back with the following amendments:

Page 3, line 25, before "decision" insert "final"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Regulatory Reform.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1020, A bill for an act relating to human services; phasing out nursing facility rate equalization; amending Minnesota Statutes 2010, section 256B.48, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
HEALTH CARE

Section 1. Minnesota Statutes 2010, section 62J.497, subdivision 2, is amended to read:

Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011, all providers, group purchasers, prescribers, and dispensers must establish, maintain, and use an electronic prescription drug program. This program must comply with the applicable standards in this section for transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media.

(b) If transactions described in this section are conducted, they must be done electronically using the standards described in this section. Nothing in this section requires providers, group purchasers, prescribers, or dispensers to electronically conduct transactions that are expressly prohibited by other sections or federal law.

(c) Providers, group purchasers, prescribers, and dispensers must use either HL7 messages or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related information internally when the sender and the recipient are part of the same legal entity. If an entity sends prescriptions outside the entity, it must use the NCPDP SCRIPT Standard or other applicable standards required by this section. Any pharmacy within an entity must be able to receive electronic prescription transmittals from outside the entity using the adopted NCPDP SCRIPT Standard. This exemption does not supersede any Health Insurance Portability and Accountability Act (HIPAA) requirement that may require the use of a HIPAA transaction standard within an organization.

(d) Notwithstanding paragraph (a), effective January 1, 2016, providers and prescribers who practice at a clinic where two or fewer physicians practice must establish, maintain, and use an electronic prescription drug program that complies with the applicable standards in this section.

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

Sec. 2. **[151.60] PHARMACY AUDIT INTEGRITY PROGRAM.**

The pharmacy audit integrity program is established to provide standards for an audit of pharmacy records carried out by a managed care company, insurance company, Medicare Part B audit contractors, third-party payer, pharmacy benefits manager, or any entity that represents such companies.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 3. **[151.61] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 151.60 to 151.66, the following terms have the meanings given.

Subd. 2. **Audit contractor.** "Audit contractor" means a contractor that detects and corrects improper payments for an entity.

Subd. 3. **Entity.** "Entity" means a managed care company, an insurance company, a third-party payer, a pharmacy benefits manager, or any other organization that represents these companies, groups, or organizations.

Subd. 4. **Insurance company.** "Insurance company" means any corporation, association, benefit society, exchange, partnership, or individual engaged as principal in the business of insurance.

Subd. 5. **Managed care company.** "Managed care company" means the entity or organization that handles health care and financing.

Subd. 6. **Pharmacy benefits manager or PBM.** "Pharmacy benefits manager" or "PBM" means a person, business, or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, nonprofit hospital or medical service organization, or insurance company.

Subd. 7. **Third-party payer.** "Third-party payer" means an organization other than the patient or health care provider involved in the financing of personal health services.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 4. **[151.62] PHARMACY BENEFIT MANAGER CONTRACT.**

(a) A pharmacy benefit manager (PBM) contract that is altered or amended by that entity may be substituted for a current contract but is not effective without the written consent of a pharmacy. The pharmacy must receive a copy of the proposed contract changes or renewal along with a disclosure by the PBM of all material changes in terms of the contract or methods of reimbursement from the previous contract.

(b) An amendment or change in terms of an existing contract between a PBM and a pharmacy must be disclosed to the pharmacy at least 120 days prior to the effective date of the proposed change. A PBM may not alter or amend a PBM contract, or impose any additional contractual obligation on a pharmacy, unless the PBM complies with the requirements in this section.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 5. **[151.63] PROCEDURES FOR CONDUCTING AND REPORTING AN AUDIT.**

(a) Any entity conducting a pharmacy audit must follow the following procedures:

(1) a pharmacy must be given a written notice at least 14 business days before an initial on-site audit is conducted;

(2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a pharmacist licensed in this state or the Board of Pharmacy;

(3) the period covered by the audit may not exceed 18 months from the date that the claim was submitted to or adjudicated by the entity, unless a longer period is permitted under federal law;

(4) the PBM may not audit more than 40 prescriptions per audit;

(5) the audit may not take place during the first seven business days of the month due to the high volume of prescriptions filled during that time unless consented to by the pharmacy;

(6) the pharmacy may use the records of a hospital, physician, or other authorized practitioner to validate the pharmacy record and delivery and include a medication administration record;

(7) any legal prescription which meets the requirements in this chapter may be used to validate claims in connection with prescriptions, refills, or changes in prescriptions, including medication administration records, faxes, e-prescriptions, or documented telephone calls from the prescriber or their agents;

(8) audit parameters must use consumer-oriented parameters based on manufacturer listings or recommendations;

(9) a pharmacy's usual and customary price for compounded medications is considered the reimbursable cost unless an alternate price is published in the provider contract and signed by both parties;

(10) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies;

(11) the entity conducting the audit must establish a written appeals process which must include appeals of preliminary reports and final reports;

(12) if either party is not satisfied with the appeal, that party may seek mediation; and

(13) if copies of records are requested by the auditing entity, the entity will pay 25 cents per page to cover costs incurred to the pharmacy.

(b) The entity conducting the audit shall also comply with the following requirements:

(1) auditors may not enter the pharmacy area where patient-specific information is available and must be out of sight and hearing range of the pharmacy customers;

(2) the pharmacy must provide an area for auditors to conduct their business;

(3) a finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(4) in the case of errors which have no financial harm to the patient or plan, the PBM must not assess any chargebacks;

(5) calculations of overpayments must not include dispensing fees, unless a prescription was not actually dispensed or the prescriber denied authorization;

(6) the entity conducting the audit shall not use extrapolation in calculating the recoupment or penalties for audits;

(7) any recoupment will not be deducted against future remittances and shall be invoiced to the pharmacy for payment;

(8) recoupment may not be assessed for items on the face of a prescription not required by the Minnesota Board of Pharmacy;

(9) the auditing company or agent may not receive payment based on a percentage of the amount recovered;

(10) interest may not accrue during the audit period, which begins with the notice of audit and ends with the final audit report;

(11) an entity may not consider any clerical or record keeping error, such as a typographical error, scrivener's error, or computer error regarding a required document or record as fraud; however, such errors may be subject to recoupment; and

(12) a person shall not be subject to criminal penalties for errors provided for in clause (11) without proof of intent to commit fraud.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 6. [151.64] AUDIT INFORMATION AND REPORTS.

(a) A preliminary audit report must be delivered to the pharmacy within 30 days after the conclusion of the audit.

(b) A pharmacy must be allowed at least 30 days following receipt of the preliminary audit to provide documentation to address any discrepancy found in the audit.

(c) A final audit report must be delivered to the pharmacy within 90 days after receipt of the preliminary audit report or final appeal, whichever is later.

(d) No chargeback, recoupment, or other penalties may be assessed until the appeals process has been exhausted and the final report issued.

(e) An entity shall remit any money due to a pharmacy or pharmacist as a result of an underpayment of a claim within 30 days after the appeals process has been exhausted and the final audit report has been issued.

(f) Where not superseded by state or federal law, audit information may not be shared. Auditors shall only have access to previous audit reports on a particular pharmacy conducted by that same auditing entity.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 7. **[151.65] DISCLOSURES TO PLAN SPONSOR.**

An auditing entity must provide a copy of the final report to the plan sponsor whose claims were included in the audit, and the money shall be returned to the plan sponsor and the co-payment shall be returned directly to the patient.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 8. **[151.66] APPLICABILITY OF OTHER LAWS AND REGULATIONS.**

(a) Sections 151.60 to 151.65 do not apply to any investigative audit that involves fraud, willful misrepresentation, or abuse, including without limitation:

(1) insurance fraud;

(2) billing for services not furnished or supplies not provided;

(3) billing that appears to be a deliberate application for duplicate payment for the same services or supplies, billing both the beneficiary and the PBM or payer for the same service;

(4) altering claim forms, electronic claim records, and medical documentation to obtain a higher payment amount;

(5) soliciting, offering, or receiving a kickback or bribe;

(6) participating in schemes that involve collusion between a provider and a beneficiary, or between a supplier and a provider, and result in higher costs or charges to the entity;

(7) misrepresentations of dates and descriptions of services furnished or the identity of the beneficiary or the individual who furnished the services;

(8) billing for prescriptions without a prescription on file, when over-the-counter items are dispensed;

(9) dispensing prescriptions using outdated drugs;

(10) billing with the wrong National Drug Code (NDC) or billing for a brand name when a generic drug is dispensed;

(11) not crediting the payer for medications or parts of prescriptions that were not picked up within 14 days;

(12) billing the payer a higher price than the pharmacy's usual and customary charge to the general public; and

(13) billing for a product when there is no proof that the product was purchased.

(b) All cases of suspected fraud or violations of law must be reported by the auditor to the Board of Pharmacy.

EFFECTIVE DATE. This section is effective for claims adjudicated on or after January 1, 2011.

Sec. 9. Minnesota Statutes 2010, section 256.962, is amended by adding a subdivision to read:

Subd. 8. **Coverage dates.** The commissioner, upon the request of a managed care or county-based purchasing plan, shall include the end of coverage dates on the monthly rosters of medical assistance and MinnesotaCare enrollees provided to the plans. The commissioner may assess plans a fee for the cost of producing the monthly roster of enrollees with end of coverage dates.

Sec. 10. Minnesota Statutes 2010, section 256B.04, subdivision 14a, is amended to read:

Subd. 14a. **Level of need determination.** Nonemergency medical transportation level of need determinations must be performed by a physician, a registered nurse working under direct supervision of a physician, a physician's assistant, a nurse practitioner, a licensed practical nurse, or a discharge planner.

Nonemergency medical transportation level of need determinations must not be performed more than annually on any individual, unless the individual's circumstances have sufficiently changed so as to require a new level of need determination. An entity shall not charge, and the commissioner shall not pay, more than \$25 for performing a level of need determination regarding any person receiving nonemergency medical transportation, including special transportation.

Special transportation services to eligible persons who need a stretcher-accessible vehicle from a hospital are exempt from a level of need determination if the special transportation services have been ordered by the eligible person's physician, registered nurse working under direct supervision of a physician, physician's assistant, nurse practitioner, licensed practical nurse, or discharge planner pursuant to Medicare guidelines.

Individuals transported to or residing in licensed nursing facilities are exempt from a level of need determination and are eligible for special transportation services until the individual no longer resides in a licensed nursing facility. If a person authorized by this subdivision to perform a level of need determination determines that an individual requires stretcher transportation, the individual is presumed to maintain that level of need until otherwise determined by a person authorized to perform a level of need determination, or for six months, whichever is sooner.

Sec. 11. Minnesota Statutes 2010, section 256B.0625, subdivision 3c, is amended to read:

Subd. 3c. **Health Services Policy Committee.** (a) The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish a 13-member Health Services Policy Committee, which consists of 12 voting members and one nonvoting member. The Health Services Policy Committee shall advise the commissioner regarding health services pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs, only as authorized in paragraphs (b) to (e), subdivision 53, and section 256B.043, subdivision 1. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who shall work directly with the commissioner's medical director, to establish the agenda for each meeting. The Health Services Policy Committee shall also recommend criteria for verifying centers of excellence for specific aspects of medical care where a specific set of combined services, a volume of patients necessary to maintain a high level of competency, or a specific level of technical capacity is associated with improved health outcomes.

(b) The commissioner shall establish a dental subcommittee to operate under the Health Services Policy Committee. The dental subcommittee consists of general dentists, dental specialists, safety net providers, dental hygienists, health plan company and county and public health representatives, health researchers, consumers, and a designee of the commissioner of health. The dental subcommittee shall advise the commissioner regarding:

(1) the critical access dental program under section 256B.76, subdivision 4, including but not limited to criteria for designating and terminating critical access dental providers;

(2) any changes to the critical access dental provider program necessary to comply with program expenditure limits;

(3) dental coverage policy based on evidence, quality, continuity of care, and best practices;

(4) the development of dental delivery models; and

(5) dental services to be added or eliminated from subdivision 9, paragraph (b).

(c) The Health Services Policy Committee shall study approaches to making provider reimbursement under the medical assistance, MinnesotaCare, and general assistance medical care programs contingent on patient participation in a patient-centered decision-making process, and shall evaluate the impact of these approaches on health care quality, patient satisfaction, and health care costs. The committee shall present findings and recommendations to the commissioner and the legislative committees with jurisdiction over health care by January 15, 2010.

(d) The Health Services Policy Committee shall monitor and track the practice patterns of physicians providing services to medical assistance, MinnesotaCare, and general assistance medical care enrollees under fee-for-service, managed care, and county-based purchasing. The committee shall focus on services or specialties for which there is a high variation in utilization across physicians, or which are associated with high medical costs. The commissioner, based upon the findings of the committee, shall regularly notify physicians whose practice patterns indicate higher than average utilization or costs. Managed care and county-based purchasing plans shall provide the commissioner with utilization and cost data necessary to implement this paragraph, and the commissioner shall make this data available to the committee.

(e) The Health Services Policy Committee shall review caesarean section rates for the fee-for-service medical assistance population. The committee may develop best practices policies related to the minimization of caesarean sections, including but not limited to standards and guidelines for health care providers and health care facilities.

Sec. 12. Minnesota Statutes 2010, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) an ambulance, as defined in section 144E.001, subdivision 2;

(2) special transportation; or

(3) common carrier including, but not limited to, bus, taxicab, other commercial carrier, or private automobile.

(b) Medical assistance covers special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile.

The commissioner may use an order by the recipient's attending physician to certify that the recipient requires special transportation services. Special transportation providers shall perform driver-assisted services for eligible individuals. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. Special transportation providers must obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Special transportation providers must take recipients to the nearest appropriate health care provider, using the most direct route as determined by a commercially available mileage software program approved by the commissioner. The minimum medical assistance reimbursement rates for special transportation services are:

(1) (i) \$17 for the base rate and \$1.35 per mile for special transportation services to eligible persons who need a wheelchair-accessible van;

(ii) \$11.50 for the base rate and \$1.30 per mile for special transportation services to eligible persons who do not need a wheelchair-accessible van; and

(iii) \$60 for the base rate and \$2.40 per mile, and an attendant rate of \$9 per trip, for special transportation services to eligible persons who need a stretcher-accessible vehicle;

(2) the base rates for special transportation services in areas defined under RUCA to be super rural shall be equal to the reimbursement rate established in clause (1) plus 11.3 percent; and

(3) for special transportation services in areas defined under RUCA to be rural or super rural areas:

(i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 125 percent of the respective mileage rate in clause (1); and

(ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to 112.5 percent of the respective mileage rate in clause (1).

(c) For purposes of reimbursement rates for special transportation services under paragraph (b), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(d) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

Sec. 13. Minnesota Statutes 2010, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 15 calendar days after the date on which an assessment was requested or recommended. After January 1, 2011, these requirements also apply to personal care assistance services, private duty nursing, and home health agency services, on timelines established in subdivision 5. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) The county may utilize a team of either the social worker or public health nurse, or both. After January 1, 2011, lead agencies shall use certified assessors to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

(c) The assessment must be comprehensive and include a person-centered assessment of the health, psychological, functional, environmental, and social needs of referred individuals and provide information necessary to develop a support plan that meets the consumers needs, using an assessment form provided by the commissioner.

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living services under section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing

assessment or written report outlining their recommendations regarding the client's care needs. The person conducting the assessment will notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment.

(e) The person, or the person's legal representative, must be provided with written recommendations for community-based services, including consumer-directed options, or institutional care that include documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than institutional care.

(f) If the person chooses to use community-based services, the person or the person's legal representative must be provided with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to the services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in subdivision 4a, paragraph (c).

(h) The team must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

- (1) the need for and purpose of preadmission screening if the person selects nursing facility placement;
- (2) the role of the long-term care consultation assessment and support planning in waiver and alternative care program eligibility determination;
- (3) information about Minnesota health care programs;
- (4) the person's freedom to accept or reject the recommendations of the team;
- (5) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;
- (6) the long-term care consultant's decision regarding the person's need for institutional level of care as determined under criteria established in section 144.0724, subdivision 11, or 256B.092; and
- (7) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and traumatic brain injury waiver programs under sections 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment. The effective eligibility start date for these programs can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated in a face-to-face visit and documented in the department's Medicaid Management Information System (MMIS). The effective date of program eligibility in this case cannot be prior to the date the updated assessment is completed.

Sec. 14. Minnesota Statutes 2010, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the amount of each component service included in the recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized.

(b) The payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

(c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(d) The individualized monthly authorized payment for the customized living service plan shall not exceed 50 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly authorized payment for the services described in this clause shall not exceed the limit which was in effect on June 30 of the previous state fiscal year updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.

(e) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D.

Sec. 15. Minnesota Statutes 2010, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment rate for 24-hour customized living services is a monthly rate authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the amount of each component service included in each recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting, positioning, or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or

(4) for all new participants enrolled in the program on or after January 1, 2011, and all other participants at their first reassessment after January 1, 2011, dependency in at least two of the following activities of daily living as determined by assessment under section 256B.0911: bathing; dressing; grooming; walking; or eating; and needs medication management and at least 50 hours of service per month. The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient.

(c) The payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

(d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050 to 9549.0059, to which elderly waiver service clients are assigned. When there are fewer than 50 authorizations in effect in the case mix resident class, the commissioner shall multiply the calculated service payment rate maximum for the A classification by the standard weight for that classification under Minnesota Rules, parts 9549.0050 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

(1) licensed corporate adult foster homes; or

(2) specialized dementia care units which meet the requirements of section 144D.065 and in which:

(i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

Sec. 16. Minnesota Statutes 2010, section 256B.19, subdivision 1e, is amended to read:

Subd. 1e. **Additional local share of certain nursing facility costs.** Beginning January 1, 2011, or on the first day of the second month following federal approval, whichever occurs later, local government entities that own the physical plant or are the license holders of nursing facilities receiving rate adjustments under section 256B.441, subdivision 55a, shall be responsible for paying the portion of nonfederal costs calculated under section 256B.441, subdivision 55a, paragraph (d). Payments of the nonfederal share shall be made monthly to the commissioner in amounts determined in accordance with section 256B.441, subdivision 55a, paragraph (d). Payments for each month beginning ~~in January 2011~~ on the effective date of the rate adjustment through September 2015 shall be due

by the 15th day of the following month. If any provider obligated to pay an amount under this subdivision is more than two months delinquent in the timely payment of the monthly installment, the commissioner may withhold payments, penalties, and interest in accordance with the methods outlined in section 256.9657, subdivision 7a.

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

Sec. 17. Minnesota Statutes 2010, section 256B.441, subdivision 55a, is amended to read:

Subd. 55a. **Alternative to phase-in for publicly owned nursing facilities.** (a) For operating payment rates implemented between January 1, 2011, or on the first day of the second month following federal approval, whichever occurs later, and September 30, 2015, the commissioner shall allow nursing facilities whose physical plant is owned or whose license is held by a city, county, or hospital district to apply for a higher payment rate under this section if the local government entity agrees to pay a specified portion of the nonfederal share of medical assistance costs. Nursing facilities that apply shall be eligible to select an operating payment rate, with a weight of 1.00, up to the rate calculated in subdivision 54, without application of the phase-in under subdivision 55. The rates for the other RUG's levels shall be computed as provided under subdivision 54.

(b) Rates determined under this subdivision shall take effect beginning January 1, 2011, or on the first day of the second month following federal approval, whichever occurs later, based on cost reports for the rate year ending September 30, 2009, and in future rate years, rates determined for nursing facilities participating under this subdivision shall take effect on October 1 of each year, based on the most recent available cost report.

(c) Eligible nursing facilities that wish to participate under this subdivision shall make an application to the commissioner by September 30, 2010, or by June 30 of any subsequent year prior to June 30, 2015. ~~Participation under this subdivision is irrevocable.~~ If paragraph (a) does not result in a rate greater than what would have been provided without application of this subdivision, a facility's rates shall be calculated as otherwise provided and no payment by the local government entity shall be required under paragraph (d).

(d) For each participating nursing facility, the public entity that owns the physical plant or is the license holder of the nursing facility shall pay to the state the entire nonfederal share of medical assistance payments received as a result of the difference between the nursing facility's payment rate under subdivision 54, paragraph (a), and the rates that the nursing facility would otherwise be paid without application of this subdivision under subdivision 55 as determined by the commissioner.

(e) The commissioner may, at any time, reduce the payments under this subdivision based on the commissioner's determination that the payments shall cause nursing facility rates to exceed the state's Medicare upper payment limit or any other federal limitation. If the commissioner determines a reduction is necessary, the commissioner shall reduce all payment rates for participating nursing facilities by a percentage applied to the amount of increase they would otherwise receive under this subdivision and shall notify participating facilities of the reductions. If payments to a nursing facility are reduced, payments under section 256B.19, subdivision 1e, shall be reduced accordingly.

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

Sec. 18. Minnesota Statutes 2010, section 256B.69, is amended by adding a subdivision to read:

Subd. 9c. **Limitation on reporting.** Except as provided in subdivision 5a, paragraph (c), relating to the attainment of performance targets, subdivision 9, paragraph (a), relating to reporting of encounter data, and as expressly required by Code of Federal Regulations, title 42, part 438, demonstration providers shall not be required to report data to the commissioner, nor file reports derived from data reported to the commissioner, unless the commissioner determines that this reporting is necessary for the commissioner to provide oversight and ensure accountability related to expenditures under this section.

Sec. 19. **NONEMERGENCY MEDICAL TRANSPORTATION SINGLE ADMINISTRATIVE STRUCTURE PROPOSAL.**

(a) The commissioner of human services shall develop a proposal to create a single administrative structure for providing nonemergency medical transportation services to fee-for-service medical assistance recipients. The proposal must consolidate access and special transportation into one administrative structure with the goal of standardizing eligibility determination processes, scheduling arrangements, billing procedures, data collection, and oversight mechanisms in order to enhance coordination, improve accountability, and lessen confusion.

(b) In developing the proposal, the commissioner shall:

(1) examine the current responsibilities performed by the counties and the Department of Human Services and consider the shift in costs if these responsibilities are changed;

(2) identify key performance measures to assess the cost-effectiveness of nonemergency medical transportation statewide, including a process to collect, audit, and report data;

(3) develop a statewide complaint system for medical assistance recipients using special transportation;

(4) establish a standardized billing process;

(5) establish a process that provides public input from interested parties before special transportation eligibility policies are implemented or significantly changed;

(6) establish specific eligibility criteria that include the frequency of eligibility assessments and the length of time a recipient remains eligible for special transportation;

(7) develop a reimbursement method to compensate volunteers for no-load miles when transporting recipients to or from health-related appointments; and

(8) establish specific eligibility criteria to maximize the use of public transportation by recipients who are without a physical, mental, or other impairment that would prohibit safely accessing and using public transportation.

(c) In developing the proposal, the commissioner shall consult with the Nonemergency Medical Transportation Advisory Council established under paragraph (d).

(d) The commissioner shall establish the Nonemergency Medical Transportation Advisory Council to assist the commissioner in developing a single administrative structure for providing nonemergency medical transportation services. The council shall be comprised of:

(1) one representative each from the Departments of Human Services and Transportation;

(2) one representative each from the following organizations: the Minnesota State Council on Disability, the Minnesota Consortium for Citizens with Disabilities, ARC of Minnesota, the Association of Minnesota Counties, the R-80 Medical Transportation Coalition, the Minnesota Para Transit Association, Legal Aid, the Minnesota Ambulance Association, the National Alliance on Mental Illness, the Minnesota Transportation Providers Alliance, and the Minnesota Inter-County Association; and

(3) four members from the house of representatives, two from the majority party and two from the minority party, appointed by the speaker of the house, and four members from the senate, two from the majority party and two from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration.

The council is governed by Minnesota Statutes, section 15.059, except that members shall not receive per diems. The commissioner of human services shall fund all costs related to the council from existing resources.

(e) The commissioner shall submit the proposal and draft legislation necessary for implementation to the chairs and ranking minority members of the senate and house of representatives committees or divisions with jurisdiction over health care policy and finance by January 15, 2012.

Sec. 20. **RECOVERY FROM BROKER.**

(a) If deemed appropriate after a review by the Attorney General's office, the commissioner of human services, in cooperation with the commissioner of management and budget, shall recover from any broker of nonemergency medical transportation services all administrative amounts paid in excess of the original agreed-upon amount as stated in a contract or compensation agreement that provided for the total compensation for administrative services in each state fiscal year not to exceed a specific agreed-upon amount for fiscal years 2005, 2006, 2007, 2008, 2009 and 2010.

(b) Recoveries under this section shall be based on the findings of the Office of the Legislative Auditor's report on medical nonemergency transportation released in February 2011.

Sec. 21. **MINNESOTA AUTISM SPECTRUM DISORDER TASK FORCE.**

Subdivision 1. **Members.** (a) The Autism Spectrum Disorder Task Force is composed of 19 members, appointed as follows:

(1) two members of the senate, one appointed by the majority leader and one appointed by the minority leader;

(2) two members of the house of representatives, one from the majority party, appointed by the speaker of the house, and one from the minority party, appointed by the minority leader;

(3) two members who are family members of individuals with autism spectrum disorder (ASD), one of whom shall be appointed by the majority leader of the senate, and one of whom shall be appointed by the speaker of the house;

(4) one member appointed by the Minnesota chapter of the American Academy of Pediatrics who is a developmental behavioral pediatrician;

(5) one member appointed by the Minnesota Academy of Family Physicians who is a family practice physician;

(6) one member appointed by the Minnesota Psychological Association who is a neuropsychologist;

(7) one member appointed by the majority leader of the senate who represents a minority autism community;

(8) one member representing the directors of public school student support services;

(9) one member appointed by the Minnesota Council of Health Plans; and

(10) three members who represent autism advocacy groups, two of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the majority leader of the senate.

(b) Appointments must be made by September 1, 2011. The senate member appointed by the majority leader of the senate shall convene the first meeting of the task force no later than October 1, 2011. The task force shall elect a chair from among members at the first meeting. The task force shall meet at least six times per year.

(c) The Legislative Coordinating Commission shall provide meeting space for the task force. Within available appropriations, the Departments of Education, Employment and Economic Development, Health, and Human Services may provide assistance to the task force.

Subd. 2. **Duties.** (a) The task force shall develop an autism spectrum disorder statewide strategic plan that focuses on improving awareness, early diagnosis, and intervention and on ensuring delivery of treatment and services for individuals diagnosed with an autism spectrum disorder, including the coordination and accessibility of cost-effective treatments and services throughout the individual's lifetime.

(b) The task force shall coordinate with existing efforts relating to autism spectrum disorders at the Departments of Education, Employment and Economic Development, Health, and Human Services and at the University of Minnesota and other agencies and organizations as the task force deems appropriate.

Subd. 3. **Report.** The task force shall submit its strategic plan to the legislature by January 15, 2013. The task force shall continue to provide assistance with the implementation of the strategic plan, as approved by the legislature, and shall submit a progress report by January 15, 2014, and by January 15, 2015, on the status of implementation of the strategic plan, including any draft legislation necessary for implementation.

Subd. 4. **Expiration.** The task force expires June 30, 2015, unless extended by law.

EFFECTIVE DATE. This section is effective July 1, 2011, and expires June 30, 2015.

Sec. 22. **PROHIBITION ON USE OF FUNDS.**

Subdivision 1. **Use of funds.** Funding for state-sponsored health programs shall not be used for funding abortions, except to the extent necessary for continued participation in a federal program. For purposes of this section, abortion has the meaning given in Minnesota Statutes, section 144.343, subdivision 3.

Subd. 2. **Severability.** If any one or more provision, section, subdivision, sentence, clause, phrase, or word of this section or the application of it to any person or circumstance is found to be unconstitutional, it is declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature intends that it would have passed this section, and each provision, section, subdivision, sentence, clause, phrase, or word irrespective of the fact that any one provision, section, subdivision, sentence, clause, phrase, or word is declared unconstitutional.

Subd. 3. **Supreme Court jurisdiction.** The Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality of this section and shall expedite the resolution of the action.

ARTICLE 2
HUMAN SERVICES

Section 1. Minnesota Statutes 2010, section 245.50, is amended to read:

245.50 INTERSTATE CONTRACTS, MENTAL HEALTH, CHEMICAL HEALTH, DETOXIFICATION SERVICES.

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

(a) "Bordering state" means Iowa, North Dakota, South Dakota, or Wisconsin.

(b) "Receiving agency" means a public or private hospital, mental health center, chemical health treatment facility, detoxification facility, or other person or organization which provides mental health ~~or~~ chemical health, or detoxification services under this section to individuals from a state other than the state in which the agency is located.

(c) "Receiving state" means the state in which a receiving agency is located.

(d) "Sending agency" means a state or county agency which sends an individual to a bordering state for treatment or detoxification under this section.

(e) "Sending state" means the state in which the sending agency is located.

Subd. 2. **Purpose and authority.** (a) The purpose of this section is to enable appropriate treatment or detoxification services to be provided to individuals, across state lines from the individual's state of residence, in qualified facilities that are closer to the homes of individuals than are facilities available in the individual's home state.

(b) Unless prohibited by another law and subject to the exceptions listed in subdivision 3, a county board or the commissioner of human services may contract with an agency or facility in a bordering state for mental health ~~or~~ chemical health, or detoxification services for residents of Minnesota, and a Minnesota mental health ~~or~~ chemical health, or detoxification agency or facility may contract to provide services to residents of bordering states. Except as provided in subdivision 5, a person who receives services in another state under this section is subject to the laws of the state in which services are provided. A person who will receive services in another state under this section must be informed of the consequences of receiving services in another state, including the implications of the differences in state laws, to the extent the individual will be subject to the laws of the receiving state.

Subd. 3. **Exceptions.** A contract may not be entered into under this section for services to persons who:

(1) are serving a sentence after conviction of a criminal offense;

(2) are on probation or parole;

(3) are the subject of a presentence investigation; or

(4) have been committed involuntarily in Minnesota under chapter 253B for treatment of mental illness or chemical dependency, except as provided under subdivision 5.

Subd. 4. **Contracts.** Contracts entered into under this section must, at a minimum:

(1) describe the services to be provided;

(2) establish responsibility for the costs of services;

(3) establish responsibility for the costs of transporting individuals receiving services under this section;

(4) specify the duration of the contract;

(5) specify the means of terminating the contract;

(6) specify the terms and conditions for refusal to admit or retain an individual; and

(7) identify the goals to be accomplished by the placement of an individual under this section.

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness ~~or~~, chemical dependency, or detoxification. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. Such examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital that is under contract with a Minnesota governmental entity under this section provided the resident, in the opinion of the examiner, meets the criteria in section 253B.05.

(g) This section shall apply to detoxification services that are unrelated to treatment, whether the services are provided on a voluntary or involuntary basis.

Sec. 2. Minnesota Statutes 2010, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care license capacity.** (a) The commissioner shall issue adult foster care licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (b) to (f).

(b) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) The commissioner may grant variances to paragraph (b) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(e) ~~If the 2009 legislature adopts a rate reduction that impacts providers of adult foster care services,~~ The commissioner may issue an adult foster care license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care beds in homes that are not the primary residence of the license holder, over the licensed capacity in such homes on July 1, 2009, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, 2009.

(f) The commissioner shall not issue a new adult foster care license under paragraph (e) after June 30, ~~2011~~ 2013. The commissioner shall allow a facility with an adult foster care license issued under paragraph (e) before June 30, 2011, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (e).

Sec. 3. Minnesota Statutes 2010, section 245A.14, subdivision 1, is amended to read:

Subdivision 1. **Permitted single-family residential use.** (a) A licensed nonresidential program with a licensed capacity of 12 or fewer persons ~~and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children~~ shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations.

(b) A family day care or group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations only if the license holder owns and resides in the home and is the primary provider of care.

Sec. 4. Minnesota Statutes 2010, section 245A.14, subdivision 4, is amended to read:

Subd. 4. **Special family day care homes.** Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family day care or group family day care if:

~~(a) the license holder is the primary provider of care and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;~~

~~(b)~~ (1) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees;

~~(c)~~ (2) the license holder is a church or religious organization;

~~(d)~~ (3) the license holder is a community collaborative child care provider. For purposes of this subdivision, a community collaborative child care provider is a provider participating in a cooperative agreement with a community action agency as defined in section 256E.31; or

~~(e)~~ (4) the license holder is a not-for-profit agency that provides child care in a dwelling located on a residential lot and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this ~~paragraph~~ clause to exceed the licensed capacity of 14 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

~~(1)~~ (i) the program does not exceed a capacity of 14 children more than a cumulative total of four hours per day;

~~(2)~~ (ii) the program meets a one to seven staff-to-child ratio during the variance period;

~~(3)~~ (iii) all employees receive at least an extra four hours of training per year than required in the rules governing family child care each year;

~~(4)~~ (iv) the facility has square footage required per child under Minnesota Rules, part 9502.0425;

~~(5)~~ (v) the program is in compliance with local zoning regulations;

~~(6)~~ (vi) the program is in compliance with the applicable fire code as follows:

~~(i)~~ (A) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2003, Section 202; or

~~(ii)~~ (B) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2003, Section 202; and

~~(7)~~ (vii) any age and capacity limitations required by the fire code inspection and square footage determinations shall be printed on the license.

Sec. 5. Minnesota Statutes 2010, section 256.0112, is amended by adding a subdivision to read:

Subd. 9. Contracting for performance. In addition to the agreements in subdivision 8, a local agency may negotiate a supplemental agreement to a contract executed between a lead agency and an approved vendor under subdivision 6 for the purposes of contracting for specific performance. The supplemental agreement may augment the lead contract requirements and rates for services authorized by that local agency only. The additional provisions must be negotiated with the vendor and designed to encourage successful, timely, and cost-effective outcomes for clients, and may establish incentive payments, penalties, performance-related reporting requirements, and similar conditions. The per diem rate allowed under this subdivision must not be less than the rate established in the lead county contract. Nothing in the supplemental agreement between a local agency and an approved vendor binds the lead agency or other local agencies to the terms and conditions of the supplemental agreement.

Sec. 6. Minnesota Statutes 2010, section 256B.4912, subdivision 2, is amended to read:

Subd. 2. Rate-setting methodologies. (a) The commissioner shall establish statewide rate-setting methodologies that meet federal waiver requirements for home and community-based waiver services for individuals with disabilities. The rate-setting methodologies must abide by the principles of transparency and equitability across the state. The methodologies must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

(b) The commissioner shall consult with stakeholders and recommend the basic methodology framework and implementation principles, and provide draft legislation, to the chairs and ranking minority members of the health and human services policy and finance committees in the house of representatives and the senate by December 15, 2011. The framework and principles shall include, but not be limited to:

(1) a process that counties and providers must follow to ensure clients' continued access to services and provider plans in the event a provider is no longer able to provide services under the new rate structure;

(2) a system that includes a process for needs assessment, needs determination, service design, rate notification, and mistake resolution that is available to clients, families, providers, and counties;

(3) criteria for an exceptions process;

(4) rates that are sensitive to geographical differences and allow for higher reimbursement for clients who have medical and behavior issues;

(5) a clear definition of the rate tool and the processes and systems that determine rates;

(6) the ability for providers to determine spending and services within the rate and subject to limitations in the individual service plan and provider enrollment contract; and

(7) the continuation of a rate methodology stakeholder group through the first two years of implementation.

(c) The commissioner shall issue a report to the house of representatives and senate committees with jurisdiction over health and human services policy and finance two years after implementation of the statewide rate methodology assessing the impact and effectiveness of the new rates.

Sec. 7. Minnesota Statutes 2010, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the thrifty food plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;
- (4) low cholesterol diet, 25 percent of thrifty food plan;
- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;
- (10) hypoglycemic diet, 15 percent of thrifty food plan; or
- (11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657, subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage, unless allowed under paragraph (g).

(2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy benefit under this paragraph is considered a household of one. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

(3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may be owned, operated, or controlled by the recipient's service provider. This housing arrangement must include provisions for the recipient to retain the recipient's housing in the event the recipient chooses a different service provider. In a multifamily building of more than four ~~or more~~ units, the maximum number of apartments that may be used by recipients of this program shall be 50 percent of the units in a building, provided the service provider will implement a plan with the recipient to transition the lease to the recipient's name. ~~This paragraph expires on June 30, 2012.~~ Within two years of the initial lease the service provider shall transfer the lease entered into under this subdivision to the recipient. In the event the landlord denies this transfer, the commissioner shall approve an exception within sufficient time to ensure the continued occupancy by the recipient.

Sec. 8. Minnesota Statutes 2010, section 256J.49, subdivision 13, is amended to read:

Subd. 13. **Work activity.** (a) "Work activity" means any activity in a participant's approved employment plan that leads to employment. For purposes of the MFIP program, this includes activities that meet the definition of work activity under the participation requirements of TANF. Work activity includes:

(1) unsubsidized employment, including work study and paid apprenticeships or internships;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, paid work experience, and supported work when a wage subsidy is provided;

(3) unpaid work experience, including community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and supported work when a wage subsidy is not provided. Unpaid work experience is only an option if the participant has been unable to obtain or maintain paid employment in the competitive labor market, and no paid work experience programs are available to the participant. Prior to placing a participant in unpaid work, the county must inform the participant that the participant will be notified if a paid work experience or supported work position becomes available. Unless a participant consents in writing to participate in unpaid work experience, the participant's employment plan may only include unpaid work experience if including the unpaid work experience in the plan will meet the following criteria:

(i) the unpaid work experience will provide the participant specific skills or experience that cannot be obtained through other work activity options where the participant resides or is willing to reside; and

(ii) the skills or experience gained through the unpaid work experience will result in higher wages for the participant than the participant could earn without the unpaid work experience;

(4) job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;

(5) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;

(6) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(7) providing child care services to a participant who is working in a community service program;

(8) activities included in the employment plan that is developed under section 256J.521, subdivision 3; and

(9) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability.

(b) "Work activity" does not include activities done for political purposes as defined in section 211B.01, subdivision 6.

Sec. 9. **RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

The commissioner of human services shall initiate procedures no later than July 1, 2011, to enter into a reciprocal agreement with Bermuda for the establishment and enforcement of child support obligations under United States Code, title 42, section 659a(d).

EFFECTIVE DATE. This section is effective upon Bermuda's written acceptance and agreement to enforce Minnesota child support orders. If Bermuda does not accept and declines to enforce Minnesota orders, this section expires December 31, 2012.

Sec. 10. **INSTRUCTIONS TO THE COMMISSIONER.**

The commissioner of human services shall consult with the commissioner of health and stakeholders, including service providers, advocates, and counties to consolidate the ICF/MR standards in chapter 245B and the standards in Minnesota Rules to eliminate duplicative and outdated standards.

Sec. 11. **REPEALER.**

Minnesota Statutes 2010, section 256J.575, subdivision 2, is repealed.

ARTICLE 3
LICENSING

Section 1. Minnesota Statutes 2010, section 148.10, subdivision 7, is amended to read:

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

(b) The board shall not grant or renew a license to practice chiropractic to any person who has been convicted in any other state or country on or after August 1, 2011, of an offense where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a).

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

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

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

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

- (1) utilize a rebuttable presumption that the applicant is not suitable for licensing or credentialing;
- (2) provide a standard for overcoming the presumption; and
- (3) require that a minimum of ten years has elapsed since the applicant was released from any incarceration or supervisory jurisdiction related to the offense.

The board shall not consider an application under this paragraph if the board determines that the victim involved in the offense was a patient or a client of the applicant at the time of the offense.

Sec. 2. Minnesota Statutes 2010, section 148.231, is amended to read:

148.231 REGISTRATION; FAILURE TO REGISTER; REREGISTRATION; VERIFICATION.

Subdivision 1. **Registration.** Every person licensed to practice professional or practical nursing must maintain with the board a current registration for practice as a registered nurse or licensed practical nurse which must be renewed at regular intervals established by the board by rule. No ~~certificate of~~ registration shall be issued by the board to a nurse until the nurse has submitted satisfactory evidence of compliance with the procedures and minimum requirements established by the board.

The fee for periodic registration for practice as a nurse shall be determined by the board by ~~rule law~~. ~~A penalty fee shall be added for any application received after the required date as specified by the board by rule.~~ Upon receipt of the application and the required fees, the board shall verify the application and the evidence of completion of continuing education requirements in effect, and thereupon issue to the nurse a ~~certificate of~~ registration for the next renewal period.

Subd. 4. **Failure to register.** Any person licensed under the provisions of sections 148.171 to 148.285 who fails to register within the required period shall not be entitled to practice nursing in this state as a registered nurse or licensed practical nurse.

Subd. 5. **Reregistration.** A person whose registration has lapsed desiring to resume practice shall make application for reregistration, submit satisfactory evidence of compliance with the procedures and requirements established by the board, and pay the ~~registration~~ reregistration fee for the current period to the board. A penalty fee shall be required from a person who practiced nursing without current registration. Thereupon, ~~the~~ registration ~~certificate~~ shall be issued to the person who shall immediately be placed on the practicing list as a registered nurse or licensed practical nurse.

Subd. 6. **Verification.** A person licensed under the provisions of sections 148.171 to 148.285 who requests the board to verify a Minnesota license to another state, territory, or country or to an agency, facility, school, or institution shall pay a fee ~~to the board~~ for each verification.

Sec. 3. Minnesota Statutes 2010, section 148B.5301, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) To be licensed as a licensed professional clinical counselor (LPCC), an applicant must provide satisfactory evidence to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in items (i) to (x), that includes a minimum of 48 semester hours or 72 quarter hours and a supervised field experience in counseling that is not fewer than 700 hours. The degree must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must include coursework in each of the following subject areas:

(i) helping relationship, including counseling theory and practice;

(ii) human growth and development;

(iii) lifestyle and career development;

(iv) group dynamics, processes, counseling, and consulting;

(v) assessment and appraisal;

(vi) social and cultural foundations, including multicultural issues;

(vii) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

(viii) family counseling and therapy;

(ix) research and evaluation; and

(x) professional counseling orientation and ethics;

(4) has demonstrated competence in professional counseling by passing the National Clinical Mental Health Counseling Examination (NCMHCE), administered by the National Board for Certified Counselors, Inc. (NBCC) and ethical, oral, and situational examinations as prescribed by the board. ~~In lieu of the NCMHCE, applicants who have taken and passed the National Counselor Examination (NCE) administered by the NBCC, or another board-approved examination, need only take and pass the Examination of Clinical Counseling Practice (ECCP) administered by the NBCC;~~

(5) has earned graduate-level semester credits or quarter-credit equivalents in the following clinical content areas as follows:

(i) six credits in diagnostic assessment for child or adult mental disorders; normative development; and psychopathology, including developmental psychopathology;

(ii) three credits in clinical treatment planning, with measurable goals;

(iii) six credits in clinical intervention methods informed by research evidence and community standards of practice;

(iv) three credits in evaluation methodologies regarding the effectiveness of interventions;

(v) three credits in professional ethics applied to clinical practice; and

(vi) three credits in cultural diversity; and

(6) has demonstrated successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders, conducted according to subdivision 2.

(b) If coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (3), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements of paragraph (a), clause (3).

Sec. 4. Minnesota Statutes 2010, section 148B.5301, subdivision 3, is amended to read:

Subd. 3. **Conversion from licensed professional counselor to licensed professional clinical counselor.** (a) Until August 1, ~~2014~~ 2013, an individual currently licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the following requirements:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has a license that is active and in good standing;

(4) has no complaints pending, uncompleted disciplinary orders, or corrective action agreements;

(5) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board, and whose degree was from a counseling program recognized by CACREP or from an institution of higher education that is accredited by a regional accrediting organization recognized by CHEA;

(6) has earned 24 graduate-level semester credits or quarter-credit equivalents in clinical coursework which includes content in the following clinical areas:

(i) diagnostic assessment for child and adult mental disorders; normative development; and psychopathology, including developmental psychopathology;

(ii) clinical treatment planning, with measurable goals;

- (iii) clinical intervention methods informed by research evidence and community standards of practice;
- (iv) evaluation methodologies regarding the effectiveness of interventions;
- (v) professional ethics applied to clinical practice; and
- (vi) cultural diversity;

(7) has demonstrated, to the satisfaction of the board, successful completion of 4,000 hours of supervised, post-master's degree professional practice in the delivery of clinical services in the diagnosis and treatment of child and adult mental illnesses and disorders; and

(8) has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

(b) If the coursework in paragraph (a) was not completed as part of the degree program required by paragraph (a), clause (5), the coursework must be taken and passed for credit, and must be earned from a counseling program or institution that meets the requirements in paragraph (a), clause (5).

(c) This subdivision expires August 1, ~~2014~~ 2013.

Sec. 5. Minnesota Statutes 2010, section 148B.5301, subdivision 4, is amended to read:

Subd. 4. **Conversion to licensed professional clinical counselor after August 1, ~~2014~~ 2013.** An individual licensed in the state of Minnesota as a licensed professional counselor may convert to a LPCC by providing evidence satisfactory to the board that the applicant has met the requirements of subdivisions 1 and 2, subject to the following:

- (1) the individual's license must be active and in good standing;
- (2) the individual must not have any complaints pending, uncompleted disciplinary orders, or corrective action agreements; and
- (3) the individual has paid the LPCC application and licensure fees required in section 148B.53, subdivision 3.

Sec. 6. Minnesota Statutes 2010, section 148B.54, subdivision 2, is amended to read:

Subd. 2. **Continuing education.** At the completion of the first four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. In addition to completing the requisite graduate coursework, each licensee shall also complete in the first four years of licensure a minimum of 40 hours of continuing education activities approved by the board under Minnesota Rules, part 2150.2540. Graduate credit hours successfully completed in the first four years of licensure may be applied to both the graduate credit requirement and to the requirement for 40 hours of continuing education activities. A licensee may receive 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 7. Minnesota Statutes 2010, section 148B.54, subdivision 3, is amended to read:

Subd. 3. **Relicensure following termination.** An individual whose license was terminated ~~prior to August 1, 2010,~~ and who can demonstrate completion of the graduate credit requirement in subdivision 2, does not need to comply with the continuing education requirement of Minnesota Rules, part 2150.2520, subpart 4, or with the continuing education requirements for relicensure following termination in Minnesota Rules, part 2150.0130, subpart 2. This section does not apply to an individual whose license has been canceled.

Sec. 8. Minnesota Statutes 2010, section 148E.060, subdivision 1, is amended to read:

Subdivision 1. **Students and other persons not currently licensed in another jurisdiction.** (a) The board may issue a temporary license to practice social work to an applicant who is not licensed or credentialed to practice social work in any jurisdiction but has:

- (1) applied for a license under section 148E.055;
- (2) applied for a temporary license on a form provided by the board;
- (3) submitted a form provided by the board authorizing the board to complete a criminal background check;
- (4) passed the applicable licensure examination provided for in section 148E.055;

(5) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar ~~accreditation~~ accrediting body designated by the board, or a doctorate in social work from an accredited university; and

(6) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after six months.

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

Sec. 9. Minnesota Statutes 2010, section 148E.060, subdivision 2, is amended to read:

Subd. 2. **Emergency situations and persons currently licensed in another jurisdiction.** (a) The board may issue a temporary license to practice social work to an applicant who is licensed or credentialed to practice social work in another jurisdiction, may or may not have applied for a license under section 148E.055, and has:

- (1) applied for a temporary license on a form provided by the board;
- (2) submitted a form provided by the board authorizing the board to complete a criminal background check;
- (3) submitted evidence satisfactory to the board that the applicant is currently licensed or credentialed to practice social work in another jurisdiction;

(4) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work from a program accredited by the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar ~~accreditation~~ accrediting body designated by the board, or a doctorate in social work from an accredited university; and

(5) not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after six months.

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

Sec. 10. Minnesota Statutes 2010, section 148E.060, is amended by adding a subdivision to read:

Subd. 2a. **Programs in candidacy status.** (a) The board may issue a temporary license to practice social work to an applicant who has completed the requirements for a baccalaureate or graduate degree in social work from a program in candidacy status with the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board, and has:

(1) applied for a license under section 148E.055;

(2) applied for a temporary license on a form provided by the board;

(3) submitted a form provided by the board authorizing the board to complete a criminal background check;

(4) passed the applicable licensure examination provided for in section 148E.055; and

(5) not engaged in conduct that is in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that is in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after 12 months but may be extended at the board's discretion upon a showing that the social work program remains in good standing with the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board. If the board receives notice from the Council on Social Work Education, the Canadian Association of Schools of Social Work, or a similar accrediting body designated by the board that the social work program is not in good standing, or that the accreditation will not be granted to the social work program, the temporary license is immediately revoked.

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

Sec. 11. Minnesota Statutes 2010, section 148E.060, subdivision 3, is amended to read:

Subd. 3. **Teachers.** (a) The board may issue a temporary license to practice social work to an applicant whose permanent residence is outside the United States, who is teaching social work at an academic institution in Minnesota for a period not to exceed 12 months, who may or may not have applied for a license under section 148E.055, and who has:

(1) applied for a temporary license on a form provided by the board;

(2) submitted a form provided by the board authorizing the board to complete a criminal background check;

(3) attested on a form provided by the board that the applicant has completed the requirements for a baccalaureate or graduate degree in social work; and

(4) has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270.

(b) A temporary license issued under this subdivision expires after 12 months.

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

Sec. 12. Minnesota Statutes 2010, section 148E.060, subdivision 5, is amended to read:

Subd. 5. **Temporary license term.** ~~(a)~~ A temporary license is valid until expiration, or until the board issues or denies the license according to section 148E.055, or until the board revokes the temporary license, whichever comes first. A temporary license is nonrenewable.

~~(b) A temporary license issued according to subdivision 1 or 2 expires after six months.~~

~~(c) A temporary license issued according to subdivision 3 expires after 12 months.~~

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

Sec. 13. Minnesota Statutes 2010, section 148E.120, is amended to read:

148E.120 REQUIREMENTS OF SUPERVISORS.

Subdivision 1. **Supervisors licensed as social workers.** (a) Except as provided in ~~paragraph (d)~~ subdivision 2, to be eligible to provide supervision under this section, a social worker must:

(1) have completed 30 hours of training in supervision through coursework from an accredited college or university, or through continuing education in compliance with sections 148E.130 to 148E.170;

(2) be competent in the activities being supervised; and

(3) attest, on a form provided by the board, that the social worker has met the applicable requirements specified in this section and sections 148E.100 to 148E.115. The board may audit the information provided to determine compliance with the requirements of this section.

(b) A licensed independent clinical social worker providing clinical licensing supervision to a licensed graduate social worker or a licensed independent social worker must have at least 2,000 hours of experience in authorized social work practice, including 1,000 hours of experience in clinical practice after obtaining a licensed independent clinical social worker license.

(c) A licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker providing nonclinical licensing supervision must have completed the supervised practice requirements specified in section 148E.100, 148E.105, 148E.106, 148E.110, or 148E.115, as applicable.

~~(d) If the board determines that supervision is not obtainable from an individual meeting the requirements specified in paragraph (a), the board may approve an alternate supervisor according to subdivision 2.~~

Subd. 2. **Alternate supervisors.** (a) The board may approve an alternate supervisor ~~if~~ as determined in this subdivision. The board shall approve up to 25 percent of the required supervision hours by a licensed mental health professional who is competent and qualified to provide supervision according to the mental health professional's respective licensing board, as established by section 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6).

~~(1) the board determines that supervision is not obtainable according to paragraph (b);~~

~~(2) the licensee requests in the supervision plan submitted according to section 148E.125, subdivision 1, that an alternate supervisor conduct the supervision;~~

~~(3) the licensee describes the proposed supervision and the name and qualifications of the proposed alternate supervisor; and~~

~~(4) the requirements of paragraph (d) are met.~~

~~(b) The board may determine that supervision is not obtainable if:~~

~~(1) the licensee provides documentation as an attachment to the supervision plan submitted according to section 148E.125, subdivision 1, that the licensee has conducted a thorough search for a supervisor meeting the applicable licensure requirements specified in sections 148E.100 to 148E.115;~~

~~(2) the licensee demonstrates to the board's satisfaction that the search was unsuccessful; and~~

~~(3) the licensee describes the extent of the search and the names and locations of the persons and organizations contacted.~~

~~(e) The requirements specified in paragraph (b) do not apply to obtaining licensing supervision for social work practice if the board determines that there are five or fewer supervisors meeting the applicable licensure requirements in sections 148E.100 to 148E.115 in the county where the licensee practices social work.~~

~~(d) An alternate supervisor must:~~

~~(1) be an unlicensed social worker who is employed in, and provides the supervision in, a setting exempt from licensure by section 148E.065, and who has qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115;~~

~~(2) be a social worker engaged in authorized practice in Iowa, Manitoba, North Dakota, Ontario, South Dakota, or Wisconsin, and has the qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115; or~~

~~(3) be a licensed marriage and family therapist or a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.~~

~~(e) In order to qualify to provide clinical supervision of a licensed graduate social worker or licensed independent social worker engaged in clinical practice, the alternate supervisor must be a mental health professional as established by section 245.462, subdivision 18, or 245.4871, subdivision 27, or an equivalent mental health professional, as determined by the board, who is licensed or credentialed by a state, territorial, provincial, or foreign licensing agency.~~

~~(b) The board shall approve up to 100 percent of the required supervision hours by an alternate supervisor if the board determines that:~~

~~(1) there are five or fewer supervisors in the county where the licensee practices social work who meet the applicable licensure requirements in subdivision 1;~~

(2) the supervisor is an unlicensed social worker who is employed in, and provides the supervision in, a setting exempt from licensure by section 148E.065, and who has qualifications equivalent to the applicable requirements specified in sections 148E.100 to 148E.115;

(3) the supervisor is a social worker engaged in authorized social work practice in Iowa, Manitoba, North Dakota, Ontario, South Dakota, or Wisconsin, and has the qualifications equivalent to the applicable requirements in sections 148E.100 to 148E.115;

(4) the applicant or licensee is engaged in nonclinical authorized social work practice outside of Minnesota and the supervisor meets the qualifications equivalent to the applicable requirements in sections 148E.100 to 148E.115, or the supervisor is an equivalent mental health professional, as determined by the board, who is credentialed by a state, territorial, provincial, or foreign licensing agency; or

(5) the applicant or licensee is engaged in clinical authorized social work practice outside of Minnesota and the supervisor meets qualifications equivalent to the applicable requirements in section 148E.115, or the supervisor is an equivalent mental health professional, as determined by the board, who is credentialed by a state, territorial, provincial, or foreign licensing agency.

(c) In order for the board to consider an alternate supervisor under this section, the licensee must:

(1) request in the supervision plan and verification submitted according to section 148E.125 that an alternate supervisor conduct the supervision; and

(2) describe the proposed supervision and the name and qualifications of the proposed alternate supervisor. The board may audit the information provided to determine compliance with the requirements of this section.

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

Sec. 14. Minnesota Statutes 2010, section 149A.50, subdivision 1, is amended to read:

Subdivision 1. **License required.** (a) Except as provided in section 149A.01, subdivision 3, no person shall maintain, manage, or operate a place or premise devoted to or used in the holding, care, or preparation of a dead human body for final disposition, or any place used as the office or place of business for the provision of funeral services, without possessing a valid license to operate a funeral establishment issued by the commissioner of health.

(b) Notwithstanding paragraph (a), a license is not required for the direct sale to consumers of caskets, urns, or other funeral goods.

Sec. 15. Minnesota Statutes 2010, section 150A.02, is amended to read:

150A.02 BOARD OF DENTISTRY.

Subdivision 1. **Generally.** There is hereby created a Board of Dentistry whose duty it shall be to carry out the purposes and enforce the provisions of sections 150A.01 to 150A.12. The board shall consist of two public members as defined by section 214.02, and the following dental professionals who are licensed and reside in Minnesota: five qualified ~~resident~~ dentists, one qualified ~~resident~~ licensed dental assistant, and one qualified ~~resident~~ dental hygienist appointed by the governor. One qualified dentist must be involved with the education, employment, or utilization of a dental therapist or an advanced dental therapist. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of board complaints; the setting of board fees; and other provisions relating to board

operations shall be as provided in chapter 214. Each board member who is a dentist, licensed dental assistant, or dental hygienist shall have been lawfully in active practice in this state for five years immediately preceding appointment; and no board member shall be eligible for appointment to more than two consecutive four-year terms, and members serving on the board at the time of the enactment hereof shall be eligible to reappointment provided they shall not have served more than nine consecutive years at the expiration of the term to which they are to be appointed. At least 90 days prior to the expiration of the terms of dentists, licensed dental assistants, or dental hygienists, the Minnesota Dental Association, Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor for each term expiring not less than two dentists, two licensed dental assistants, or two dental hygienists, respectively, who are qualified to serve on the board, and from the list so recommended the governor may appoint members to the board for the term of four years, the appointments to be made within 30 days after the expiration of the terms. Within 60 days after the occurrence of a dentist, licensed dental assistant, or dental hygienist vacancy, prior to the expiration of the term, in the board, the Minnesota Dental Association, the Minnesota Dental Assistants Association, or the Minnesota State Dental Hygiene Association shall recommend to the governor not less than two dentists, two licensed dental assistants, or two dental hygienists, who are qualified to serve on the board and from the list so recommended the governor, within 30 days after receiving such list of dentists, may appoint one member to the board for the unexpired term occasioned by such vacancy. Any appointment to fill a vacancy shall be made within 90 days after the occurrence of such vacancy. ~~The first four year term of the dental hygienist and of the licensed dental assistant shall commence on the first Monday in January, 1977.~~

Sec. 16. Minnesota Statutes 2010, section 150A.06, subdivision 1c, is amended to read:

Subd. 1c. **Specialty dentists.** (a) The board may grant a specialty license in the specialty areas of dentistry that are recognized by the American Dental Association.

(b) An applicant for a specialty license shall:

(1) have successfully completed a postdoctoral specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association, or have announced a limitation of practice before 1967;

(2) have been certified by a specialty examining board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure required for practice in any state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;

(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;

(4) if requested by the board, be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;

(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant;

(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;

(7) pass all components of the National ~~Dental~~ Board Dental Examinations;

(8) pass the Minnesota Board of Dentistry jurisprudence examination;

(9) abide by professional ethical conduct requirements; and

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) The application must include:

(1) a completed application furnished by the board;

(2) at least two character references from two different dentists, one of whom must be a dentist practicing in the same specialty area, and the other the director of the specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A specialty dentist holding a specialty license is limited to practicing in the dentist's designated specialty area. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(e) A specialty dentist holding a general dentist license is limited to practicing in the dentist's designated specialty area if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area may apply for a specialty license.

Sec. 17. Minnesota Statutes 2010, section 150A.06, subdivision 3, is amended to read:

Subd. 3. **Waiver of examination.** (a) All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of ~~qualification from having passed all components of~~ the National Board of Dental ~~Examiners~~ Examinations or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

(b) The board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, who has ~~successfully completed~~ passed all components of the National ~~Dental Board Examination~~ Dental Examinations, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program (GPR) or an advanced education in general dentistry (AEGD) program after January 1, 2004. The postdoctoral program must be accredited by the Commission on Dental Accreditation of the American Dental Association, be of at least one year's duration, and include an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable. The board may waive the clinical examination for an applicant who meets the requirements of this paragraph and has satisfactorily completed an accredited postdoctoral general dentistry residency program located outside of Minnesota.

Sec. 18. Minnesota Statutes 2010, section 150A.06, subdivision 4, is amended to read:

Subd. 4. **Licensure by credentials.** (a) Any dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on the applicant's performance record in lieu of passing an examination approved by the board according to section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:

(1) has passed all components of the National Board Dental Examinations;

~~(2)~~ (2) has been in active practice at least 2,000 hours within 36 months of the application date, or passed a board-approved reentry program within 36 months of the application date;

~~(3)~~ (3) currently has a license in another state or Canadian province and is not subject to any pending or final disciplinary action, or if not currently licensed, previously had a license in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

~~(4)~~ (4) is of good moral character and abides by professional ethical conduct requirements;

~~(5)~~ (5) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

~~(6)~~ (6) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 19. Minnesota Statutes 2010, section 150A.06, subdivision 6, is amended to read:

Subd. 6. **Display of name and certificates.** ~~(a) The initial license and subsequent renewal, or current registration certificate, of every dentist, a dental therapist, dental hygienist, or dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. When available from the board, the board shall allow the display of a wallet-sized initial license and wallet-sized subsequent renewal certificate only at nonprimary practice locations instead of displaying an original-sized initial license and subsequent renewal certificate.~~

(b) Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate, shall be displayed in plain sight.

Sec. 20. Minnesota Statutes 2010, section 150A.09, subdivision 3, is amended to read:

Subd. 3. **Current address, change of address.** Every dentist, dental therapist, dental hygienist, and dental assistant shall maintain with the board a correct and current mailing address and electronic mail address. For dentists engaged in the practice of dentistry, the postal address shall be that of the location of the primary dental

practice. Within 30 days after changing postal or electronic mail addresses, every dentist, dental therapist, dental hygienist, and dental assistant shall provide the board written notice of the new address either personally or by first class mail.

Sec. 21. Minnesota Statutes 2010, section 150A.105, subdivision 7, is amended to read:

Subd. 7. **Use of dental assistants.** (a) A licensed dental therapist may supervise dental assistants to the extent permitted in the collaborative management agreement and according to section 150A.10, subdivision 2.

(b) Notwithstanding paragraph (a), a licensed dental therapist is limited to supervising no more than four ~~registered licensed~~ dental assistants or ~~nonregistered nonlicensed~~ dental assistants at any one practice setting.

Sec. 22. Minnesota Statutes 2010, section 150A.106, subdivision 1, is amended to read:

Subdivision 1. **General.** In order to be certified by the board to practice as an advanced dental therapist, a person must:

- (1) complete a dental therapy education program;
- (2) pass an examination to demonstrate competency under the dental therapy scope of practice;
- (3) be licensed as a dental therapist;
- (4) complete 2,000 hours of dental therapy clinical practice under direct or indirect supervision;
- (5) graduate from a master's advanced dental therapy education program;
- (6) pass a board-approved certification examination to demonstrate competency under the advanced scope of practice; and
- (7) submit an application and fee for certification as prescribed by the board.

Sec. 23. Minnesota Statutes 2010, section 150A.14, is amended to read:

150A.14 IMMUNITY.

Subdivision 1. **Reporting immunity.** A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report in good faith to the board under section 150A.13, or for cooperating with an investigation of a report or with staff of the board relative to violations or alleged violations of section 150A.08. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Subd. 2. **Program Investigation immunity.** (a) Members of the board, persons employed by the board, and board consultants retained by the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under ~~section 150A.13~~ sections 150A.02 to 150A.21, 214.10, and 214.103.

(b) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

Sec. 24. Minnesota Statutes 2010, section 214.09, is amended by adding a subdivision to read:

Subd. 5. **Health-related boards.** No current member of a health-related licensing board may seek a paid employment position with that board.

Sec. 25. Minnesota Statutes 2010, section 214.103, is amended to read:

214.103 HEALTH-RELATED LICENSING BOARDS; COMPLAINT, INVESTIGATION, AND HEARING.

Subdivision 1. **Application.** For purposes of this section, "board" means "health-related licensing board" and does not include the non-health-related licensing boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they apply to the health-related licensing boards.

Subd. 1a. **Notifications and resolution.** (a) No more than 14 calendar days after receiving a complaint regarding a licensee, the board shall notify the complainant that the board has received the complaint and shall provide the complainant with the written description of the board's complaint process. The board shall periodically, but no less than every 120 days, notify the complainant of the status of the complaint consistent with section 13.41.

(b) Except as provided in paragraph (d), no more than 60 calendar days after receiving a complaint regarding a licensee, the board must notify the licensee that the board has received a complaint and inform the licensee of:

(1) the substance of the complaint;

(2) the sections of the law that have allegedly been violated;

(3) the sections of the professional rules that have allegedly been violated; and

(4) whether an investigation is being conducted.

(c) The board shall periodically, but not less than every 120 days, notify the licensee of the status of the complaint consistent with section 13.41.

(d) Paragraphs (b) and (c) do not apply if the board determines that the notice would compromise the board's investigation and that the notice cannot reasonably be accomplished within this time.

(e) No more than one year after receiving a complaint regarding a licensee, the board must resolve or dismiss the complaint unless the board determines that resolving or dismissing the complaint cannot reasonably be accomplished in this time and is not in the public interest.

(f) Failure to make notifications or to resolve the complaint within the time established in this subdivision shall not deprive the board of jurisdiction to complete the investigation or to take corrective, disciplinary, or other action against the licensee that is authorized by law. Such a failure by the board shall not be the basis for a licensee's request for the board to dismiss a complaint, and shall not be considered by an administrative law judge, the board, or any reviewing court.

Subd. 2. **Receipt of complaint.** The boards shall receive and resolve complaints or other communications, whether oral or written, against regulated persons. Before resolving an oral complaint, the executive director or a board member designated by the board to review complaints ~~may~~ shall require the complainant to state the complaint in writing or authorize transcribing the complaint. The executive director or the designated board member shall determine whether the complaint alleges or implies a violation of a statute or rule which the board is

empowered to enforce. The executive director or the designated board member may consult with the designee of the attorney general as to a board's jurisdiction over a complaint. If the executive director or the designated board member determines that it is necessary, the executive director may seek additional information to determine whether the complaint is jurisdictional or to clarify the nature of the allegations by obtaining records or other written material, obtaining a handwriting sample from the regulated person, clarifying the alleged facts with the complainant, and requesting a written response from the subject of the complaint.

Subd. 3. **Referral to other agencies.** The executive director shall forward to another governmental agency any complaints received by the board which do not relate to the board's jurisdiction but which relate to matters within the jurisdiction of another governmental agency. The agency shall advise the executive director of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule which a board is empowered to enforce must be forwarded to the executive director of the board to be processed in accordance with this section. Governmental agencies may coordinate and conduct joint investigations of complaints that involve more than one governmental agency.

Subd. 4. **Role of the attorney general.** The executive director or the designated board member shall forward a complaint and any additional information to the designee of the attorney general when the executive director or the designated board member determines that a complaint is jurisdictional and:

- (1) requires investigation before the executive director or the designated board member may resolve the complaint;
- (2) that attempts at resolution for disciplinary action or the initiation of a contested case hearing is appropriate;
- (3) that an agreement for corrective action is warranted; or
- (4) that the complaint should be dismissed, consistent with subdivision 8.

Subd. 5. **Investigation by attorney general.** (a) If the executive director or the designated board member determines that investigation is necessary before resolving the complaint, the executive director shall forward the complaint and any additional information to the designee of the attorney general. The designee of the attorney general shall evaluate the communications forwarded and investigate as appropriate.

(b) The designee of the attorney general may also investigate any other complaint forwarded under subdivision 3 when the designee of the attorney general determines that investigation is necessary.

(c) In the process of evaluation and investigation, the designee shall consult with or seek the assistance of the executive director or the designated board member. The designee may also consult with or seek the assistance of other qualified persons who are not members of the board who the designee believes will materially aid in the process of evaluation or investigation.

(d) Upon completion of the investigation, the designee shall forward the investigative report to the executive director with recommendations for further consideration or dismissal.

Subd. 6. **Attempts at resolution.** (a) At any time after receipt of a complaint, the executive director or the designated board member may attempt to resolve the complaint with the regulated person. The available means for resolution include a conference or any other written or oral communication with the regulated person. A conference may be held for the purposes of investigation, negotiation, education, or conciliation. Neither the executive director nor any member of a board's staff shall be a voting member in any attempts at resolutions which may result in disciplinary or corrective action. The results of attempts at resolution with the regulated person may include a recommendation to the board for disciplinary action, an agreement between the executive director or the designated

board member and the regulated person for corrective action, or the dismissal of a complaint. If attempts at resolution are not in the public interest ~~or are not satisfactory to the executive director or the designated board member, then the executive director or the designated board member may initiate~~ a contested case hearing may be initiated.

(1) The designee of the attorney general shall represent the board in all attempts at resolution which the executive director or the designated board member anticipate may result in disciplinary action. A stipulation between the executive director or the designated board member and the regulated person shall be presented to the board for the board's consideration. An approved stipulation and resulting order shall become public data.

(2) The designee of the attorney general shall represent the board upon the request of the executive director or the designated board member in all attempts at resolution which the executive director or the designated board member anticipate may result in corrective action. Any agreement between the executive director or the designated board member and the regulated person for corrective action shall be in writing and shall be reviewed by the designee of the attorney general prior to its execution. The agreement for corrective action shall provide for dismissal of the complaint upon successful completion by the regulated person of the corrective action.

(b) Upon receipt of a complaint alleging sexual contact or sexual conduct with a client, the board must forward the complaint to the designee of the attorney general for an investigation. If, after it is investigated, the complaint appears to provide a basis for disciplinary action, the board shall resolve the complaint by disciplinary action or initiate a contested case hearing. Notwithstanding paragraph (a), clause (2), a board may not take corrective action or dismiss a complaint alleging sexual contact or sexual conduct with a client unless, in the opinion of the executive director, the designated board member, and the designee of the attorney general, there is insufficient evidence to justify disciplinary action.

Subd. 7. **Contested case hearing.** If the executive director or the designated board member determines that attempts at resolution of a complaint are not in the public interest ~~or are not satisfactory to the executive director or the designated board member,~~ the executive director or the designated board member, after consultation with the designee of the attorney general, and the concurrence of a second board member, may initiate a contested case hearing under chapter 14. The designated board member or any board member who was consulted during the course of an investigation may participate at the contested case hearing. A designated or consulted board member may not deliberate or vote in any proceeding before the board pertaining to the case.

Subd. 8. **Dismissal and reopening of a complaint.** (a) A complaint may not be dismissed without the concurrence of at least two board members and, upon the request of the complainant, a review by a representative of the attorney general's office. The designee of the attorney general must review before dismissal any complaints which allege any violation of chapter 609, any conduct which would be required to be reported under section 626.556 or 626.557, any sexual contact or sexual conduct with a client, any violation of a federal law, any actual or potential inability to practice the regulated profession or occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental or physical condition, any violation of state medical assistance laws, or any disciplinary action related to credentialing in another jurisdiction or country which was based on the same or related conduct specified in this subdivision.

(b) The board may reopen a dismissed complaint if the board receives newly discovered information that was not available to the board during the initial investigation of the complaint, or if the board receives a new complaint that indicates a pattern of behavior or conduct.

Subd. 9. **Information to complainant.** A board shall furnish to a person who made a complaint a written description of the board's complaint process, and actions of the board relating to the complaint.

Subd. 10. **Prohibited participation by board member.** A board member who has actual bias or a current or former direct financial or professional connection with a regulated person may not vote in board actions relating to the regulated person.

Sec. 26. **[214.107] CONVICTION OF FELONY-LEVEL CRIMINAL SEXUAL CONDUCT OFFENSE.**

Subdivision 1. **Applicability.** This section applies to the health-related licensing boards, as defined in section 214.01, subdivision 2, except the Board of Medical Practice and the Board of Chiropractic Examiners, and also applies to the Board of Barber Examiners, the Board of Cosmetologist Examiners, and professions credentialed by the Minnesota Department of Health: (1) speech-language pathologists and audiologists; (2) hearing instrument dispensers; and (3) occupational therapists and occupational therapy assistants.

Subd. 2. **Issuing and renewing credential to practice.** (a) Except as provided in paragraph (f), a credentialing authority listed in subdivision 1 shall not issue or renew a credential to practice to any person who has been convicted on or after August 1, 2011, of any of the provisions of section 609.342, subdivision 1; 609.343, subdivision 1; 609.344, subdivision 1, clauses (c) to (o); or 609.345, subdivision 1, clauses (b) to (o).

(b) A credentialing authority listed in subdivision 1 shall not issue or renew a credential to practice to any person who has been convicted in any other state or country on or after August 1, 2011, of an offense where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a).

(c) A credential to practice is automatically revoked if the credentialed person is convicted of an offense listed in paragraph (a).

(d) A credential to practice that has been denied or revoked under this section is not subject to chapter 364.

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

(f) A credentialing authority listed in subdivision 1 may establish criteria whereby an individual convicted of an offense listed in paragraph (a) may become credentialed provided that the criteria:

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

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

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

A credentialing authority listed in subdivision 1 shall not consider an application under this paragraph if the board determines that the victim involved in the offense was a patient or a client of the applicant at the time of the offense.

EFFECTIVE DATE. This section is effective for credentials issued or renewed on or after August 1, 2011.

Sec. 27. **[214.108] HEALTH-RELATED LICENSING BOARDS; LICENSEE GUIDANCE.**

A health-related licensing board may offer guidance to current licensees about the application of laws and rules the board is empowered to enforce. This guidance shall not bind any court or other adjudicatory body.

Sec. 28. Minnesota Statutes 2010, section 364.09, is amended to read:

364.09 EXCEPTIONS.

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

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

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

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

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

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

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

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

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

(f) This chapter does not apply to any person who has been denied a credential to practice or whose credential to practice has been revoked by a credentialing authority according to section 214.107, subdivision 2.

EFFECTIVE DATE. This section is effective for credentials issued or renewed on or after August 1, 2011.

Sec. 29. Laws 2010, chapter 349, section 1, the effective date, is amended to read:

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

Sec. 30. Laws 2010, chapter 349, section 2, the effective date, is amended to read:

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

Sec. 31. **WORKING GROUP; PSYCHIATRIC MEDICATIONS.**

(a) The commissioner of health shall convene a working group composed of the executive directors of the Boards of Medical Practice, Psychology, Social Work, Nursing, and Behavioral Health and Therapy and one representative from each professional association to make recommendations on the feasibility of developing collaborative agreements between psychiatrists and psychologists, social workers, and licensed professional clinical counselors for administration and management of psychiatric medications.

(b) The executive directors shall take the lead in setting the agenda, convening subsequent meetings, and presenting a written report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services. The report and recommendations for legislation shall be submitted no later than January 1, 2012.

(c) The working group is not subject to Minnesota Statutes, section 15.059.

Sec. 32. **REPORT.**

(a) The executive directors of the health-related licensing boards shall issue a report to the legislature with recommendations for use of nondisciplinary cease and desist letters that can be issued to licensees when the board receives an allegation against a licensee, but the allegation does not rise to the level of a complaint, does not involve patient harm, and does not involve fraud. The report shall be issued no later than December 15, 2011.

(b) The executive directors of the health-related licensing boards shall issue a report to the legislature with recommendations for taking administrative action against licensees whose records do not meet the standards of professional practice, but do not create a risk of client harm or constitute false or fraudulent information. The report shall be issued no later than December 15, 2011.

Sec. 33. **REVISOR'S INSTRUCTION.**

In each practice act regulated by a credentialing authority listed in section 26, the revisor shall insert the following as either a new section or new subdivision:

Applicants for a credential to practice and individuals renewing a credential to practice are subject to the provisions of the conviction of felony-level criminal sexual conduct offenses in section 26.

ARTICLE 4
PAIN-CAPABLE UNBORN CHILD PROTECTION

Section 1. **SHORT TITLE.**

This act may be cited as the "Pain-Capable Unborn Child Protection Act."

Sec. 2. **[8.40] LITIGATION DEFENSE FUND.**

(a) There is created a special revenue fund known as the Pain-Capable Unborn Child Protection Act litigation fund for the purpose of providing funds to pay for any costs and expenses incurred by the state attorney general in relation to actions surrounding defense of sections 145.4141 to 145.4148.

(b) The fund shall be maintained by the state Office of Management and Budget.

(c) The litigation fund shall consist of:

(1) appropriations made to the account by the legislature; and

(2) any donations, gifts, or grants made to the account by private citizens or entities.

(d) The litigation fund shall retain the interest income derived from the money credited to the fund.

Sec. 3. Minnesota Statutes 2010, section 145.4131, subdivision 1, is amended to read:

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

(1) the number of abortions performed by the physician in the previous calendar year, reported by month;

(2) the method used for each abortion;

(3) the approximate gestational age expressed in one of the following increments:

(i) less than nine weeks;

(ii) nine to ten weeks;

(iii) 11 to 12 weeks;

(iv) 13 to 15 weeks;

(v) 16 to 20 weeks;

(vi) 21 to 24 weeks;

(vii) 25 to 30 weeks;

(viii) 31 to 36 weeks; or

(ix) 37 weeks to term;

(4) the age of the woman at the time the abortion was performed;

(5) the specific reason for the abortion, including, but not limited to, the following:

(i) the pregnancy was a result of rape;

(ii) the pregnancy was a result of incest;

(iii) economic reasons;

(iv) the woman does not want children at this time;

(v) the woman's emotional health is at stake;

(vi) the woman's physical health is at stake;

(vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;

(viii) the pregnancy resulted in fetal anomalies; or

(ix) unknown or the woman refused to answer;

- (6) the number of prior induced abortions;
- (7) the number of prior spontaneous abortions;
- (8) whether the abortion was paid for by:
 - (i) private coverage;
 - (ii) public assistance health coverage; or
 - (iii) self-pay;
- (9) whether coverage was under:
 - (i) a fee-for-service plan;
 - (ii) a capitated private plan; or
 - (iii) other;
- (10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form; ~~and~~
- (11) the medical specialty of the physician performing the abortion;
- (12) whether a determination of probable postfertilization age was made and the probable postfertilization age determined:
 - (i) the method used to make such a determination; or
 - (ii) if a determination was not made prior to performing an abortion, the basis of the determination that a medical emergency existed; and
- (13) for abortions performed after a determination of postfertilization age of 20 or more weeks, the basis of the determination that the pregnant woman had a condition that so complicated her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

Sec. 4. **[145.4141] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 145.4141 to 145.4148, the following terms have the meanings given them.

Subd. 2. **Abortion.** "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

Subd. 3. **Attempt to perform or induce an abortion.** "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of sections 145.4141 to 145.4148.

Subd. 4. **Fertilization.** "Fertilization" means the fusion of a human spermatozoon with a human ovum.

Subd. 5. **Medical emergency.** "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the delay necessary to determine postfertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

Subd. 6. **Physician.** "Physician" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

Subd. 7. **Postfertilization age.** "Postfertilization age" means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum.

Subd. 8. **Probable postfertilization age of the unborn child.** "Probable postfertilization age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced.

Subd. 9. **Reasonable medical judgment.** "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

Subd. 10. **Unborn child or fetus.** "Unborn child" or "fetus" means an individual organism of the species homo sapiens from fertilization until live birth.

Subd. 11. **Woman.** "Woman" means a female human being whether or not she has reached the age of majority.

Sec. 5. **[145.4142] LEGISLATIVE FINDINGS.**

(a) The legislature makes the following findings.

(b) Pain receptors (nociceptors) are present throughout an unborn child's entire body and nerves link these receptors to the brain's thalamus and subcortical plate by 20 weeks.

(c) By eight weeks after fertilization, an unborn child reacts to touch. After 20 weeks an unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example by recoiling.

(d) In the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response.

(e) Subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life.

(f) For the purposes of surgery on an unborn child, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to the level when painful stimuli is applied without anesthesia.

(g) The position, asserted by some medical experts, that an unborn child is incapable of experiencing pain until a point later in pregnancy than 20 weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain.

(h) Substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain.

(i) In adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does.

(j) Substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing.

(k) The position asserted by some medical experts, that the unborn child remains in a coma-like sleep state that precludes the unborn child experiencing pain is inconsistent with the documented reaction of unborn children to painful stimuli and with the experience of fetal surgeons who have found it necessary to sedate the unborn child with anesthesia to prevent the unborn child from thrashing about in reaction to invasive surgery.

(l) Consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization.

(m) It is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

Sec. 6. **[145.4143] DETERMINATION OF GESTATIONAL AGE.**

Subdivision 1. **Determination of postfertilization age.** Except in the case of a medical emergency, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make those inquiries of the woman and perform or cause to be performed those medical examinations and tests that a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.

Subd. 2. **Unprofessional conduct.** Failure by any physician to conform to any requirement of this section constitutes unprofessional conduct under section 147.091, paragraph (k).

Sec. 7. **[145.4144] ABORTION OF UNBORN CHILD OF 20 OR MORE WEEKS GESTATIONAL AGE PROHIBITED; CAPABLE OF FEELING PAIN.**

Subdivision 1. **Abortion prohibition; exemption.** No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion, or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is 20 or more weeks unless, in reasonable medical judgment, she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

Subd. 2. **When abortion not prohibited.** When an abortion upon a woman whose unborn child has been determined to have a probable postfertilization age of 20 or more weeks is not prohibited by this section, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive unless, in reasonable medical judgment, termination of the pregnancy in

that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

Sec. 8. **[145.4145] ENFORCEMENT.**

Subdivision 1. **Criminal penalties.** A person who intentionally or recklessly performs or induces or attempts to perform or induce an abortion in violation of sections 145.4141 to 145.4148 shall be guilty of a felony. No penalty may be assessed against the woman upon whom the abortion is performed or induced or attempted to be performed or induced.

Subd. 2. **Civil remedies.** (a) A woman upon whom an abortion has been performed or induced in violation of sections 145.4141 to 145.4148, or the father of the unborn child who was the subject of such an abortion, may maintain an action against the person who performed or induced the abortion in intentional or reckless violation of sections 145.4141 to 145.4148 for actual and punitive damages. A woman upon whom an abortion has been attempted in violation of sections 145.4141 to 145.4148 may maintain an action against the person who attempted to perform or induce the abortion in an intentional or reckless violation of sections 145.4141 to 145.4148 for actual and punitive damages.

(b) A cause of action for injunctive relief against a person who has intentionally violated sections 145.4141 to 145.4148 may be maintained by the woman upon whom an abortion was performed or induced or attempted to be performed or induced in violation of sections 145.4141 to 145.4148; by a person who is the father of the unborn child subject to an abortion, parent, sibling, or guardian of, or a current or former licensed health care provider of, the woman upon whom an abortion has been performed or induced or attempted to be performed or induced in violation of sections 145.4141 to 145.4148; by a county attorney with appropriate jurisdiction; or by the attorney general. The injunction shall prevent the abortion provider from performing or inducing or attempting to perform or induce further abortions in this state in violation of sections 145.4141 to 145.4148.

(c) If judgment is rendered in favor of the plaintiff in an action described in this section, the court shall also render judgment for reasonable attorney fees in favor of the plaintiff against the defendant.

(d) If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney fees in favor of the defendant against the plaintiff.

(e) No damages or attorney fees may be assessed against the woman upon whom an abortion was performed or induced or attempted to be performed or induced except according to paragraph (d).

Sec. 9. **[145.4146] PROTECTION OF PRIVACY IN COURT PROCEEDINGS.**

In every civil or criminal proceeding or action brought under the Pain-Capable Unborn Child Protection Act, the court shall rule on whether the anonymity of a woman upon whom an abortion has been performed or induced or attempted to be performed or induced shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the

absence of written consent of the woman upon whom an abortion has been performed or induced or attempted to be performed or induced, anyone, other than a public official, who brings an action under section 145.4145, subdivision 2, shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

Sec. 10. **[145.4147] SEVERABILITY.**

If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of sections 145.4141 to 145.4148, or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4141 to 145.4148 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4141 to 145.4148, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of sections 145.4141 to 145.4148, or the application of sections 145.4141 to 145.4148, would be declared unconstitutional.

Sec. 11. **[145.4148] SUPREME COURT JURISDICTION.**

The Minnesota Supreme Court has original jurisdiction over an action challenging the constitutionality of sections 145.4141 to 145.4147 and shall expedite the resolution of the action."

Delete the title and insert:

"A bill for an act relating to state government; making changes to health and human services policy provisions; creating a pharmacy audit integrity program; changing health care program provisions; requiring a nonemergency medical transportation proposal; creating the Minnesota Autism Spectrum Task Force; prohibiting state funds for abortions; changing human services program provisions; amending health occupation licensing provisions; prohibiting licenses to certain individuals with felony-level criminal sexual conduct offenses; creating the Pain-Capable Unborn Child Protection Act; requiring reports; imposing civil and criminal penalties; amending Minnesota Statutes 2010, sections 62J.497, subdivision 2; 145.4131, subdivision 1; 148.10, subdivision 7; 148.231; 148B.5301, subdivisions 1, 3, 4; 148B.54, subdivisions 2, 3; 148E.060, subdivisions 1, 2, 3, 5, by adding a subdivision; 148E.120; 149A.50, subdivision 1; 150A.02; 150A.06, subdivisions 1c, 3, 4, 6; 150A.09, subdivision 3; 150A.105, subdivision 7; 150A.106, subdivision 1; 150A.14; 214.09, by adding a subdivision; 214.103; 245.50; 245A.11, subdivision 2a; 245A.14, subdivisions 1, 4; 256.0112, by adding a subdivision; 256.962, by adding a subdivision; 256B.04, subdivision 14a; 256B.0625, subdivisions 3c, 17; 256B.0911, subdivision 3a; 256B.0915, subdivisions 3e, 3h; 256B.19, subdivision 1e; 256B.441, subdivision 55a; 256B.4912, subdivision 2; 256B.69, by adding a subdivision; 256D.44, subdivision 5; 256J.49, subdivision 13; 364.09; Laws 2010, chapter 349, sections 1; 2; proposing coding for new law in Minnesota Statutes, chapters 8; 145; 151; 214; repealing Minnesota Statutes 2010, section 256J.575, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1023, A bill for an act relating to courts; authorizing the court to seek partial payment or reimbursement of costs from a party proceeding in forma pauperis; amending Minnesota Statutes 2010, section 563.01, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
JUDICIARY

Section 1. **[5B.11] LEGAL PROCEEDINGS; PROTECTIVE ORDER.**

If a program participant is involved in a legal proceeding as a party or witness, the court or other tribunal may issue a protective order to prevent disclosure of information that could reasonably lead to the discovery of the program participant's location.

Sec. 2. Minnesota Statutes 2010, section 169.79, subdivision 6, is amended to read:

Subd. 6. **Other motor vehicles.** If the motor vehicle is any kind of motor vehicle other than those provided for in subdivisions 2 to 4, ~~one plate~~ two plates must be displayed ~~on~~. One plate must be displayed at the front and ~~one on the rear~~ of the vehicle and one at the back. The two plates must either be mounted on the front and rear bumpers of the vehicle or on the front and back of the vehicle exterior in places designed to hold a license plate.

Sec. 3. Minnesota Statutes 2010, section 169.797, subdivision 4, is amended to read:

Subd. 4. **Penalty.** (a) A person who violates this section is guilty of a misdemeanor. A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.791, or a statute or ordinance in conformity with one of those sections. The operator of a vehicle who violates subdivision 3 and who causes or contributes to causing a vehicle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. In addition to any sentence of imprisonment that the court may impose on a person convicted of violating this section, the court shall impose a fine of not less than \$200 nor more than the maximum amount authorized by law. The court may allow community service in lieu of any fine imposed if the defendant is indigent.

(b) A driver who is the owner of the vehicle may, no later than the date and time specified in the citation for the driver's first court appearance, produce proof of insurance stating that security had been provided for the vehicle that was being operated at the time of demand to the court administrator. The required proof of insurance may be sent by mail by the driver as long as it is received no later than the date and time specified in the citation for the driver's first court appearance. If a citation is issued, no person shall be convicted of violating this section if the court administrator receives the required proof of insurance no later than the date and time specified in the citation for the driver's first court appearance. If the charge is made other than by citation, no person shall be convicted of violating this section if the person presents the required proof of insurance at the person's first court appearance after the charge is made.

(c) If the driver is not the owner of the vehicle, the driver shall, no later than the date and time specified in the citation for the driver's first court appearance, provide the district court administrator with proof of insurance or the name and address of the owner. Upon receipt of the name and address of the owner, the district court administrator shall communicate the information to the law enforcement agency.

(d) If the driver is not the owner of the vehicle, the officer may send or provide a notice to the owner of the vehicle requiring the owner to produce proof of insurance for the vehicle that was being operated at the time of the demand. Notice by mail is presumed to be received five days after mailing and shall be sent to the owner's current address or the address listed on the owner's driver's license. Within ten days after receipt of the notice, the owner shall produce the required proof of insurance to the place stated in the notice received by the owner. The required

proof of insurance may be sent by mail by the owner as long as it is received within ten days. Any owner who fails to produce proof of insurance within ten days of an officer's request under this subdivision is guilty of a misdemeanor. The peace officer may mail the citation to the owner's current address or address stated on the owner's driver's license. It is an affirmative defense to a charge against the owner that the driver used the owner's vehicle without consent, if insurance would not have been required in the absence of the unauthorized use by the driver. It is not a defense that a person failed to notify the Department of Public Safety of a change of name or address as required under section 171.11. The citation may be sent after the ten-day period.

(b) (e) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(c) (f) In addition to the criminal penalty, the driver's license of an operator convicted under this section shall be revoked for not more than 12 months. If the operator is also an owner of the vehicle, the registration of the vehicle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

(d) (g) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of vehicles required to maintain a plan of reparation security.

Sec. 4. Minnesota Statutes 2010, section 260B.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260B.125 except to the extent that the rules themselves provide that they do not apply.

(b) When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260B.001 to 260B.421.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any related delinquency proceeding, except that the court may exclude the victim:

(1) as a witness under the Rules of Criminal Procedure; and

(2) from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public.

The court shall open the hearings to the public in ~~delinquency certification~~ delinquency certification or extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding. The court shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, if the court determines that, due to the violent or serious nature of the alleged offense, the benefit to public safety of holding an open hearing outweighs the potential consequences for the child due to the resulting public record.

(d) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

Sec. 5. Minnesota Statutes 2010, section 260C.331, subdivision 3, is amended to read:

Subd. 3. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(1) the fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law;

(2) the expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency;

(3) the expense of transporting a minor to a place designated by the court;

(4) reasonable compensation for an attorney appointed by the court to serve as counsel.

The State Guardian Ad Litem Board shall pay for guardian ad litem expenses and reasonable compensation for an attorney to serve as counsel for a guardian ad litem, if necessary. In no event may the court order that guardian ad litem expenses or compensation for an attorney serving as counsel for a guardian ad litem be charged to a county.

Sec. 6. Minnesota Statutes 2010, section 279.37, subdivision 8, is amended to read:

Subd. 8. **Fees.** The party or parties making such confession of judgment shall pay the county auditor a fee as set by the county board to defray the costs of processing the confession of judgment and making the annual billings required. Fees as set by the county board shall be ~~paid to the court administrator of the court for entry of judgment and for the entry of each full or partial release thereof. The fees paid to the court administrator under this section are~~ in lieu of the fees provided for in section 357.021. ~~Fees collected under this section and~~ shall be processed by the county and credited to the general revenue fund of the county.

Sec. 7. Minnesota Statutes 2010, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of management and budget.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who ~~successfully completes a diversion or similar program~~ enters a diversion program, continuance without prosecution, continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay the surcharge described in this subdivision. A surcharge imposed under this paragraph shall be imposed only once per case.

(g) The surcharge does not apply to administrative citations issued pursuant to section 169.999.

Sec. 8. Minnesota Statutes 2010, section 359.061, subdivision 1, is amended to read:

Subdivision 1. **Resident notaries.** The commission of every notary commissioned under section 359.01, together with: (1) a signature that matches the first, middle, and last name as listed on the notary's commission and shown on the notarial stamp, and (2) a sample signature in the style in which the notary will actually execute notarial acts, shall be recorded in the office of the ~~court administrator of the district court~~ local registrar of the notary's county of residence or in the county department to which duties relating to notaries public have been assigned under section 485.27, in a record kept for that purpose.

Sec. 9. Minnesota Statutes 2010, section 359.061, subdivision 2, is amended to read:

Subd. 2. **Nonresident notaries.** The commission of a nonresident notary must be recorded in the Minnesota county the notary designates pursuant to section 359.01, subdivision 2, clause (3), ~~in the office of the court administrator of the district court of that county or~~ in the county department to which duties relating to notaries public have been assigned under section 485.27.

Sec. 10. Minnesota Statutes 2010, section 514.69, is amended to read:

514.69 FILE WITH COURT ADMINISTRATOR OF THE DISTRICT COURT COUNTY.

Subdivision 1. **Perfection of hospital's lien.** In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the ~~court administrator of the district court~~ county office assigned this duty by the county board pursuant to section 485.27 of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by certified mail, to each person, firm, or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

Subd. 2. **Perfection of public assistance lien.** In the case of public assistance liens filed under section 256.015 or 256B.042, the state agency may perfect its lien by filing its verified statement in the office of the ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 in the county of financial responsibility for the public assistance paid. The ~~court administrator~~ county office shall record the lien in the same manner as provided in section 514.70.

Sec. 11. Minnesota Statutes 2010, section 514.70, is amended to read:

514.70 COURT ADMINISTRATOR COUNTY TO PROVIDE RECORD.

The ~~court administrator~~ county office assigned this duty by the county board pursuant to section 485.27 shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which the ~~court administrator~~ county office shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. The ~~court administrator~~ county office shall be paid \$5 as a fee for such filing and \$5 as a fee for filing each lien satisfaction.

Sec. 12. Minnesota Statutes 2010, section 518.552, is amended by adding a subdivision to read:

Subd. 6. **Maintenance calculated after child support.** The amount of the maintenance award, if any, must be determined after the court determines the amount of child support to be paid.

EFFECTIVE DATE. This section is effective for all dissolution actions filed on or after January 1, 2012.

Sec. 13. Minnesota Statutes 2010, section 518A.29, is amended to read:

518A.29 CALCULATION OF GROSS INCOME.

(a) Subject to the exclusions and deductions in this section, gross income includes any form of periodic payment to an individual, including, but not limited to, salaries, wages, commissions, self-employment income under section 518A.30, workers' compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, court-ordered spousal maintenance received under a previous order or the current proceeding from a person other than a parent of the joint child, Social Security or veterans benefits provided for a joint child under section 518A.31, and potential income under section 518A.32. Salaries, wages, commissions, or other compensation paid by third parties shall be based upon gross income before participation in an employer-sponsored benefit plan that allows an employee to pay for a benefit or expense using pretax dollars, such as flexible spending plans and health savings accounts. No deductions shall be allowed for contributions to pensions, 401-K, IRA, or other retirement benefits.

(b) Gross income does not include compensation received by a party for employment in excess of a 40-hour work week, provided that:

(1) child support is ordered in an amount at least equal to the guideline amount based on gross income not excluded under this clause; and

(2) the party demonstrates, and the court finds, that:

(i) the excess employment began after the filing of the petition for dissolution or legal separation or a petition related to custody, parenting time, or support;

(ii) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(iii) the excess employment is voluntary and not a condition of employment;

(iv) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(v) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(c) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they reduce personal living expenses.

(d) Gross income may be calculated on either an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying the weekly income by 4.33.

(e) Gross income does not include a child support payment received by a party. It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments, and foster care subsidies are not gross income.

(f) Gross income does not include the income of the obligor's spouse and the obligee's spouse.

(g) Child support or spousal maintenance payments ordered by a court for a nonjoint child or ~~former spouse or ordered payable to the other party as part of the current proceeding~~ person other than a parent of the joint child are deducted from other periodic payments received by a party for purposes of determining gross income.

(h) Gross income does not include public assistance benefits received under section 256.741 or other forms of public assistance based on need.

EFFECTIVE DATE. This section is effective for all dissolution actions filed on or after January 1, 2012.

Sec. 14. Minnesota Statutes 2010, section 518B.01, subdivision 8, is amended to read:

Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by United States mail. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Sec. 15. Minnesota Statutes 2010, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** (a) The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~after the file in such proceeding has been closed~~ provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced copy of the original ~~of the following enumerated documents in the proceeding~~ are on file in the office. After the file in the proceeding has been closed, only the following enumerated documents need to be retained:

~~Enumerated original documents:~~

(a) (1) in estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents. When an estate is deemed closed as provided in ~~clause (d)~~ paragraph (b), the enumerated documents shall include all claims of creditors;

(b) (2) in guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents; and

(c) (3) in mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) (b) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other ~~original~~ documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Sec. 16. Minnesota Statutes 2010, section 525.091, subdivision 3, is amended to read:

Subd. 3. **Effect of copies.** A photographic, photostatic, microphotographic, microfilmed, digitally imaged, electronic, or similarly reproduced record is of the same force and effect as the original and may be used as the original document or book of record in all proceedings.

ARTICLE 2 WILL AND TRUST CONSTRUCTION REVISION

Section 1. Minnesota Statutes 2010, section 524.2-712, is amended to read:

524.2-712 DECEDENTS DYING AFTER DECEMBER 31, 2009, AND BEFORE JANUARY 1, 2011; FORMULA CLAUSES TO BE CONSTRUED TO REFER TO FEDERAL ESTATE TAX AND FEDERAL GENERATION-SKIPPING TRANSFER TAX LAWS.

(a) A governing instrument, including a will or trust agreement, of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula or provision referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping transfer tax exemption," "GST exemption," "marital deduction," "maximum marital deduction," "unlimited marital deduction," "inclusion ratio," "applicable fraction," or any section of the Internal Revenue Code relating to the federal estate tax or federal generation-skipping transfer tax, or that measures a share of an estate or trust by reference to federal estate taxes or federal generation-skipping transfer taxes, is deemed to refer to the federal estate tax and federal generation-skipping transfer tax laws as they applied with respect to the estates of decedents dying on December 31, 2009. This paragraph does not apply to a governing instrument, including a will or trust agreement, that manifests an intent that a contrary rule will apply if the decedent dies on a date on which there is no then-applicable federal estate or federal generation-skipping transfer tax.

~~(b) If the federal estate or federal generation skipping transfer tax becomes effective before January 1, 2011, then the reference to January 1, 2011, in paragraph (a) is deemed to refer to the first date on which this tax becomes legally effective, instead of January 1, 2011.~~

~~(b)~~ (b) The personal representative, trustee, or any interested person under the governing instrument, including a will or trust agreement, may bring a proceeding to determine whether the decedent intended that a formula or provision described in paragraph (a) be construed with respect to the law as it existed after December 31, 2009. This proceeding must be commenced by December 31, 2011, and the court may consider extrinsic evidence that contradicts the plain meaning of the will, trust, or other governing instrument. The court may modify a provision of a will, trust, or other governing instrument that refers to the federal estate tax or generation-skipping transfer tax laws as described in paragraph (a) to conform the terms to the decedent's intention, or achieve the decedent's tax objectives in a manner that is not contrary to the decedent's probable intention. The court may provide that its decision, including any decision to modify a provision of a will, trust, or other governing instrument, is effective as of the date of the decedent's death.

ARTICLE 3 UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT

Section 1. Minnesota Statutes 2010, section 524.2-1103, is amended to read:

524.2-1103 SCOPE.

~~Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property, whenever created. Except as provided in section 524.2-1116, sections 524.2-1101 to 524.2-1116 are the exclusive means by which a disclaimer may be made under Minnesota law regardless of whether it is qualified under section 2518 of the Internal Revenue Code of 1986 in effect on January 1, 2010 as defined in section 291.005, subdivision 1, clause (3).~~

Sec. 2. Minnesota Statutes 2010, section 524.2-1104, is amended to read:

524.2-1104 TAX-QUALIFIED DISCLAIMER.

Notwithstanding any other provision of this chapter, other than section 524.2-1106, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated pursuant to the provisions of section 2518 of the Internal Revenue Code of 1986, as ~~in effect on January 1, 2010~~ defined in section 291.005, subdivision 1, clause (3), as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under sections 524.2-1101 to 524.2-1116.

Sec. 3. Minnesota Statutes 2010, section 524.2-1106, is amended to read:

524.2-1106 WHEN DISCLAIMER IS BARRED OR LIMITED.

- (a) A disclaimer is barred by a written waiver of the right to disclaim.
- (b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:
- (1) the disclaimant accepts the portion of the interest sought to be disclaimed;
 - (2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the portion of the interest sought to be disclaimed or contracts to do so;
 - (3) the portion of the interest sought to be disclaimed is sold pursuant to a judicial sale; or
 - (4) the disclaimant is insolvent when the disclaimer becomes irrevocable.
- (c) Acceptance of a distribution from a trust shall constitute acceptance of only that portion of the beneficial interest in that trust that has been distributed, and shall not constitute acceptance or bar disclaimer of that portion of the beneficial interest in the trust that has not yet been distributed.
- ~~(d)~~ (d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.
- ~~(e)~~ (e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.
- ~~(f)~~ (f) A disclaimer of an interest in, or a power over, property which is barred by this section is ineffective.

Sec. 4. Minnesota Statutes 2010, section 524.2-1107, is amended to read:

524.2-1107 POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE.

- (a) A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.
- (b) With court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment when acting in a representative capacity. Without court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, if and to the

extent that the instrument creating the fiduciary relationship explicitly grants the fiduciary the right to disclaim. With court approval, a custodial parent may disclaim on behalf of a minor child for whom no conservator has been appointed, in whole or in part, any interest in or power over property, including a power of appointment, which the minor child is to receive.

(c) To be effective, a disclaimer must be in writing, declare the writing as a disclaimer, describe the interest or power disclaimed, and be signed by the person or fiduciary making the disclaimer and acknowledged in the manner provided for deeds of real estate to be recorded in this state. In addition, for a disclaimer to be effective, an original of the disclaimer must be delivered or filed in the manner provided in section 524.2-1114.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, specific property, term of years, portion of a beneficial interest in or right to distributions from a trust, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when the disclaimer is delivered or filed pursuant to section 524.2-1114 or it becomes effective as provided in sections 524.2-1108 to 524.2-1113, whichever occurs later.

(f) A disclaimer made under sections 524.2-1101 to 524.2-1116 is not a transfer, assignment, or release.

Sec. 5. Minnesota Statutes 2010, section 524.2-1114, is amended to read:

524.2-1114 DELIVERY OR FILING.

(a) Subject to paragraphs (b) to (l), delivery of a disclaimer may be effective by personal delivery, first-class mail, or any other method that results in its receipt. A disclaimer sent by first-class mail is deemed to have been delivered on the date it is postmarked. Delivery by any other method is effective upon receipt by the person to whom the disclaimer is to be delivered under this section.

(b) In the case of a disclaimer of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) the disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration would be proper.

(c) In the case of a disclaimer of an interest in a testamentary trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration of the decedent's estate would be proper.

(d) In the case of a disclaimer of an interest in an inter vivos trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered;

(2) if no trustee is then serving, it must be filed with the clerk of the court in any county where the filing of a notice of trust would be proper; or

(3) if the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the person with the power to revoke the revocable trust or the transferor of the interest or to such person's legal representative.

(e) In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation or to such person's legal representative.

(f) In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

(g) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes or, if such person cannot reasonably be located by the disclaimant, the disclaimer must be delivered as provided in paragraph (b).

(h) In the case of a disclaimer by an object, or taker in default of exercise, of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(1) the holder of the power; or

(2) the fiduciary acting under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(i) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(1) the holder of the power or the personal representative of the holder's estate; or

(2) the fiduciary under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in paragraph (b), (c), or (d) as if the power disclaimed were an interest in property.

(k) In the case of a disclaimer of a power exercisable by an agent, other than a power exercisable by a fiduciary over a trust or estate, the disclaimer must be delivered to the principal or the principal's representative.

(l) Notwithstanding paragraph (a), delivery of a disclaimer of an interest in or relating to real estate shall be presumed upon the recording of the disclaimer in the office of the ~~clerk of the court~~ county recorder or registrar of titles of the county or counties where the real estate is located.

(m) A fiduciary or other person having custody of the disclaimed interest is not liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer or, if the disclaimer is barred under section 524.2-1106, for any otherwise proper distribution or other disposition made in reliance on the disclaimer, if the distribution or disposition is made without actual knowledge of the facts constituting the bar of the right to disclaim.

Sec. 6. Minnesota Statutes 2010, section 524.2-1115, is amended to read:

524.2-1115 RECORDING OF DISCLAIMER RELATING TO REAL ESTATE.

(a) A disclaimer of an interest in or relating to real estate does not provide constructive notice to all persons unless the disclaimer contains a legal description of the real estate to which the disclaimer relates and unless the disclaimer is ~~filed for recording~~ recorded in the office of the county recorder or registrar of titles in the county or counties where the real estate is located.

(b) An effective disclaimer meeting the requirements of paragraph (a) constitutes constructive notice to all persons from the time of ~~filing recording~~. Failure to record the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Sec. 7. Minnesota Statutes 2010, section 524.2-1116, is amended to read:

524.2-1116 APPLICATION TO EXISTING RELATIONSHIPS.

~~Except as otherwise provided in section 524.2-1106, an~~ Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property existing on January 1, 2010, ~~as to which the time for delivering or filing a disclaimer under laws superseded by sections 524.2-1101 to 524.2-1116 has not expired, may be disclaimed after January 1, 2010~~ whenever created.

ARTICLE 4
PROTECTED PERSONS AND WARDS

Section 1. Minnesota Statutes 2010, section 524.5-502, is amended to read:

524.5-502 COMPENSATION AND EXPENSES.

(a) The court may authorize a proceeding under this article to proceed in forma pauperis, as provided in chapter 563.

(b) In proceedings under this article, a lawyer or health professional rendering necessary services with regard to the appointment of a guardian or conservator, the administration of the ward's or protected person's estate or personal affairs, or the restoration of that person's capacity or termination of the protective proceeding shall be entitled to compensation from the ward's or protected person's estate or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. When the court determines that other necessary services have been provided for the benefit of the ward or protected person by a lawyer or health professional, the court may order fees to be paid from the estate of the ward or protected person or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. If, however, the court determines that a petitioner, guardian, or conservator has not acted in good faith, the court shall order some or all of the fees or costs incurred in the proceedings to be borne by the petitioner, guardian, or conservator not acting in good faith. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(c) When the court determines that a guardian or conservator has rendered necessary services or has incurred necessary expenses for the benefit of the ward or protected person, the court may order reimbursement or compensation to be paid from the estate of the ward or protected person or from the county having jurisdiction over the guardianship or protective proceeding if the ward or protected person is indigent. The court may not deny an award of fees solely because the ward or protected person is a recipient of medical assistance. In determining

compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(d) The court shall order reimbursement or compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or protective proceeding services necessary to prevent maltreatment of a vulnerable adult, as defined in section 626.5572, subdivision 15. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(e) When a county employee serves as a guardian or conservator as part of employment duties, the court shall order compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or protected person's estate for compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

ARTICLE 5 RECEIVERSHIPS

Section 1. [576.21] DEFINITIONS.

(a) The definitions in this section apply throughout this chapter unless the context requires otherwise.

(b) "Court" means the district court in which the receivership is pending unless the context requires otherwise.

(c) "Entity" means a person other than a natural person.

(d) "Executory contract" means a contract, including a lease, where the obligations of both the respondent and the other party to the contract are unperformed to the extent that the failure of either party to complete performance of its obligations would constitute a material breach of the contract, thereby excusing the other party's performance of its obligations under the contract.

(e) "Foreign receiver" means a receiver appointed in any foreign jurisdiction.

(f) "Foreign jurisdiction" means any state or federal jurisdiction other than that of this state.

(g) "General receiver" means the receiver appointed in a general receivership.

(h) "General receivership" means a receivership over all or substantially all of the nonexempt property of a respondent for the purpose of liquidation and distribution to creditors and other parties in interest, including, without limitation, a receivership resulting from the appointment of a receiver pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836.

(i) "Lien" means a charge against or interest in property to secure payment of a debt or the performance of an obligation, including any mortgage or security interest.

(j) "Limited receiver" means the receiver appointed in a limited receivership.

(k) "Limited receivership" means a receivership other than a general receivership.

(l) "Party" means a person who is a party within the meaning of the Minnesota Rules of Civil Procedure in the action in which a receiver is appointed.

(m) "Party in interest" includes the respondent, any equity security holder in the respondent, any person with an ownership interest in or lien on receivership property, and, in a general receivership, any creditor of the respondent.

(n) "Person" has the meaning given it in section 645.44 and shall include limited liability companies, limited liability partnerships, and other entities recognized under the laws of this state.

(o) "Property" means all of respondent's right, title, and interest, both legal and equitable, in real and personal property, regardless of the manner by which any of the same were or are acquired. Property includes, but is not limited to, any proceeds, products, offspring, rents, or profits of or from the property. Property does not include: (1) any power that the respondent may exercise solely for the benefit of another person, or (2) property impressed with a trust except to the extent that the respondent has a residual interest.

(p) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or order of the court, dispose of receivership property.

(q) "Receivership" means the case in which the receiver is appointed, and, as the context requires, the proceeding in which the receiver takes possession of, manages, or disposes of the respondent's property.

(r) "Receivership property" means (1) in the case of a general receivership, all or substantially all of the nonexempt property of the respondent, or (2) in the case of a limited receivership, that property of the respondent identified in the order appointing the receiver, or in any subsequent order.

(s) "Respondent" means the person over whose property the receiver is appointed.

(t) "State agent" and "state agency" mean any office, department, division, bureau, board, commission, or other agency of the state of Minnesota or of any subdivision thereof, or any individual acting in an official capacity on behalf of any state agent or state agency.

(u) "Time of appointment" means the date and time specified in the first order of appointment of a receiver or, if the date and time are not specified in the order of appointment, the date and time that the court ruled on the motion for the appointment of a receiver. Time of appointment does not mean any subsequent date or time, including the execution of a written order, the filing or docketing of a written order, or the posting of a bond.

(v) "Utility" means a person providing any service regulated by the Public Utilities Commission.

Sec. 2. **[576.22] APPLICABILITY OF CHAPTER AND OF COMMON LAW.**

(a) This chapter applies to receiverships provided for in section 576.25, subdivisions 2 to 6, and to receiverships:

(1) pursuant to section 193.147, in connection with a mortgage on an armory;

(2) pursuant to section 223.17, subdivision 8, paragraph (b), in connection with a defaulting grain buyer;

(3) pursuant to section 232.22, subdivision 7, paragraph (c), in connection with a defaulting public grain warehouse;

(4) pursuant to section 296A.22, in connection with nonpayment of tax;

(5) pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, in an action relating to the dissolution of an entity and relating to, in like cases, property within the state of foreign entities;

(6) pursuant to section 321.0703, in connection with the rights of a creditor of a partner or transferee;

(7) pursuant to section 322.22, in connection with the rights of creditors of limited partners;

(8) pursuant to section 323A.0504, in connection with a partner's transferable interest;

(9) pursuant to section 453.55, in connection with bonds and notes;

(10) pursuant to section 453A.05, in connection with bonds and notes;

(11) pursuant to section 513.47, in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(12) pursuant to section 514.06, in connection with the severance of a building and resale;

(13) pursuant to section 515.23, in connection with an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(14) pursuant to section 518A.71, in connection with the failure to pay, or to provide security for, maintenance or support payments;

(15) pursuant to section 559.17, in connection with assignments of rents; however, any receiver appointed under section 559.17 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with section 559.17;

(16) pursuant to section 571.84, in connection with a garnishee in possession of property subject to a garnishment proceeding;

(17) pursuant to section 575.05, in connection with property applied to judgment;

(18) pursuant to section 575.06, in connection with adverse claimants;

(19) pursuant to sections 582.05 to 582.10, in connection with mortgage foreclosures; however, any receiver appointed under sections 582.05 to 585.10 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with sections 582.05 to 582.10;

(20) pursuant to section 609.904, in connection with criminal penalties; or

(21) pursuant to section 609.907, in connection with preservation of property subject to forfeiture.

(b) This chapter does not apply to any receivership in which the receiver is a state agency or in which the receiver is appointed, controlled, or regulated by a state agency unless otherwise provided by law.

(c) In receiverships not specifically referenced in paragraph (a) or (b), the court, in its discretion, may apply provisions of this chapter to the extent not inconsistent with the statutes establishing the receiverships.

(d) Unless explicitly displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter.

Sec. 3. **[576.23] POWERS OF THE COURT.**

The court has the exclusive authority to direct the receiver and the authority over all receivership property wherever located including, without limitation, authority to determine all controversies relating to the collection, preservation, improvement, disposition, and distribution of receivership property, and all matters otherwise arising in or relating to the receivership, the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

Sec. 4. **[576.24] TYPES OF RECEIVERSHIPS.**

A receivership may be either a limited receivership or a general receivership. Any receivership which is based upon the enforcement of an assignment of rents or leases, or the foreclosure of a mortgage lien, judgment lien, mechanic's lien, or other lien pursuant to which the respondent or any holder of a lien would have a statutory right of redemption, shall be a limited receivership. If the order appointing the receiver does not specify whether the receivership is a limited receivership or a general receivership, the receivership shall be a limited receivership unless and until the court by later order designates the receivership as a general receivership, notwithstanding that pursuant to section 576.25, subdivision 8, a receiver may have control over all the property of the respondent. At any time, the court may order a general receivership to be converted to a limited receivership and a limited receivership to be converted to a general receivership.

Sec. 5. **[576.25] APPOINTMENT OF RECEIVERS; RECEIVERSHIP NOT A TRUST.**

Subdivision 1. **No necessity of separate action.** A receiver may be appointed under this chapter whether or not the motion for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment.

Subd. 2. **Before judgment.** Except where judgment for failure to answer may be had without application to the court, a limited receiver may be appointed before judgment to protect any party to an action who demonstrates an apparent right to property that is the subject of the action and is in the possession of an adverse party, and that the property or its rents and profits are in danger of loss or material impairment.

Subd. 3. **In a judgment or after judgment.** A limited or general receiver may be appointed in a judgment or after judgment to carry the judgment into effect, to preserve property pending an appeal, or when an execution has been returned unsatisfied and the judgment debtor refuses to apply the property in satisfaction of the judgment.

Subd. 4. **Entities.** In addition to those situations specifically provided for in statute, a limited or general receiver may be appointed when a corporation or other entity is dissolved, insolvent, in imminent danger of insolvency, or has forfeited its corporate rights and in like cases of the property within the state of foreign corporations and other entities.

Subd. 5. **Appointment of receiver of mortgaged property.** (a) A limited receiver shall be appointed at any time after the commencement of mortgage foreclosure proceedings under chapter 580 or 581 and before the end of the period for redemption, if the mortgage being foreclosed:

(1) secures an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(2) is not a lien upon property that was entirely homesteaded, residential real estate containing four or fewer dwelling units where at least one unit is homesteaded, or agricultural property.

The foreclosing mortgagee or the purchaser at foreclosure sale may at any time bring an action in the district court of the county in which the mortgaged property or any part thereof is located for the appointment of a receiver; provided, however, if the foreclosure is by action under chapter 581, a separate action need not be filed.

(b) The court shall appoint a receiver upon a showing that the mortgagor has breached a covenant contained in the mortgage relating to any of the following:

(1) application of tenant security deposits as required by section 504B.178;

(2) payment when due of prior or current real estate taxes or special assessments with respect to the mortgaged property or the periodic escrow for the payment of the taxes or special assessments;

(3) payment when due of premiums for insurance of the type required by the mortgage or the periodic escrow for the payment of the premiums; or

(4) keeping of the covenants required of a landlord or licensor pursuant to section 504B.161, subdivision 1.

(c) The receiver shall be or shall retain an experienced property manager.

(d) The receiver shall collect the rents, profits, and all other income of any kind. The receiver, after providing for payment of its reasonable fees and expenses, shall, to the extent possible and in the order determined by the receiver to preserve the value of the mortgaged property:

(1) manage the mortgaged property so as to prevent waste;

(2) execute contracts and leases within the period of the receivership, or beyond the period of the receivership if approved by the court;

(3) pay the expenses listed in paragraph (b), clauses (1) to (3);

(4) pay all expenses for normal maintenance of the mortgaged property; and

(5) perform the terms of any assignment of rents that complies with section 559.17, subdivision 2.

(e) The purchaser at a foreclosure sale shall have the right, at any time and without limitation as provided in section 582.03, to advance money to the receiver to pay any or all of the expenses that the receiver should otherwise pay if cash were available from the mortgaged property. Sums so advanced, with interest, shall be a part of the sum required to be paid to redeem from the sale. The sums shall be proved by the affidavit of the purchaser, an agent, or attorney, stating the expenses and describing the mortgaged property. The affidavit shall be furnished to the sheriff in the manner of expenses claimed under section 582.03.

(f) Any sums collected that remain in the possession of the receiver at the termination of the receivership shall, in the event the termination of the receivership is due to the reinstatement of the mortgage debt or redemption of the mortgaged property by the mortgagor, be paid to the mortgagor; and in the event termination of the receivership occurs at the end of the period of redemption without redemption by the mortgagor or any other party entitled to redeem, interest accrued upon the sale price pursuant to section 580.23 or 581.10 shall be paid to the purchaser at the foreclosure sale. Any net sum remaining shall be paid to the mortgagor, except if the receiver was enforcing an assignment of rents that complies with section 559.17, subdivision 2, in which case any net sum remaining shall be paid pursuant to the terms of the assignment.

(g) This subdivision applies to all mortgages executed on or after August 1, 1977, and to amendments or modifications thereto, and to amendments or modifications made on or after August 1, 1977, to mortgages executed before August 1, 1977, if the amendment or modification is duly recorded and is for the principle purpose of curing a default.

Subd. 6. **Other cases.** A receiver may be appointed in other cases as are provided by law, or in accord with existing practice, except as otherwise prescribed.

Subd. 7. **Motion for appointment of receiver.** The court may appoint a receiver upon a motion with notice to the respondent, to all other parties in the action, and to parties in interest and other persons as the court may require. Notice shall also be given to any judgment creditor who is seeking the appointment of a receiver in any other action. A motion to appoint a general receiver shall be treated as a dispositive motion. The court may appoint a receiver ex parte or on shortened notice on a temporary basis if it is clearly shown that an emergency exists requiring the immediate appointment of a receiver. In that event, the court shall set a hearing as soon as practicable and at the subsequent hearing, the burdens of proof shall be as would be applicable to a motion made on notice that is not expedited.

Subd. 8. **Description of receivership property.** The order appointing the receiver or subsequent order shall describe the receivership property with particularity appropriate to the circumstances. If the order does not so describe the receivership property, until further order of the court, the receiver shall have control over all of the respondent's nonexempt property.

Subd. 9. **Receivership not a trust.** The order appointing the receiver does not create a trust.

Sec. 6. **[576.26] ELIGIBILITY OF RECEIVER.**

Subdivision 1. **Who may serve as receiver.** Unless otherwise prohibited by law or prior order, any person, whether or not a resident of this state, may serve as a receiver, provided that the court, in its order appointing the receiver, makes written conclusions based in the record that the person proposed as receiver:

(1) is qualified to serve as receiver and as an officer of the court; and

(2) is independent as to the parties and the underlying dispute.

Subd. 2. **Considerations regarding qualifications.** (a) In determining whether a proposed receiver is qualified to serve as receiver and as an officer of the court, the court shall consider any relevant information, including, but not limited to, whether:

(1) the proposed receiver has knowledge and experience sufficient to perform the duties of receiver;

(2) the proposed receiver has the financial ability to post the bond required by section 576.07;

(3) the proposed receiver or any insider of the proposed receiver has been previously disqualified from serving as receiver and the reasons for disqualification;

(4) the proposed receiver or any insider of the proposed receiver has been convicted of a felony or other crime involving moral turpitude; and

(5) the proposed receiver or any insider of the proposed receiver has been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct.

(b) For the purposes of this subdivision, "insider" includes:

(1) if the proposed receiver is a corporation, an officer or director of the corporation, or a person in control of the proposed receiver; and

(2) if the proposed receiver is a partnership, a general or limited partner of the partnership, or a person in control of the proposed receiver.

Subd. 3. Considerations regarding independence. (a) In determining whether a proposed receiver is independent as to the parties and the underlying dispute, the court shall consider any relevant information, including, but not limited to:

(1) the nature and extent of any relationship that the proposed receiver has to the parties and the property proposed as receivership property including, without limitation, whether the proposed receiver is a party to the action, a family member of a party to the action, or an officer, director, member, employee, or owner of or controls a party to the action;

(2) whether the proposed receiver has any interest materially adverse to the interests of any of the parties to the action;

(3) whether the proposed receiver has any material financial or pecuniary interest, other than receiver compensation allowed by court order, in the outcome of the underlying dispute, including any proposed contingent or success fee compensation arrangement; and

(4) whether the proposed receiver is a debtor, secured or unsecured creditor, lienor of, or holder of any equity interest in, any of the parties to the action of the receivership property.

(b) In evaluating all information, the court may exercise its discretion and need not consider any single item of information to be determinative of independence. Without limiting the generality of the preceding sentence, the proposed receiver shall not be disqualified solely because the proposed receiver was appointed receiver in other unrelated matters involving any of the parties to the matter in which the appointment is sought, or the proposed receiver has been engaged by any of the parties to the action in matters unrelated to the underlying action.

Subd. 4. Information provided to court. The proposed receiver, the parties, and prospective parties in interest may provide any information relevant to the qualifications, independence, and the selection of the receiver.

Sec. 7. [576.27] BOND.

After appointment, a receiver shall give a bond in the sum, nature, and with the conditions that the court shall order in its discretion consistent with section 574.11. Unless otherwise ordered by the court, the receiver's bond shall be conditioned on the receiver's faithful discharge of its duties in accordance with the orders of the court and the laws of this state. The receiver shall execute a bond with a surety authorized to write bonds in the state.

Sec. 8. [576.28] IMMUNITY; DISCOVERY FROM RECEIVER.

(a) The receiver shall be entitled to all defenses and immunities provided at common law for acts or omissions within the scope of the receiver's appointment.

(b) No person other than a successor receiver duly appointed by the court shall have a right of action against a receiver to recover receivership property or the value thereof.

(c) A party or party in interest may conduct discovery of the receiver concerning any matter relating to the receiver's administration of the receivership property after obtaining an order authorizing the discovery.

Sec. 9. **[576.29] POWERS AND DUTIES OF RECEIVERS; GENERALLY.**

Subdivision 1. **Powers.** (a) A receiver, whether general or limited, shall have the following powers in addition to those specifically conferred by this chapter or otherwise by statute, rule, or order of the court:

(1) the power to collect, control, manage, conserve, and protect receivership property;

(2) the power to incur and pay expenses incidental to the receiver's exercise of the powers or otherwise in the performance of the receiver's duties;

(3) the power to assert rights, claims, causes of action, or defenses that relate to receivership property; and

(4) the power to seek and obtain instruction from the court with respect to any matter relating to the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

(b) In addition to the powers provided in paragraph (a), a general receiver shall have the power:

(1) to (i) assert any rights, claims, causes of action, or defenses of the respondent to the extent any rights, claims, causes of action, or defenses are receivership property; (ii) maintain in the receiver's name or in the name of the respondent any action to enforce any right, claim, cause of action, or defense; and (iii) intervene in actions in which the respondent is a party for the purpose of exercising the powers under this clause or requesting transfer of venue of the action to the court;

(2) to pursue any claim or remedy that may be asserted by a creditor of the respondent under sections 513.41 to 513.51;

(3) to compel any person, including the respondent, and any party, by subpoena pursuant to Rule 45 of the Minnesota Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things with respect to receivership property or any other matter that may affect the administration of the receivership;

(4) to operate any business constituting receivership property in the ordinary course of the business, including the use, sale, or lease of property of the business or otherwise constituting receivership property, and the incurring and payment of expenses of the business or other receivership property;

(5) if authorized by an order of the court following notice and a hearing, to use, improve, sell, or lease receivership property other than in the ordinary course of business; and

(6) if appointed pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, to exercise all of the powers and authority provided by the section or order of the court.

Subd. 2. **Duties.** A receiver, whether general or limited, shall have the duties specifically conferred by this chapter or otherwise by statute, rule, or order of the court.

Subd. 3. **Modification of powers and duties.** Except as otherwise provided in this chapter, the court may modify the powers and duties of a receiver provided by this section.

Sec. 10. **[576.30] RECEIVER AS LIEN CREDITOR; REAL ESTATE RECORDING; SUBSEQUENT SALES OF REAL ESTATE.**

Subdivision 1. Receiver as lien creditor. As of the time of appointment, the receiver shall have the powers and priority as if it were a creditor that obtained a judicial lien at the time of appointment pursuant to sections 548.09 and 550.10 on all of the receivership property, subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. Real estate recording. If any interest in real estate is included in the receivership property, a notice of lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the receiver as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the appointment under section 507.34.

Subd. 3. Subsequent sales of real estate. The notice of lis pendens, a court order authorizing the receiver to sell real property certified by the court administrator, and a deed executed by the receiver recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the receiver shall be prima facie evidence of the authority of the receiver to sell and convey the real property described in the deed. The court may also require a motion for an order for sale of the real property or a motion for an order confirming sale of the real property.

Sec. 11. **[576.31] DUTIES OF RESPONDENT.**

The respondent shall:

(1) assist and cooperate fully with the receiver in the administration of the receivership and the receivership property and the discharge of the receiver's duties, and comply with all orders of the court;

(2) immediately upon the receiver's appointment, deliver to the receiver all of the receivership property in the respondent's possession, custody, or control, including, but not limited to, all books and records, electronic data, passwords, access codes, statements of accounts, deeds, titles or other evidence of ownership, financial statements, and all other papers and documents related to the receivership property;

(3) supply to the receiver information as requested relating to the administration of the receivership and the receivership property, including information necessary to complete any reports or other documents that the receiver may be required to file; and

(4) remain responsible for the filing of all tax returns, including those returns applicable to periods which include those in which the receivership is in effect.

Sec. 12. **[576.32] EMPLOYMENT AND COMPENSATION OF PROFESSIONALS.**

Subdivision 1. Employment. (a) To represent or assist the receiver in carrying out the receiver's duties, the receiver may employ attorneys, accountants, appraisers, auctioneers, and other professionals that do not hold or represent an interest adverse to the receivership.

(b) This section does not require prior court approval for the retention of professionals. However, any professional to be retained shall provide the receiver with a disclosure of any potential conflicts of interest, and the professional or the receiver shall file with the court a notice of the retention and of the proposed compensation. Any party in interest may bring a motion for disapproval of any retention within 21 days after the filing of the notice of retention.

(c) A person is not disqualified for employment under this section solely because of the person's employment by, representation of, or other relationship with the receiver, respondent, a creditor, or other party in interest if the court determines that the employment is appropriate.

Subd. 2. **Compensation.** (a) The receiver and any professional retained by the receiver shall be paid by the receiver from the receivership property in the same manner as other expenses of administration and without separate orders, but subject to the procedures, safeguards, and reporting that the court may order.

(b) Except to the extent fees and expenses have been approved by the court, or as to parties in interest who are deemed to have waived the right to object, any interim payments of fees and expenses to the receiver are subject to approval in connection with the receiver's final report pursuant to section 576.38.

Sec. 13. **[576.33] SCHEDULES OF PROPERTY AND CLAIMS.**

(a) The court may order the respondent or a general receiver to file under oath to the best of its actual knowledge:

(1) a schedule of all receivership property and exempt property of the respondent, describing, as of the time of appointment: (i) the location of the property and, if real property, a legal description thereof; (ii) a description of all liens to which the property is subject; and (iii) an estimated value of the property; and

(2) a schedule of all creditors and taxing authorities and regulatory authorities which supervise the respondent, their mailing addresses, the amount and nature of their claims, whether the claims are secured by liens of any kind, and whether the claims are disputed.

(b) The court may order inventories and appraisals if appropriate to the receivership.

Sec. 14. **[576.34] NOTICE.**

In a general receivership, unless the court orders otherwise, the receiver shall give notice of the receivership to all creditors and other parties in interest actually known to the receiver by mail or other means of transmission within 21 days after the time of appointment. The notice of the receivership shall include the time of appointment and the names and addresses of the respondent, the receiver, and the receiver's attorney, if any.

Sec. 15. **[576.35] NOTICES, MOTIONS, AND ORDERS.**

Subdivision 1. **Notice of appearance.** Any party in interest may make an appearance in a receivership by filing a written notice of appearance, including the name, mailing address, fax number, e-mail address, if any, and telephone number of the party in interest and its attorney, if any, and by serving a copy on the receiver and the receiver's attorney, if any. It is not necessary for a party in interest to be joined as a party to be heard in the receivership. A proof of claim does not constitute a written notice of appearance.

Subd. 2. **Master service list.** From time to time the receiver shall file an updated master service list consisting of the names, mailing addresses, and, where available, fax numbers and e-mail addresses of the respondent, the receiver, all persons joined as parties in the receivership, all persons known by the receiver to have asserted any ownership or lien in receivership property, all persons who have filed a notice of appearance in accordance with this section, and their attorneys, if any.

Subd. 3. **Motions.** Except as otherwise provided in this chapter, an order shall be sought by a motion brought in compliance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts.

Subd. 4. **Persons served.** Except as otherwise provided in this chapter, a motion shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on all persons on the master service list, all persons who have asserted an ownership interest or lien in receivership property that is the subject of the motion, all persons who are identified in the motion as directly affected by the relief requested, and other persons as the court may direct.

Subd. 5. **Service on state agency.** Any request for relief against a state agency shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on the specific state agency and on the Office of the Attorney General.

Subd. 6. **Order without hearing.** Where a provision in this chapter, an order issued in the receivership, or a court rule requires an objection or other response to a motion or application within a specific time, and no objection or other response is interposed, the court may grant the relief requested without a hearing.

Subd. 7. **Order upon application.** Where a provision of this chapter permits, as to administrative matters, or where it otherwise appears that no party in interest would be materially prejudiced, the court may issue an order ex parte or based on an application without a motion, notice, or hearing.

Subd. 8. **Persons bound by orders of the court.** Except as to persons entitled to be served pursuant to subdivision 4 and who were not served, an order of the court binds parties in interest and all persons who file notices of appearance, submit proofs of claim, receive written notice of the receivership, receive notice of any motion in the receivership, or who have actual knowledge of the receivership whether they are joined as parties or received notice of the specific motion or order.

Sec. 16. **[576.36] RECORDS; INTERIM REPORTS.**

Subdivision 1. **Preparation and retention of records.** The receiver shall prepare and retain appropriate business records, including records of all cash receipts and disbursements and of all receipts and distributions or other dispositions of receivership property. After due consideration of issues of confidentiality, the records may be provided by the receiver to parties in interest or shall be provided as ordered by the court.

Subd. 2. **Interim reports.** (a) The court may order the receiver to prepare and file interim reports addressing:

(1) the activities of the receiver since the last report;

(2) cash receipts and disbursements, including payments made to professionals retained by the receiver;

(3) receipts and dispositions of receivership property; and

(4) other matters.

(b) The order may provide for the delivery of the receiver's interim reports to persons on the master service list and to other persons and may provide a procedure for objection to the interim reports, and may also provide that the failure to object constitutes a waiver of objection to matters addressed in the interim reports.

Sec. 17. **[576.37] REMOVAL OF RECEIVERS.**

Subdivision 1. **Removal of receiver.** The court may remove the receiver: (1) if the receiver fails to execute and file the bond required by section 576.27; (2) if the receiver resigns, refuses, or fails to serve for any reason; or (3) for other good cause.

Subd. 2. **Successor receiver.** Upon removal of the receiver, if the court determines that further administration of the receivership is required, the court shall appoint a successor receiver. Upon executing and filing a bond under section 576.27, the successor receiver shall immediately succeed the receiver so removed and shall assume the duties of receiver.

Subd. 3. **Report and discharge of removed receiver.** Within 14 days after removal, the receiver so removed shall file with the court and serve a report pursuant to section 576.38, subdivision 3, for matters up to the date of the removal. Upon approval of the report, the court may enter an order pursuant to section 576.38 discharging the removed receiver.

Sec. 18. **[576.38] TERMINATION OF RECEIVERSHIPS; FINAL REPORT.**

Subdivision 1. **Termination of receivership.** The court may discharge a receiver and terminate the receivership. If the court determines that the appointment of the receiver was procured in bad faith, the court may assess against the person who procured the receiver's appointment:

(1) all of the receiver's fees and expenses and other costs of the receivership; and

(2) any other sanctions the court deems appropriate.

Subd. 2. **Request for discharge.** Upon distribution or disposition of all receivership property, or the completion of the receiver's duties, the receiver shall file a final report and shall request that the court approve the final report and discharge the receiver.

Subd. 3. **Contents of final report.** The final report, which may incorporate by reference interim reports, shall include, in addition to any matters required by the court in the case:

(1) a description of the activities of the receiver in the conduct of the receivership;

(2) a schedule of all receivership property at the commencement of the receivership and any receivership property added thereafter;

(3) a list of expenditures, including all payments to professionals retained by the receiver;

(4) a list of any unpaid expenses incurred during the receivership;

(5) a list of all dispositions of receivership property;

(6) a list of all distributions made or proposed to be made; and

(7) if not done separately, a motion or application for approval of the payment of fees and expenses of the receiver.

Subd. 4. **Notice of final report.** The receiver shall give notice of the filing of the final report and request for discharge to all persons who have filed notices of appearance. If there is no objection within 21 days, the court may enter an order approving the final report and discharging the receiver without the necessity of a hearing.

Subd. 5. **Effect of discharge.** A discharge removes all authority of the receiver, excuses the receiver from further performance of any duties, and discharges any lis pendens recorded by the receiver.

Sec. 19. **[576.39] ACTIONS BY OR AGAINST RECEIVER OR RELATING TO RECEIVERSHIP PROPERTY.**

Subdivision 1. **Actions by or against receiver.** The receiver may sue in the receiver's capacity and, subject to other sections of this chapter and all immunities provided at common law, may be sued in that capacity.

Subd. 2. **Venue.** Unless applicable law requires otherwise or the court orders otherwise, an action by or against the receiver or relating to the receivership or receivership property shall be commenced in the court and assigned to the judge before whom the receivership is pending.

Subd. 3. **Joinder.** Subject to section 576.42, a limited or general receiver may be joined or substituted as a party in any action or other proceeding that relates to receivership property that was pending at the time of appointment. Subject to other sections of this chapter, a general receiver may be joined or substituted as a party in any action or other proceeding that was pending at the time of appointment in which the respondent is a party. Pending actions may be transferred to the court upon the receiver's motion for change of venue made in the court in which the action is pending.

Subd. 4. **Effect of judgments.** A judgment entered subsequent to the time of appointment against a receiver or the respondent shall not constitute a lien on receivership property, nor shall any execution issue thereon. Upon submission of a certified copy of the judgment in accordance with section 576.49, the amount of the judgment shall be treated as an allowed claim in a general receivership. A judgment against a limited receiver shall have the same effect as a judgment against the respondent, except that the judgment shall be enforceable against receivership property only to the extent ordered by the court.

Sec. 20. **[576.40] TURNOVER OF PROPERTY.**

Subdivision 1. **Demand by receiver.** Except as expressly provided in this section, and unless otherwise ordered by the court, upon demand by a receiver, any person shall turn over any receivership property that is within the possession or control of that person. Unless ordered by the court, a person in possession of receivership property pursuant to a valid lien perfected prior to the time of appointment is not required to turn over receivership property.

Subd. 2. **Motion by receiver.** A receiver may seek to compel turnover of receivership property by motion in the receivership. If there exists a bona fide dispute with respect to the existence or nature of the receiver's or the respondent's interest in the property, turnover shall be sought by means of an action under section 576.39. In the absence of a bona fide dispute with respect to the receiver's or the respondent's right to possession of receivership property, the failure to relinquish possession and control to the receiver may be punishable as contempt of the court.

Sec. 21. **[576.41] ANCILLARY RECEIVERSHIPS.**

Subdivision 1. **Ancillary receiverships in foreign jurisdictions.** A receiver appointed by a court of this state may, without first seeking approval of the court, apply in any foreign jurisdiction for appointment as receiver with respect to any receivership property which is located within the foreign jurisdiction.

Subd. 2. **Ancillary receiverships in the courts of this state.** (a) A foreign receiver may obtain appointment by a court of this state as a receiver in an ancillary receivership with respect to any property located in or subject to the jurisdiction of the court if (1) the foreign receiver would be eligible to serve as receiver under section 576.26, and (2) the appointment is in furtherance of the foreign receiver's possession, control, or disposition of property subject to the foreign receivership and in accordance with orders of the foreign jurisdiction.

(b) The courts of this state may enter any order necessary to effectuate orders entered by the foreign jurisdiction's receivership proceeding. Unless the court orders otherwise, a receiver appointed in an ancillary receivership in this state shall have the powers and duties of a limited receiver as set forth in this chapter and shall otherwise comply with the provisions of this chapter applicable to limited receivers.

Sec. 22. **[576.42] STAYS.**

Subdivision 1. Control of property. All receivership property is under the control and supervision of the court appointing the receiver.

Subd. 2. Stay by court order. In addition to any stay provided in this section, the court may order a stay or stays to protect receivership property and to facilitate the administration of the receivership.

Subd. 3. Stay in all receiverships. Except as otherwise ordered by the court, the entry of an order appointing a receiver shall operate as a stay, applicable to all persons, of:

(1) any act to obtain possession of receivership property, or to interfere with or exercise control over receivership property, other than the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property; and

(2) any act to create or perfect any lien against receivership property, except by exercise of a right of setoff, to the extent that the lien secures a claim that arose before the time of appointment.

Subd. 4. Limited additional stay in general receiverships. (a) Except as otherwise ordered by the court, in addition to the stay provided in subdivision 3, the entry of an order appointing a general receiver shall operate as a stay, applicable to all persons, of:

(1) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, against the respondent or the receiver that was or could have been commenced before the time of appointment, or to recover a claim against the respondent that arose before the time of appointment;

(2) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property.

(b) As to the acts specified in this subdivision, the stay shall expire 30 days after the time of appointment unless, before the expiration of the 30-day period, the receiver or other party in interest files a motion seeking an order of the court extending the stay and before the expiration of an additional 30 days following the 30-day period, the court orders the stay extended.

Subd. 5. Modification of stay. The court may modify any stay provided in this section upon the motion of any party in interest affected by the stay.

Subd. 6. Inapplicability of stay. The entry of an order appointing a receiver does not operate as a stay of:

(1) the commencement or continuation of a criminal proceeding against the respondent;

(2) the commencement or continuation of an action or proceeding by a governmental unit to enforce its police or regulatory power;

(3) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the respondent;

(4) the establishment by a governmental unit of any tax liability and any appeal thereof;

(5) the commencement or continuation of an action or proceeding to establish paternity; to establish or modify an order for alimony, maintenance, or support; or to collect alimony, maintenance, or support under any order of a court;

(6) the exercise of a right of setoff;

(7) any act to maintain or continue the perfection of a lien on, or otherwise preserve or protect rights in, receivership property, but only to the extent that the act was necessary to preserve or protect the lien or other rights as they existed as of the time of the appointment. If the act would require seizure of receivership property or commencement of an action prohibited by a stay, the continued perfection shall instead be accomplished by filing a notice in the court before which the receivership is pending and by serving the notice upon the receiver and receiver's attorney, if any, within the time fixed by law for seizure or commencement of the action;

(8) the commencement of a bankruptcy case under federal bankruptcy laws; or

(9) any other exception as provided in United States Code, title 11, section 326(b), as to the automatic stay in federal bankruptcy cases to the extent not inconsistent with any provision in this section.

Sec. 23. **[576.43] UTILITY SERVICE.**

A utility providing service to receivership property may not alter, refuse, or discontinue service to the receivership property without first giving the receiver 21 days' written notice of any default and any intention to alter, refuse, or discontinue service to receivership property. The court may prohibit the alteration, refusal, or discontinuance of utility service if the receiver furnishes adequate assurance of payment for service to be provided after the time of appointment.

Sec. 24. **[576.44] RECEIVERSHIP FINANCING.**

(a) Without necessity of a court order, the receiver may obtain unsecured credit and incur unsecured debt on behalf of the receivership, and the amounts shall be allowable as expenses of the receivership under section 576.51, subdivision 1, clause (2).

(b) Without necessity of a court order, the receiver may obtain secured financing on behalf of the receivership from any secured party under a financing facility existing at the time of the appointment.

(c) The court may authorize the receiver to obtain credit or incur indebtedness, and the court may authorize the receiver to mortgage, pledge, hypothecate, or otherwise encumber receivership property as security for repayment of any indebtedness.

Sec. 25. **[576.45] EXECUTORY CONTRACTS.**

Subdivision 1. **Performance by receiver.** Unless a court orders otherwise, a receiver succeeds to all of the rights and duties of the respondent under any executory contract. The court may condition the continued performance by the receiver on terms that are appropriate under the circumstances. Performance of an executory contract shall create a claim against the receivership to the extent of the value of the performance received by the receivership after the time of appointment. The claim shall not constitute a personal obligation of the receiver.

Subd. 2. **Assignment and delegation by receiver.** For good cause, the court may authorize a receiver to assign and delegate an executory contract to a third party under the same circumstances and under the same conditions as the respondent was permitted to do so pursuant to the terms of the executory contract and applicable law immediately before the time of appointment.

Subd. 3. **Termination by receiver.** For good cause, the court may authorize the receiver to terminate an executory contract. The receiver's right to possess or use property pursuant to the executory contract shall terminate at the termination of the executory contract. Except as to the claim against the receivership under subdivision 1, the termination shall create a claim equal to the damages, if any, for a breach of contract as if the breach of contract had occurred immediately before the time of appointment. Any claim arising under this section for termination of an executory contract shall be presented or filed in the same manner as other claims in the receivership no later than the later of: (1) the time set for filing of claims in the receivership; or (2) 28 days after the notice by the receiver of the termination of the executory contract.

Sec. 26. **[576.46] SALES FREE AND CLEAR OF LIEN IN GENERAL RECEIVERSHIPS.**

Subdivision 1. **Sales free and clear of liens.** (a) The court may order that a general receiver's sale of receivership property is free and clear of all liens, except any lien for unpaid real estate taxes or assessments and liens arising under federal law, and may be free of the rights of redemption of the respondent if the rights of redemption are receivership property and the rights of redemption of the holders of any liens, regardless of whether the sale will generate proceeds sufficient to fully satisfy all liens on the property, unless either:

(1) the property is (i) real property classified as agricultural land under section 273.13, subdivision 23, or the property is a homestead under section 510.01; and (ii) each of the owners of the property has not consented to the sale following the time of appointment; or

(2) any owner of the property or holder of a lien on the property serves and files a timely objection, and the court determines that the amount likely to be realized from the sale by the objecting person is less than the objecting person would realize within a reasonable time in the absence of this sale.

(b) The receiver shall have the burden of proof to establish that the amount likely to be realized by the objecting person from the sale is equal to or more than the objecting person would realize within a reasonable time in the absence of the sale.

(c) Upon any sale free and clear of liens authorized by this section, all liens encumbering the property conveyed shall transfer and attach to the proceeds of the sale, net of reasonable expenses approved by the court incurred in the disposition of the property, in the same order, priority, and validity as the liens had with respect to the property immediately before the sale. The court may authorize the receiver to satisfy, in whole or in part, any ownership interest or lien out of the proceeds of the sale if the ownership interest or lien of any party in interest would not thereby be impaired.

Subd. 2. **Co-owned property.** If any receivership property includes an interest as a co-owner of property, the receiver shall have the rights and powers afforded by applicable state or federal law of the respondent, including but not limited to any rights of partition, but may not sell the property free and clear of the co-owner's interest in the property.

Subd. 3. **Right to credit bid.** A creditor with a claim secured by a valid and perfected lien against the property to be sold may bid on the property at a sale and may offset against the purchase price part or all of the amount secured by its lien, provided that the creditor tenders cash sufficient to satisfy in full the reasonable expenses, approved by the court, incurred in the disposition of the property and all liens payable out of the proceeds of sale having priority over the lien of that creditor.

Subd. 4. **Effect of appeal.** The reversal or modification on appeal of an authorization to sell property under this section does not affect the validity of a sale to a person that purchased the property in good faith, whether or not the person knew of the pendency of the appeal, unless the authorization and sale is stayed pending the appeal.

Sec. 27. **[576.47] ABANDONMENT OF PROPERTY.**

The court may authorize the receiver to abandon any receivership property that is burdensome or is not of material value to the receivership. Property that is abandoned is no longer receivership property.

Sec. 28. **[576.48] LIENS AGAINST AFTER-ACQUIRED PROPERTY.**

Except as otherwise provided for by statute, property that becomes receivership property after the time of appointment is subject to a lien to the same extent as it would have been in the absence of the receivership.

Sec. 29. **[576.49] CLAIMS PROCESS.**

Subdivision 1. **Recommendation of receiver.** In a general receivership, and in a limited receivership if the circumstances require, the receiver shall submit to the court a recommendation concerning a claims process appropriate to the particular receivership.

Subd. 2. **Order establishing process.** In a general receivership and, if the court orders, in a limited receivership, the court shall establish the claims process to be followed in the receivership addressing whether proofs of claim must be submitted, the form of any proofs of claim, the place where the proofs of claim must be submitted, the deadline or deadlines for submitting the proofs of claim, and other matters bearing on the claims process.

Subd. 3. **Alternative procedures.** The court may authorize proofs of claim to be filed with the receiver rather than the court. The court may authorize the receiver to treat claims as allowed claims based on the amounts established in the books and records of the respondent or the schedule of claims filed pursuant to section 576.33, without necessity of formal proofs of claim.

Sec. 30. **[576.50] OBJECTION TO AND ALLOWANCE OF CLAIMS.**

Subdivision 1. **Objections and allowance.** The receiver or any party in interest may file a motion objecting to a claim and stating the grounds for the objection. The court may order that a copy of the objection be served on the persons on the master mailing list at least 30 days prior to the hearing. Claims allowed by court order, and claims properly submitted and not disallowed by the court shall be allowed claims and shall be entitled to share in distributions of receivership property in accordance with the priorities provided by this chapter or otherwise by law.

Subd. 2. **Examination of claims.** If the claims process does not require proofs of claim to be filed with the court, at any time after expiration of the claim-filing period and upon 14 days' written notice to the receiver, any party in interest shall have the right to examine:

(1) all claims filed with the receiver; and

(2) all books and records in the receiver's possession that provided the receiver the basis for concluding that creditors identified therein are entitled to participate in any distributions of receivership property without having to file claims.

Subd. 3. **Estimation of claims.** For the purpose of allowance of claims, the court may estimate:

(1) any contingent or unliquidated claim, the fixing or liquidation of which would unduly delay the administration of the receivership; or

(2) any right to payment arising from a right to an equitable remedy.

Sec. 31. **[576.51] PRIORITY OF CLAIMS.**

Subdivision 1. **Priorities.** Allowed claims shall receive distribution under this chapter in the following order of priority and, except as set forth in clause (1), on a pro rata basis:

(1) claims secured by liens on receivership property, which liens are valid and perfected before the time of appointment, to the extent of the proceeds from the disposition of the collateral in accordance with their respective priorities under otherwise applicable law, subject first to reimbursing the receiver for the reasonable and necessary expenses of preserving, protecting, or disposing of the collateral, including allowed fees and reimbursement of reasonable expenses of the receiver and professionals;

(2) actual, necessary costs and expenses incurred during the receivership, other than those expenses allowable under clause (1), including allowed fees and reimbursement of reasonable expenses of the receiver and professionals employed by the receiver under section 576.32;

(3) claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within the 90 days before the time of appointment or the cessation of the respondent's business, whichever occurs first, but only to the extent of the dollar amount in effect in United States Code, title 11, section 507(4);

(4) allowed unsecured claims, to the extent of the dollar amount in effect in United States Code, title 11, section 507(7), for each individual, arising from the deposit with the respondent, before the time of appointment of the receiver, of money in connection with the purchase, lease, or rental of property or the purchase of services for personal, family, or household use by individuals that were not delivered or provided;

(5) claims for arrears in amounts owing pursuant to a support order as defined in section 518A.26, subdivision 3;

(6) unsecured claims of governmental units for taxes that accrued before the time of appointment of the receiver;

(7) all other unsecured claims due as of the time of appointment, including the balance due the holders of secured claims to the extent not satisfied under clause (1); and

(8) interest pursuant to section 576.52.

Subd. 2. **Payments to respondent.** If all of the amounts payable under subdivision 1 have been paid in full, any remaining receivership property shall be returned to the respondent.

Sec. 32. **[576.52] INTEREST ON UNSECURED CLAIMS.**

To the extent that funds are available to pay holders of allowed unsecured claims in full or the amounts due as of the time of appointment, each holder shall also be entitled to receive interest, calculated from the time of appointment, at the rate set forth in the agreement evidencing the claim, or if no rate is provided, at the judgment rate that would be payable as of the time of appointment; provided, however, that no holder shall be entitled to interest on that portion, if any, of its unsecured claim that is itself interest calculated from the time of appointment. If there are not sufficient funds in the receivership to pay in full the interest owed to all the holders, then the interest shall be paid pro rata.

Sec. 33. **[576.53] DISTRIBUTIONS.**

Subdivision 1. **Proposed distributions.** Before any interim or final distribution is made, the receiver shall file a distribution schedule listing the proposed distributions. The distribution schedule may be filed at any time during the case or may be included in the final report.

Subd. 2. **Notice.** The receiver shall give notice of the filing of the distribution schedule to all persons on the master mailing list or that have filed proofs of claim. If there is no objection within 21 days after the notice, the court may enter an order authorizing the receiver to make the distributions described in the distribution schedule without the necessity of a hearing.

Subd. 3. **Other distributions.** In the order appointing the receiver or in subsequent orders, the court may authorize distribution of receivership property to persons with ownership interests or liens.

ARTICLE 6
ASSIGNMENTS FOR THE BENEFITS OF CREDITORS

Section 1. **[577.11] DEFINITIONS.**

(a) The definitions in this section and in section 576.21 apply throughout this chapter unless the context requires otherwise.

(b) "Assignee" means the person to whom the assignment property is assigned.

(c) "Assignment property" means the property assigned pursuant to the provisions of this chapter.

(d) "Assignor" means the person who assigns the assignment property.

(e) "Time of assignment" means the date and time endorsed by the court administrator pursuant to section 577.14.

Sec. 2. **[577.12] REQUISITES.**

A person may execute a written assignment of property to one or more assignees for the benefit of creditors in conformity with the provisions of this chapter. Every assignment for the benefit of creditors subject to this chapter made by an assignor of the whole or any part of the assignor's property, real or personal, for the benefit of creditors, shall be: (1) to a resident of the state eligible to be a receiver under section 576.26, in writing, subscribed and acknowledged by the assignor, and (2) filed by the assignor or the assignee with the court administrator of the district court of the county in which the assignor, or one of the assignors if there is more than one, resides, or in which the principal place of business of an assignor engaged in business is located. The district court shall have supervision over the assignment property and of all proceedings under this chapter.

Sec. 3. **[577.13] FORM OF ASSIGNMENT.**

An assignment for the benefit of creditors under this chapter shall be signed by the assignor and duly acknowledged in the same manner as conveyances of real property before a notary public of the state, shall include an acceptance of the assignment by the assignee, and shall be in substantially the following form:

ASSIGNMENT

THIS ASSIGNMENT is made thisday of, by and between....., with a principal place of business at(hereinafter "assignor"), and, whose address is(hereinafter "assignee").

WHEREAS, the assignor has been engaged in the business of.....

WHEREAS, the assignor is indebted to creditors and is unable to pay debts as they become due, and is desirous of providing for the payment of debts, so far as it is possible by an assignment of property for that purpose.

NOW, THEREFORE, the assignor, in consideration of the assignee's acceptance of this assignment, and for other good and valuable consideration, hereby assigns to the assignee, and the assignee's successors and assigns, the assignor's property, except the property as is exempt by law from levy and sale under an execution (and then only to the extent of the exemption), including but not limited to all real property, fixtures, goods, stock, inventory, equipment, furniture, furnishings, accounts receivable, general intangibles, bank deposits, cash, promissory notes, cash value and proceeds of insurance policies, claims, and demands belonging to the assignor, wherever the property may be located (hereinafter collectively the "assignment property"), which property is set forth on Schedule A attached hereto.

A list of the creditors of the assignor is set forth in Schedule B annexed hereto.

By making this assignment, the assignor consents to the appointment of the assignee as a general receiver with respect to the assignment property in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall take possession of and administer the assignment property and shall liquidate the assignment property with reasonable dispatch, collect all claims and demands hereby assigned as and to the extent they may be collectible, and pay and discharge all reasonable expenses, costs, and disbursements in connection with the execution and administration of this assignment from the proceeds of the liquidations and collections in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall then pay and discharge in full, to the extent that funds are available from the assignment property after payment of expenses, costs, and disbursements, all of the debts and liabilities now due from the assignor, including interest on the debts and liabilities in full, in accordance with Minnesota Statutes, chapters 576 and 577.

In the event that all debts and liabilities are paid in full, the remainder of the assignment property shall be returned to the assignor.

To accomplish the purposes of this assignment, the assignor hereby irrevocably appoints the assignee as the assignor's true and lawful attorney-in-fact, with full power and authority to do all acts and things which may be necessary to execute and fulfill the assignment hereby created, to the same extent as the acts and things might be done by the assignor in the absence of this assignment, including, but not limited to, the power to demand and recover from all persons all assignment property; to sue for the recovery of assignment property; to execute, acknowledge, and deliver all necessary deeds, instruments, and conveyances, and to grant and convey any or all of the real or personal property of the assignment property pursuant thereto; and to appoint one or more attorneys to assist the assignee in carrying out the assignee's duties hereunder.

The assignor hereby authorizes the assignee to sign the name of the assignor to any check, draft, promissory note, or other instrument in writing which is payable to the order of the assignor, or to sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purposes of this assignment.

The assignor declares, under penalty of perjury under the laws of the state of Minnesota, that the attached schedules of the property or the assignor and creditors are true and complete to the best of the assignor's knowledge.

The assignee hereby accepts the assignment property and agrees faithfully and without delay to carry out the assignee's duties under the foregoing assignment.

.....
Assignor

.....
Assignee

Dated:

Dated:

Sec. 4. [577.14] DUTY OF COURT ADMINISTRATOR.

The court administrator shall endorse the day, hour, and minute of the filing of the assignment. The assignment shall be entered in the court administrator's register, and all papers filed and orders made in the matter of the assignment shall be noted therein as in the case of a civil action.

Sec. 5. [577.15] ASSIGNEE AS LIEN CREDITOR; REAL ESTATE RECORDING.

Subdivision 1. **Assignee as lien creditor.** As of the filing of the assignment, the assignee shall have the powers and priority of a creditor that obtained a judicial lien at the time of assignment pursuant to sections 548.09 and 550.10 on all of the assignment property subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate recording.** If any interest in real estate is included in the assignment property, the assignment shall be effective as a deed, and a notice of a lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the assignee as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the assignment under section 507.34. The assignment executed by the assignor and certified by the court administrator and a deed executed by the assignee shall be recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the assignee shall be prima facie evidence of the authority of the assignee to convey the real property described in the assignment.

Sec. 6. [577.16] NOTICE.

The assignee shall give notice of the assignment to all creditors and other parties in interest actually known to the assignee by mail or other means of transmission within 21 days after the time of assignment. The notice of the assignment shall include the time of assignment and the names and addresses of the assignor, the assignee, and the assignee's attorney, if any.

Sec. 7. [577.17] REMOVAL OF ASSIGNEE.

The court may remove the assignee and appoint another assignee by application of the standards and procedures under section 576.37. The order of removal and appointment shall transfer all of the assignment property to the new assignee, and with respect to real property may be recorded in the same manner as the initial assignment.

Sec. 8. [577.18] APPLICATION OF CHAPTER GOVERNING RECEIVERSHIPS.

Except as otherwise provided in this chapter, an assignee shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; and 577.10, are repealed.

ARTICLE 7
CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 302A.753, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the corporation either at public or private sale.

Sec. 2. Minnesota Statutes 2010, section 302A.753, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~to the payment and discharge of:~~

~~(a) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~

~~(b) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~

~~(c) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act; provided, that claims under this clause shall not be allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(d) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(e) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 3. Minnesota Statutes 2010, section 302A.755, is amended to read:

302A.755 QUALIFICATIONS OF RECEIVERS; POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state.~~ Any person qualified under section 576.26 may be appointed as receiver. A receiver shall give bond as ~~directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts actions~~ as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property,~~ the receiver, and all receivership property pursuant to section 576.23.

Sec. 4. Minnesota Statutes 2010, section 302A.759, subdivision 1, is amended to read:

Subdivision 1. **Manner and form.** In proceedings referred to in section 302A.751 to dissolve a corporation, the court may require all creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 5. Minnesota Statutes 2010, section 302A.761, is amended to read:

302A.761 DISCONTINUANCE OF DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a corporation shall be discontinued at any time during the dissolution proceedings when it is established that cause for dissolution no longer exists. When this is established, the court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the corporation all its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 6. Minnesota Statutes 2010, section 308A.945, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, on notice the court directs to be given to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 7. Minnesota Statutes 2010, section 308A.945, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~or:~~

- ~~(1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~
- ~~(2) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative has carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 8. Minnesota Statutes 2010, section 308A.951, is amended to read:

308A.951 RECEIVER QUALIFICATIONS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver.~~ A receiver must give a bond as directed by the court with the sureties required by the court required by section 576.27.

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts actions~~ as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction ~~of over the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 9. Minnesota Statutes 2010, section 308A.961, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court pursuant to section 576.49. The receiver or any party in interest may object to any claims pursuant to section 576.50.~~

Sec. 10. Minnesota Statutes 2010, section 308A.965, is amended to read:

308A.965 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 11. Minnesota Statutes 2010, section 308B.935, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 12. Minnesota Statutes 2010, section 308B.935, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority:

- ~~(1) the costs and expense of the proceedings, including attorney fees and disbursements;~~
- ~~(2) debts, taxes, and assessments due the United States, this state, and other states in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 13. Minnesota Statutes 2010, section 308B.941, is amended to read:

308B.941 RECEIVER QUALIFICATIONS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver.~~ A receiver shall give a bond as ~~directed by the court with the sureties required by the court~~ required by section 576.27.

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts~~ actions as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction ~~of over the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 14. Minnesota Statutes 2010, section 308B.951, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 15. Minnesota Statutes 2010, section 308B.955, is amended to read:

308B.955 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 16. Minnesota Statutes 2010, section 316.11, is amended to read:

316.11 RECEIVER, APPOINTMENT, DUTIES.

In any action or proceeding to dissolve a corporation, the court, at any time before judgment, or within three years after judgment, of dissolution, may appoint a receiver to take charge of its estate and effects and to collect the debts and property due and belonging to it, with, in addition to the powers set forth in chapter 576, power to prosecute and defend actions in its name or otherwise, to appoint agents, and do all other acts necessary to the final settlement of the unfinished business of the corporation which it might do if in being. The power of such receiver shall continue so long as the court deems necessary for such purposes. The receiver shall pay all debts due from the corporation, if the funds in hand are sufficient therefor; and, if not, ~~shall distribute the same ratably among the creditors who prove their debts, in the manner directed by the court; and, if there be any balance after the payment of the debts, the receiver shall distribute and pay the same to and among those who are justly entitled thereto, as having been stockholders or members. Every receiver appointed under the provisions of this section shall give bond in such amount as the court shall require, with sureties approved by it~~ the assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the order of priority set forth in section 576.51. After payment of the expenses of the receivership and claims of creditors duly proved, the remaining assets, if any, shall be distributed to the shareholders in accordance with section 302A.551, subdivision 4. Every receiver appointed under the provisions of this section shall give bond as required by section 576.27 in such amount as the court shall require, with sureties approved by it.

Sec. 17. Minnesota Statutes 2010, section 317A.255, subdivision 1, is amended to read:

Subdivision 1. **Conflict; procedure when conflict arises.** (a) A contract or other transaction between a corporation and: (1) its director or a member of the family of its director; (2) a director of a related organization, or a member of the family of a director of a related organization; or (3) an organization in or of which the corporation's director, or a member of the family of its director, is a director, officer, or legal representative or has a material financial interest; is not void or voidable because the director or the other individual or organization are parties or because the director is present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if a requirement of paragraph (b) is satisfied.

(b) A contract or transaction described in paragraph (a) is not void or voidable if:

(1) the contract or transaction was, and the person asserting the validity of the contract or transaction has the burden of establishing that the contract or transaction was, fair and reasonable as to the corporation when it was authorized, approved, or ratified;

(2) the material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the members and the contract or transaction is approved in good faith by two-thirds of the members entitled to vote, not counting any vote that the interested director might otherwise have, or the unanimous affirmative vote of all members, whether or not entitled to vote;

(3) the material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the directors or committee members currently holding office, provided that the interested director or directors may not vote and are not considered present for purposes of a quorum. If, as a result, the number of remaining directors is not sufficient to reach a quorum, a quorum for the purpose of considering the contract or transaction is the number of remaining directors or committee members, ~~not counting any vote that the interested director might otherwise have, and not counting the director in determining the presence of a quorum;~~ or

(4) the contract or transaction is a merger or consolidation described in section 317A.601.

Sec. 18. Minnesota Statutes 2010, section 317A.753, subdivision 3, is amended to read:

Subd. 3. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to the parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the assets of the corporation at a public or private sale.

Sec. 19. Minnesota Statutes 2010, section 317A.753, subdivision 4, is amended to read:

Subd. 4. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the ~~following~~ order of priority ~~to the payment and discharge of:~~

~~(1) the costs and expenses of the dissolution proceedings, including attorneys fees and disbursements;~~

~~(2) debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~

~~(3) claims duly proved and allowed to employees under the Workers' Compensation Act, provided that claims under this clause are not allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(4) claims, including the value of compensation paid in a medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(5) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 20. Minnesota Statutes 2010, section 317A.755, is amended to read:

317A.755 QUALIFICATIONS OF RECEIVERS; POWERS.

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in courts~~ all actions as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 21. Minnesota Statutes 2010, section 317A.759, subdivision 1, is amended to read:

Subdivision 1. **Filing may be required.** In a proceeding under section 317A.751 to dissolve a corporation, the court may require creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 22. Minnesota Statutes 2010, section 322B.836, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the limited liability company assets, including all amounts owing to the limited liability company by persons who have made contribution agreements and by persons who have made contributions by means of enforceable promises of future performance. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the limited liability company and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the limited liability company either at public or private sale.

Sec. 23. Minnesota Statutes 2010, section 322B.836, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations upon liquidation.** If the court determines that the limited liability company is to be dissolved with winding up to be accomplished by liquidation, then the assets of the limited liability company or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the ~~following~~ order of priority ~~to the payment and discharge of:~~

~~(1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~

~~(2) debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~

~~(3) claims duly proved and allowed to employees under the provisions of chapter 176; provided, that claims under this clause shall not be allowed if the limited liability company carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(4) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(5) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 24. Minnesota Statutes 2010, section 322B.84, is amended to read:

322B.84 QUALIFICATIONS OF RECEIVERS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic or foreign organization authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts~~ actions as receiver of the limited liability company. The court appointing the receiver has exclusive jurisdiction ~~of over~~ the limited liability company ~~and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 25. Minnesota Statutes 2010, section 462A.05, subdivision 32, is amended to read:

Subd. 32. **Appointment of receivers.** The agency may obtain the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.04~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages contained in sections ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (1), and 559.17, subdivision 2, clause (2), shall be inapplicable to it.

Sec. 26. Minnesota Statutes 2010, section 469.012, subdivision 2i, is amended to read:

Subd. 2i. **Receivers, assignment of rent as security.** An authority may secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.04~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (1), does not apply.

Sec. 27. Minnesota Statutes 2010, section 540.14, is amended to read:

540.14 ACTIONS AGAINST RECEIVERS; TRIAL; JUDGMENT, HOW SATISFIED.

Except as limited in chapters 576 and 577, any receiver, assignee, or other person appointed by a court to hold or manage property under its direction, may be sued on account of any acts or transactions in carrying on the business connected with such property without prior leave of court.

Such action may be brought in any county in which it could have been brought against the person or corporation represented by such receiver or other person, shall be tried in the same manner and subject to the same rules of procedure, and any judgment recovered therein against such receiver or other person shall be paid by the receiver or other person as a part of the expenses of managing such property.

Sec. 28. Minnesota Statutes 2010, section 559.17, subdivision 2, is amended to read:

Subd. 2. **Assignment; conditions.** A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) was executed, modified or amended subsequent to August 1, 1977;

(2) secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) is not a lien upon property which was:

(i) entirely homesteaded as agricultural property; or

(ii) residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. The assignment may be enforced, but only against the nonhomestead portion of the mortgaged property, as follows:

(a) if, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section ~~576.01, subdivision 2~~ 576.25, subdivision 5; or

(b) if no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of recording by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 29. Minnesota Statutes 2010, section 576.04, is amended to read:

576.04 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY.

If a person entitled to or having an interest in property within or without the jurisdiction of the state has disappeared or absconded from the place within or without the state where last known to be, and has no agent in the state, and it is not known where the person is, or if such person, having a spouse or minor child or children

dependent to any extent upon the person for support, has thus disappeared, or absconded without making sufficient provision for such support, and it is not known where the person is, or, if it is known that the person is without the state, any one who would under the law of the state be entitled to administer upon the estate of such absentee if deceased, or if no one is known to be so entitled, some person deemed suitable by the court, or such spouse, or some one in such spouse's or minors' behalf, may file a petition, under oath, in the court for the county where any such property is situated or found, stating the name, age, occupation, and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, whether or not such absentee is a citizen of the United States, and if not, of what country the absentee is a citizen or native, and containing a schedule of the property, real and personal, so far as known, and its location within or without the state, and a schedule of contractual or property rights contingent upon the absentee's death, and praying that real and personal property may be taken possession of and a receiver thereof appointed under ~~this~~ chapter 576. No proceedings shall be commenced under the provisions of ~~sections 576.04 to 576.16~~ this chapter, except upon good cause shown until at least three months after the date on which it is alleged in such petition that such person so disappeared or absconded.

Sec. 30. Minnesota Statutes 2010, section 576.06, is amended to read:

576.06 NOTICE OF SEIZURE; APPOINTMENT OF RECEIVER; DISPOSITION OF PROPERTY.

Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant, and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in such property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and the property held and disposed of under ~~sections 576.04 to 576.16~~ this chapter.

Sec. 31. Minnesota Statutes 2010, section 576.08, is amended to read:

576.08 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.

The absentee, or any person who claims an interest in any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property which is in the possession of the officer and named in the schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee; and the receiver shall give a bond ~~to the state in the sum and with the conditions the court orders, to be approved by the court pursuant to section 576.27~~. In the appointment of the receiver the court shall give preference to the spouse of the absentee, if the spouse is ~~competent and suitable~~ eligible to serve as receiver under section 576.26.

Sec. 32. Minnesota Statutes 2010, section 576.09, is amended to read:

576.09 POSSESSION TRANSFER OF PROPERTY BY TO RECEIVER.

After the ~~approval of the~~ receiver gives its bond the court may order the sheriff or a deputy to transfer and deliver to such receiver the possession of the property under the warrant, and the receiver shall file in the office of the court administrator a schedule of the property received.

Sec. 33. Minnesota Statutes 2010, section 576.11, is amended to read:

576.11 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.

If the absentee has left no corporeal property within or without the state, but there are debts and obligations due or owing to the absentee from persons within or without the state, a petition may be filed, as provided in section ~~576.04~~ 578.02, stating the nature and amount of such debts and obligations, so far as known, and praying that a

receiver thereof may be appointed. The court may thereupon issue a notice, as above provided, without issuing a warrant, and may, upon the return of the notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct the receiver to demand and collect the debts and obligations specified in the petition. The receiver shall give bond, as provided in section ~~576.08~~ 576.27, and hold the proceeds of such debts and obligations and all property received, and distribute the same as provided in ~~sections 576.12 to 576.16~~ chapter 576. The receiver may be further authorized and directed as provided in section ~~576.10~~ 578.08.

Sec. 34. Minnesota Statutes 2010, section 576.121, is amended to read:

576.121 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.

If the beneficiary under an insurance policy on the life of an absentee is the absentee's spouse, child, or other person dependent upon the absentee for support and advance payments under the policy are necessary to support and maintain the beneficiary, the beneficiary shall be entitled to advance payments as the court determines under section ~~576.122~~ 578.12. "Beneficiary" under this section includes an heir at law of the person whose life is insured if the policy is payable to the insured's estate.

Sec. 35. Minnesota Statutes 2010, section 576.123, is amended to read:

576.123 REAPPEARANCE OF ABSENTEE.

Subdivision 1. **Insurance payments; reduction.** If an absentee is declared dead after advance insurance payments have been made pursuant to section ~~576.122~~ 578.12, the amount payable under the policy shall be reduced by the total amount of payments made under section ~~576.122~~ 578.12.

Subd. 2. **Reimbursement of insurer.** If an absentee is found to be living after advance insurance payments have been made to a beneficiary pursuant to section ~~576.122~~ 578.12, the absentee and beneficiary shall reimburse the insurer the amount of the payments made.

If the insurer is unable to obtain full reimbursement, the amount payable under the policy shall be reduced to the extent necessary to allow full reimbursement. Failure of the absentee and beneficiary to reimburse the insurer upon demand for payment sent by the insurer by certified mail to the last known address of the absentee and beneficiary shall be sufficient to show the insurer's inability to obtain reimbursement.

Sec. 36. Minnesota Statutes 2010, section 576.144, is amended to read:

576.144 DISSOLUTION OF MARRIAGE.

If the court finds the absentee dead in accordance with section ~~576.142~~ 578.17, the absentee's marriage is dissolved. The court shall enter the conclusion of law dissolving the marriage on the order which establishes the death of the absentee as a matter of law.

Sec. 37. Minnesota Statutes 2010, section 576.15, is amended to read:

576.15 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST AFTER FOUR YEARS.

The receiver shall be allowed ~~such~~ compensation and disbursements as ~~the court orders, to be paid out of the property or proceeds provided in chapter 576~~. If, within four years after the date of the disappearance or absconding, as found and recorded by the court, the absentee appears, and has not been declared dead under section ~~576.142~~ 578.17, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of the absentee is appointed, the receiver shall account for, deliver, and pay over to the absentee the remainder of the property. If the absentee does not appear and claim the property within four years, all the absentee's right, title, and interest in the property, real or personal, or the proceeds thereof, shall cease, and no action shall be brought by the absentee on account thereof.

If the absentee is declared dead pursuant to section ~~576.142~~ 578.17 and appears before the expiration of four years, the absentee shall have no right, title and interest in the property, real or personal, or the proceeds thereof.

Sec. 38. Minnesota Statutes 2010, section 576.16, is amended to read:

576.16 PROPERTY DISTRIBUTION; TIME LIMITATION.

If the receiver is not appointed within three years after the date found by the court under section ~~576.08~~ 578.06, the time limited for accounting for, or fixed for distributing, the property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the four years provided in sections ~~576.14~~ 578.15 and ~~576.15~~ 578.20.

The provisions of sections ~~576.04 to 576.16~~ this chapter shall not be construed as exclusive, but as providing additional and cumulative remedies.

Sec. 39. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in Column A with the number in Column B. The revisor shall correct any incorrect cross-references resulting from this renumbering.

<u>Column A</u>	<u>Column B</u>
<u>576.011</u>	<u>578.01</u>
<u>576.04</u>	<u>578.02</u>
<u>576.05</u>	<u>578.03</u>
<u>576.06</u>	<u>578.04</u>
<u>576.07</u>	<u>578.05</u>
<u>576.08</u>	<u>578.06</u>
<u>576.09</u>	<u>578.07</u>
<u>576.10</u>	<u>578.08</u>
<u>576.11</u>	<u>578.09</u>
<u>576.12</u>	<u>578.10</u>
<u>571.121</u>	<u>578.11</u>
<u>576.122</u>	<u>578.12</u>
<u>576.123</u>	<u>578.13</u>
<u>576.13</u>	<u>578.14</u>
<u>576.14</u>	<u>578.15</u>
<u>576.141</u>	<u>578.16</u>
<u>576.142</u>	<u>578.17</u>
<u>576.143</u>	<u>578.18</u>
<u>576.144</u>	<u>578.19</u>
<u>576.15</u>	<u>578.20</u>
<u>576.16</u>	<u>578.21</u>

Sec. 40. **REPEALER.**

Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2 and 3; 317A.759, subdivision 2; and 576.01, are repealed.

ARTICLE 8
CIVIL RIGHTS NOTICES

Section 1. **[201.280] DUTIES OF SECRETARY OF STATE; INFORMATION ABOUT VOTING RIGHTS.**

The secretary of state shall develop accurate and complete information in a single publication about the voting rights of people who have been charged with or convicted of a felony-level offense. This publication must be made available electronically to the state court administrator for distribution to judges, court personnel, probation officers, and the Department of Corrections for distribution to corrections officials, parole officers, and the public.

Sec. 2. Minnesota Statutes 2010, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) An application for an absentee ballot that lists the residential or mailing address of a correctional facility in which only persons convicted of felony-level sentences reside must not be accepted and an absentee ballot must not be provided to the applicant. The county auditor or municipal clerk must promptly transmit a copy of the application to the county attorney. The Department of Corrections shall implement procedures to ensure that absentee ballots are not received or mailed by incarcerated offenders.

(b) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

~~(b)~~ (c) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.13, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Sec. 3. **[243.205] NOTICE OF RESTORATION OF RIGHT TO VOTE.**

Subdivision 1. **Correctional facilities; designation of official.** The chief executive officer of each state correctional facility shall designate an official within the facility to provide the notice required under this section to inmates who have been restored to civil rights. The official may also maintain a supply of voter registration applications and informational materials to accompany the notice.

Subd. 2. Notice requirement. A notice of restoration of civil rights must be provided as follows:

(1) the chief executive officer of each state correctional facility shall provide the notice and may provide a voter registration application to an inmate being released from the facility following incarceration for a felony-level offense if the inmate's sentence is discharged and civil rights restored under section 609.165; and

(2) a probation officer or supervised release agent shall provide the notice and may provide a voter registration application when an individual under correctional supervision for a felony-level offense is discharged from sentence and the individual's civil rights have been restored under section 609.165.

Subd. 3. Form of notice. The notice required by subdivision 2 must appear substantially as follows:

**"NOTICE OF RESTORATION OF CIVIL RIGHTS,
INCLUDING YOUR RIGHT TO VOTE.**

Your final discharge today means that your civil rights have been restored. This includes a restoration of your right to vote in Minnesota. Before you can vote on election day, you still need to register to vote. To register, you can complete a voter registration application and return it to the Office of the Minnesota Secretary of State. You also can register to vote in your polling place on election day. You will not be permitted to cast a ballot until you register to vote. The first time you appear at your polling place to cast a ballot, you may be required to provide proof of your current residence."

Subd. 4. Failure to provide notice. A failure to provide proper notice as required by this section does not prevent the restoration of an inmate's civil rights upon discharge.

Sec. 4. [630.125] DEFENDANT; NOTICE OF LOSS OF CIVIL RIGHTS UPON CONVICTION.

For felony-level offenses, prior to the court's acceptance of a plea from the defendant, the court must notify the defendant that a guilty plea or conviction for a felony-level offense will result in a loss of the defendant's civil rights, including the right to vote, until the defendant's sentence has been discharged."

Delete the title and insert:

"A bill for an act relating to judiciary; modifying certain provisions relating to courts, juvenile delinquency proceedings, child support calculations, protective orders, wills and trusts, property interests, protected persons and wards, receiverships, assignments for the benefit of creditors, and notice regarding civil rights; amending Minnesota Statutes 2010, sections 169.79, subdivision 6; 169.797, subdivision 4; 203B.06, subdivision 3; 260B.163, subdivision 1; 260C.331, subdivision 3; 279.37, subdivision 8; 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 357.021, subdivision 6; 359.061, subdivisions 1, 2; 462A.05, subdivision 32; 469.012, subdivision 2i; 514.69; 514.70; 518.552, by adding a subdivision; 518A.29; 518B.01, subdivision 8; 524.2-712; 524.2-1103; 524.2-1104; 524.2-1106; 524.2-1107; 524.2-1114; 524.2-1115; 524.2-1116; 524.5-502; 525.091, subdivisions 1, 3; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 5B; 201; 243; 576; 577; 630; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1025, A bill for an act relating to utilities; requiring utility rates be based primarily on cost of service between and among consumer classes; making clarifying and technical changes; amending Minnesota Statutes 2010, sections 216B.03; 216B.07; 216B.16, subdivisions 6, 15; 216B.2401; repealing Minnesota Statutes 2010, section 216B.242.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
ENERGY RATES

Section 1. Minnesota Statutes 2010, section 216B.03, is amended to read:

216B.03 REASONABLE RATE.

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers and among classes of consumers. To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 216B.164, 216B.241, and 216C.05. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate-making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

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

Sec. 2. Minnesota Statutes 2010, section 216B.07, is amended to read:

216B.07 RATE PREFERENCE PROHIBITED.

No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or class of consumers or subject any person or class of consumers to any unreasonable prejudice or disadvantage.

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

Sec. 3. Minnesota Statutes 2010, 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 (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) ~~The commission shall not include~~ investments and expenses for energy conservation improvements ~~shall not be included by the commission in the determination of (i) determining:~~

(1) 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~~ energy customers exempted under section 216B.241, subdivision 1a, paragraph (b) ~~or (e); or (ii)~~

(2) just and reasonable gas rates for large energy facilities ~~or commercial gas customers that are not large energy customers that have been exempted under section 216B.241, subdivision 1a, paragraph (c) or (e).~~

(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 requirements of section 216B.241. 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 a large ~~electric~~ energy customer facilities that ~~have has~~ been exempted by the commissioner of the department pursuant to under section 216B.241, subdivision 1a, paragraph (b) ~~or (e)~~, and to reduce the gas rate applicable to a large energy facility ~~or to a commercial gas customer that is not a large energy customer that has been exempted under section 216B.241, subdivision 1a, paragraph (c) or (e)~~, by an amount that reflects the elimination of energy conservation improvement investments or expenditures for those facilities. 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, 2007.

(d) Investments and expenses of a public utility ~~shall do~~ not include electric utility infrastructure costs as defined in section 216B.1636, subdivision 1, paragraph (b).

(e) Notwithstanding any provision in this chapter, a power plant using natural gas as a primary fuel to generate electricity by means of cogeneration, as defined in section 216B.166, subdivision 2, and whose construction began after July 1, 1994, and before July 1, 1997, is exempt from any charges from a public utility serving the power plant to recover costs incurred by the public utility to meet the requirements to make energy conservation improvements under section 216B.241.

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

Sec. 4. Minnesota Statutes 2010, section 216B.16, is amended by adding a subdivision to read:

Subd. 6e. **Revenue allocation among consumer classes.** Cost of service must be the primary consideration in the commission's determination of revenue allocation among consumer classes. Factors other than cost of service, including impact on business development and job growth, may also be considered and evaluated by the commission in determining revenue allocation. Factors used in determining revenue allocation must be supported by record evidence.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to filings for rate changes filed on and after that date.

Sec. 5. Minnesota Statutes 2010, section 216B.16, subdivision 7, is amended to read:

Subd. 7. **Energy and emission-control products cost adjustment.** Notwithstanding any other provision of this chapter, the commission may permit a public utility to file rate schedules containing provisions for the automatic adjustment of charges for public utility service in direct relation to changes in:

(1) federally regulated wholesale rates for energy delivered through interstate facilities;

(2) direct costs for natural gas delivered; ~~or~~

(3) costs for fuel used in generation of electricity or the manufacture of gas; or

(4) prudent costs incurred by a public utility for sorbents, reagents, or chemicals used to control emissions from an electric generation facility, provided that these costs are not recovered elsewhere in rates. The utility shall track and report annually the volumes and costs of sorbents, reagents, or chemicals using separate accounts by generating plant.

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

Sec. 6. Minnesota Statutes 2010, section 216B.16, subdivision 9, is amended to read:

Subd. 9. **Charitable contribution.** The commission shall allow as operating expenses only those charitable contributions ~~which that~~ the commission deems prudent and ~~which that~~ qualify under section ~~290.21, subdivision 3, clause (b)~~ 300.66, subdivision 3. Only 50 percent of the qualified contributions ~~shall be~~ are allowed as operating expenses.

Sec. 7. Minnesota Statutes 2010, section 216B.16, subdivision 15, is amended to read:

Subd. 15. **Low-income affordability programs.** (a) The commission must consider ability to pay as a factor in setting utility rates and may establish affordability programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous service to low-income utility customers. ~~Affordability programs may include inverted block rates in which lower energy prices are made available to lower usage customers. By September 1, 2007,~~ A public utility serving low-income residential ratepayers who use natural gas for heating must file an affordability program with the commission. For purposes of this subdivision, "low-income residential ratepayers" means ratepayers who receive energy assistance from the low-income home energy assistance program (LIHEAP).

(b) Any affordability program the commission orders a utility to implement must:

(1) lower the percentage of income that participating low-income households devote to energy bills;

(2) increase participating customer payments over time by increasing the frequency of payments;

(3) decrease or eliminate participating customer arrears;

(4) lower the utility costs associated with customer account collection activities; and

(5) coordinate the program with other available low-income bill payment assistance and conservation resources.

(c) In ordering affordability programs, the commission may require public utilities to file program evaluations that measure the effect of the affordability program on:

(1) the percentage of income that participating households devote to energy bills;

(2) service disconnections; and

(3) frequency of customer payments, utility collection costs, arrearages, and bad debt.

(d) The commission must issue orders necessary to implement, administer, and evaluate affordability programs, and to allow a utility to recover program costs, including administrative costs, on a timely basis. The commission may not allow a utility to recover administrative costs, excluding start-up costs, in excess of five percent of total

program costs, or program evaluation costs in excess of two percent of total program costs. The commission must permit deferred accounting, with carrying costs, for recovery of program costs incurred during the period between general rate cases.

(e) Public utilities may use information collected or created for the purpose of administering energy assistance to administer affordability programs.

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

Sec. 8. Minnesota Statutes 2010, section 216B.16, is amended by adding a subdivision to read:

Subd. 19. Multiyear rate plan. (a) A public utility may propose, and the commission may approve, approve as modified, or reject, a multiyear rate plan as provided in this subdivision. The term "multiyear rate plan" refers to a plan establishing the rates the utility may charge for each year of the specified period of years, which cannot exceed four years, to be covered by the plan. The commission may approve a multiyear rate plan only if it finds that the plan establishes just and reasonable rates for the utility, applying the factors described in subdivisions 6 and 6e. Consistent with subdivision 4, the burden of proof to demonstrate that the multiyear rate plan is just and reasonable is on the public utility proposing the plan.

(b) Rates charged under the multiyear rate plan must be based only upon the utility's reasonable and prudent costs of service over the term of the plan, as determined by the commission, provided that the costs are not being recovered elsewhere in rates. Rate adjustments authorized under subdivisions 6b and 7 may continue outside of a plan authorized under this subdivision.

(c) The commission may, by order, establish terms, conditions, and procedures for a multiyear rate plan necessary to implement this section and ensure that rates remain just and reasonable during the course of the plan, including terms and procedures for rate adjustment. At any time prior to conclusion of a multiyear rate plan, the commission has the discretion to hear and consider a petition by any party to examine the reasonableness of the utility's rates under the plan, and adjust rates as necessary.

(d) In reviewing a multiyear rate plan proposed in a general rate case under this section, the commission may extend the time requirements for issuance of a final determination prescribed in this section by an additional 90 days beyond its existing authority under subdivision 2, paragraph (f).

Sec. 9. Minnesota Statutes 2010, section 216B.164, subdivision 3, is amended to read:

Subd. 3. Purchases; small facilities. (a) For a qualifying facility having less than 40-kilowatt capacity, the customer shall be billed for the net energy supplied by the utility according to the applicable rate schedule for sales to that class of customer. In the case of net input into the utility system by a qualifying facility having less than 40-kilowatt capacity, compensation to the customer shall be at a per kilowatt-hour rate determined under paragraph (b) or (c) or subdivision 4.

(b) In setting rates, the commission shall consider the fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge and shall ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility. The commission shall set the rates for net input into the utility system based on avoided costs as defined in the Code of Federal Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of Federal Regulations, title 18, section 292.304, and all other relevant factors.

(c) Notwithstanding any provision in this chapter to the contrary, a qualifying facility having less than 40-kilowatt capacity that is interconnected with a nongenerating utility may elect that the compensation to be compensated for net input by the qualifying facility into the utility system shall be at the average retail utility energy

rate. "Average retail utility energy rate" is defined as the average of the retail energy rates, exclusive of special rates based on income, age, or energy conservation, according to the applicable rate schedule of the utility for sales to that class of customer rate the nongenerating utility pays a generating utility or utilities to supply electricity to the nongenerating utility, including, but not limited to, energy, capacity, and transmission costs.

(d) If the qualifying facility is interconnected with a nongenerating utility which has a sole source contract with a municipal power agency or a generation and transmission utility, the nongenerating utility may elect to treat its purchase of any net input under this subdivision as being made on behalf of its supplier and shall be reimbursed by its supplier for any additional costs incurred in making the purchase. A qualifying facilities facility having less than 40-kilowatt capacity may, at the customer's option, elect to be governed by the provisions of subdivision 4.

(e) For the purposes of this section, "nongenerating utility" has the meaning given in Minnesota Rules, part 7835.0100.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to power purchase agreements signed after June 30, 2011.

Sec. 10. Minnesota Statutes 2010, section 216B.1691, is amended by adding a subdivision to read:

Subd. 2e. **Rate impact of standard compliance; report.** (a) Each electric utility must submit to the commission and to the chairs and ranking minority members of the legislative committees with primary jurisdiction over energy policy a report containing an estimation of the rate impact on wholesale rates and, if applicable, retail rates, of activities of the electric utility necessary to comply with this section. Those activities include, without limitation, energy purchases, generation facility acquisition and construction, and transmission improvements. An initial report must be submitted within 150 days of the effective date of this section. After the initial report, a report must be updated and submitted as part of each integrated resource plan or plan modification filed by the electric utility under section 216B.2422.

(b) The reporting obligation of an electric utility under this subdivision expires December 31, 2025, for an electric utility subject to subdivision 2a, paragraph (a), and December 31, 2020, for an electric utility subject to subdivision 2a, paragraph (b).

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

Sec. 11. **REPEALER.**

Minnesota Statutes 2010, section 216B.242, is repealed.

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

ARTICLE 2 ENERGY CONSERVATION

Section 1. Minnesota Statutes 2010, section 216B.2401, is amended to read:

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 customer-initiated conservation activities and energy conservation improvement programs and rate design, such as inverted block rates in which lower energy prices are made available to lower usage residential customers, 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.

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

Sec. 2. Minnesota Statutes 2010, section 216B.241, subdivision 1, is amended to read:

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)~~ (c) "Department" means the Department of Commerce.

~~(e)~~ (d) "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)~~ (e) "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)~~ (f) "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.

~~(h)~~ (g) "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:

(1) gas sales to a large energy facility or a commercial gas customer that is not a large energy customer and is exempted under subdivision 1a, paragraph (c) or (e); and

(2) gas and electric sales to a large ~~electric energy~~ customer facility exempted ~~by the commissioner~~ under subdivision 1a, paragraph (b).

~~(i)~~ (h) "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.

~~(i)~~ (i) "Large ~~electric energy~~ customer facility" means a customer with a 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 or a customer with a facility that consumes not less than 500,000,000 cubic feet of natural gas annually. When calculating peak demand, a large energy customer may:~~

(1) include demand offset by on-site cogeneration facilities; and

(2) if engaged in mineral extraction, aggregate peak energy demand from the customer's mining and processing facilities.

~~(j)~~ (j) "Large energy facility" has the meaning given it in section 216B.2421, subdivision 2, clause (1).

~~(k)~~ (k) "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 peak demand for energy or capacity.

~~(l)~~ (l) "Low-income programs" means energy conservation improvement programs that directly serve the needs of low-income persons, including low-income renters.

~~(m)~~ (m) "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.

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

Sec. 3. Minnesota Statutes 2010, section 216B.241, subdivision 1a, is amended to read:

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~~ energy customers exempted ~~by the commissioner~~ under paragraph (b), or from commercial gas customers that are not large energy customers and that are exempted under paragraph (c) or (e).

(b) ~~The owner of~~ A large ~~electric energy~~ customer facility may petition file with 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 customer~~. At a minimum, The petition must be supported by evidence relating to filing must include a discussion of the competitive or economic pressures on the customer and a showing by the customer of reasonable of the efforts taken by the

customer to identify, evaluate, and implement cost-effective conservation improvements at the facility and an audit or other report prepared by an independent third party with expertise in energy conservation verifying that the customer has taken reasonable and appropriate measures to implement cost-effective conservation improvements. 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 the customer is not continuing to make reasonable efforts to identify, evaluate, and implement energy conservation improvements at the large electric customer facility. 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. The filing must be approved and become effective January 1 of the year following the filing. A large energy customer that is exempt from the investment and expenditure requirements of paragraph (a) under an order from the commissioner issued before the effective date of this section does not need to resubmit a petition to retain its exempt status. No exempt large energy customer may participate in a utility conservation improvement program unless the large energy customer files with the commissioner to withdraw its exemption.

(c) A commercial gas customer that is not a large energy customer and that purchases natural gas from a public utility having fewer than 300,000 natural gas customers in Minnesota may petition the commissioner to exempt gas utilities serving the commercial gas customer from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the commercial gas customer. The petition must be supported by evidence demonstrating that the commercial gas customer has acquired or can reasonably acquire the capability to bypass use of the utility's gas distribution system by obtaining natural gas directly from a supplier not regulated by the commission.

(d) 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)~~ (e) A public utility or owner of a large electric customer facility may appeal a decision of the commissioner under paragraph (b) ~~or~~ (c), or (d) to the commission under subdivision 2. In reviewing a decision of the commissioner under paragraph (b) ~~or~~ (c), or (d), 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.

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

Sec. 4. Minnesota Statutes 2010, section 216B.241, subdivision 1b, is amended to read:

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 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:

(1) shall make a good-faith effort to meet an annual energy-savings goal equivalent to 1.5 percent gross annual retail energy sales, although no municipality or cooperative association is required to spend more than the proportion of gross operating revenues cited in paragraph (b) to achieve the energy-savings goal;

(2) may, if it experiences zero or negative growth in gross retail energy sales, be deemed to satisfy the energy-savings goal if it achieves savings equal to 0.75 percent of gross retail energy sales;

(3) shall calculate the energy-savings goal based on weather-normalized average gross retail energy sales during the three most recent calendar years;

(4) may elect to carry forward energy savings in excess of 1.5 percent to apply to the energy-savings goal in subsequent years;

(5) may use a particular energy savings only for one year's goal;

(6) may apply toward its energy-savings goal energy saved from electric utility infrastructure projects as defined in section 216B.1636, provided that the projects result in increased efficiency greater than that which would have occurred through normal maintenance activity; and

(7) may apply toward its energy-savings goal five kilowatt-hours per dollar spent, including labor and administrative costs, to educate customers about energy conservation and to educate and train utility employees, contractors, and others to perform energy audits, install conservation measures, and conduct other activities directly related to conservation investments.

(d) 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 energy~~ customer facility for which the commissioner has issued an exemption exempted under subdivision 1a, paragraph (b). A municipality or cooperative electric association whose annual gross retail energy sales increase by ten percent or more over the previous year as the result of the addition of a single new customer or increased demand from a single existing customer may petition the commissioner to exclude all sales from that customer from its energy-savings goal. If the commissioner approves the exclusion, the municipality or cooperative electric association may petition the commissioner annually to extend the exclusion, even if the incremental sales added by the customer no longer increase gross retail energy sales by ten percent or more over the previous year. The commissioner shall approve the extension if the commissioner determines that the petition contains sufficient evidence to demonstrate that the customer whose sales are sought to be excluded continues to make reasonable efforts to identify, evaluate, and implement energy conservation improvements at the customer's facility. A municipality or cooperative electric association may petition for an

exemption under this paragraph regarding an eligible sales increase that occurred in 2008, 2009, or 2010, but any exemption approved for an eligible sales increase in those years may apply only to the municipality's or cooperative electric association's energy-savings goal for 2012 and, if extended by the commissioner, thereafter.

(e) A municipality or cooperative electric association subject to this subdivision is not required to make energy conservation investments to attain the energy-savings goal of this subdivision that are not cost-effective even if the investment is necessary to attain the energy-savings goal. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the cooperative electric association or municipality, participants, and society. In addition, the commissioner shall consider the rate at which a cooperative electric association or municipality is increasing its energy savings and its expenditures on energy conservation.

~~(d)~~ (f) 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)~~ (g) Load-management activities may be used to meet 50 percent of the conservation investment and spending requirements of this subdivision. The amount of energy a utility shifts from peak daily demand by implementing load-management activities may count for up to 50 percent of the energy-savings goal of a municipality or cooperative electric association.

~~(f)~~ (h) 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)~~ (i) Each municipality or cooperative electric association shall file energy conservation improvement plans or a summary of the plans by June 1 on a schedule determined by order of the commissioner, but at least every three years. Plans or summaries received by June 1 must be ~~approved or approved as modified~~ reviewed by the commissioner and the commissioner's comments must be submitted to the municipality or cooperative electric association by December 1 of the same year. The municipality or cooperative electric association shall provide an evaluation to the commissioner ~~detailing~~ summarizing 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~~ municipality or cooperative electric association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the ~~utility's~~ municipality's or cooperative electric 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 cooperative electric association to increase the effectiveness of conservation improvement activities. In making recommendations, the commissioner may consider the municipality's or cooperative electric association's rate of conservation spending and energy savings, historical conservation investment experience, impact on rates of conservation spending and energy savings, customer class profile, load growth trends, conservation potential, and customers' ability to pay, as well as local economic conditions, advancing technology, and other relevant factors.

~~(h)~~ (j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system 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)~~ (g). This paragraph expires July 1, 2011.

(i) (k) 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.

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

Sec. 5. Minnesota Statutes 2010, section 216B.241, subdivision 1c, is amended to read:

Subd. 1c. **Energy-saving goals; public utility.** (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 public 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. A public utility ~~or association~~ may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A particular energy savings can be used only for one year's goal.

(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 public 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 public 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~~ A public 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.

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

Sec. 6. Minnesota Statutes 2010, section 216B.241, subdivision 2, is amended to read:

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 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 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 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 energy customer facility for which the commissioner has issued an exemption pursuant to, or a commercial gas customer that is not a large energy customer exempted under~~ subdivision 1a, paragraph (b), (c), or (e). The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision, a nonprofit corporation, or community organization.

(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.

(f) The commissioner may order a public utility to include, with the filing of the utility's ~~proposed conservation improvement plan under paragraph (a),~~ program status report required under Minnesota Rules, part 7690.0550, 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.

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

ARTICLE 3 MISCELLANEOUS

Section 1. Minnesota Statutes 2010, section 16E.15, subdivision 2, is amended to read:

Subd. 2. **Software sale fund.** (a) Except as provided in ~~paragraphs~~ paragraph (b) ~~and (c)~~, proceeds of the sale or licensing of software products or services by the chief information officer must be credited to the enterprise technology revolving fund. If a state agency other than the Office of Enterprise Technology has contributed to the development of software sold or licensed under this section, the chief information officer may reimburse the agency by discounting computer services provided to that agency.

(b) Proceeds of the sale or licensing of software products or services developed by the Pollution Control Agency, or custom developed by a vendor for the agency, must be credited to the environmental fund.

~~(c) Proceeds of the sale or licensing of software products or services developed by the Department of Education, or custom developed by a vendor for the agency, to support the achieved savings assessment program, must be appropriated to the commissioner of education and credited to the weatherization program to support weatherization activities.~~

Sec. 2. Minnesota Statutes 2010, section 216B.096, subdivision 3, is amended to read:

Subd. 3. **Utility obligations before cold weather period.** Each year, between September 1 and October 15, each utility must provide all customers, personally ~~or~~ by first class mail, or electronically for those requesting electronic billing, a summary of rights and responsibilities. The summary must also be provided to all new residential customers when service is initiated.

Sec. 3. Minnesota Statutes 2010, section 216B.1636, subdivision 1, is amended to read:

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)~~.

Sec. 4. Minnesota Statutes 2010, section 216B.1691, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy technology" means an energy technology that generates electricity from the following renewable energy sources:

(1) solar;

(2) wind;

(3) hydroelectric with a capacity of less than 100 megawatts;

(4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this paragraph; or

(5) biomass, which includes, without limitation, landfill gas; an anaerobic digester system; the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge to produce electricity; and an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel.

(b) "Electric utility" means a public utility providing electric service, a generation and transmission cooperative electric association, a municipal power agency, or a power district.

(c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by an electric utility to retail customers of the electric utility or to a distribution utility for distribution to the retail customers of the distribution utility. Total retail electric sales does not include the sale of electricity generated by hydropower by a federal power agency.

EFFECTIVE DATE. This section is effective retroactively from March 19, 2010.

Sec. 5. Minnesota Statutes 2010, section 216B.1694, is amended by adding a subdivision to read:

Subd. 3. **Staging and permitting.** (a) A natural gas-fired plant that is located on one site designated as an innovative energy project site under subdivision 1, clause (3), is accorded the regulatory incentives granted to an innovative energy project under subdivision 2, clauses (1) through (3), and may exercise the authorities therein.

(b) Following issuance of a final state or federal environmental impact statement for an innovative energy project that was a subject of contested case proceedings before an administrative law judge:

(1) site and route permits and water appropriation approvals for an innovative energy project must also be deemed valid for a plant meeting the requirements of paragraph (a) and shall remain valid until the earlier of (i) four years from the date the final required state or federal preconstruction permit is issued or (ii) June 30, 2019; and

(2) no air, water, or other permit issued by a state agency that is necessary for constructing an innovative energy project may be the subject of contested case hearings, notwithstanding Minnesota Rules, parts 7000.1750 to 7000.2200.

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

Sec. 6. Minnesota Statutes 2010, section 216B.2425, subdivision 2, is amended to read:

Subd. 2. **List development; transmission projects report.** (a) By November 1 of each odd-numbered year, a transmission projects report must be submitted to the commission by each utility, organization, or company that:

(1) is a public utility, a municipal utility, a cooperative electric association, the generation and transmission organization that serves each utility or association, or a transmission company; and

(2) owns or operates electric transmission lines in Minnesota, except a company or organization that owns a transmission line that serves a single customer or interconnects a single generating facility.

(b) The report may be submitted jointly or individually to the commission.

(c) The report must:

(1) list specific present and reasonably foreseeable future inadequacies in the transmission system in Minnesota;

(2) identify alternative means of addressing each inadequacy listed;

(3) identify general economic, environmental, and social issues associated with each alternative; and

(4) provide a summary of public input related to the list of inadequacies and the role of local government officials and other interested persons in assisting to develop the list and analyze alternatives.

(d) To meet the requirements of this subdivision, reporting parties may rely on available information and analysis developed by a regional transmission organization or any subgroup of a regional transmission organization and may develop and include additional information as necessary.

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

Sec. 7. Minnesota Statutes 2010, section 216B.49, subdivision 3, is amended to read:

Subd. 3. **Commission approval required.** It ~~shall be~~ is unlawful for any public utility organized under the laws of this state to offer or sell any security or, if organized under the laws of any other state or foreign country, to subject property in this state to an encumbrance for the purpose of securing the payment of any indebtedness unless the security issuance of the public utility ~~shall be~~ is first approved by the commission, either as an individual issuance or as one of multiple possible issuances approved in the course of a periodic proceeding reviewing the utility's proposed sources and uses of capital funds. Approval by the commission ~~shall~~ must be by formal written order.

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

Sec. 8. Minnesota Statutes 2010, section 216B.62, subdivision 2, is amended to read:

Subd. 2. **Assessing specific utility.** Whenever the commission or department, in a proceeding upon its own motion, on complaint, or upon an application to it, ~~shall deem~~ deems it necessary, in order to carry out the duties imposed under this chapter and section ~~216A.085~~ 216A.14 (1) to investigate the books, accounts, practices, and activities of, or make appraisals of the property of, any public utility, (2) to render any engineering or accounting services to any public utility, or (3) to intervene before an energy regulatory agency, the public utility shall pay the expenses reasonably attributable to the investigation, appraisal, service, or intervention. The commission and department shall ascertain the expenses, and the department shall render a bill therefor to the public utility, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress, which bill shall

constitute notice of the assessment and a demand for payment. The amount of the bills so rendered by the department shall be paid by the public utility into the state treasury within 30 days from the date of rendition. The total amount, in any one calendar year, for which any public utility shall become liable, by reason of costs incurred by the commission within that calendar year, shall not exceed two-fifths of one percent of the gross operating revenue from retail sales of gas, or electric service by the public utility within the state in the last preceding calendar year. Where, pursuant to this subdivision, costs are incurred within any calendar year which are in excess of two-fifths of one percent of the gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subdivision 3, but shall be paid out of the general appropriation to the department and commission. In the case of public utilities offering more than one public utility service only the gross operating revenues from the public utility service in connection with which the investigation is being conducted shall be considered when determining this limitation.

Sec. 9. Minnesota Statutes 2010, section 216B.62, subdivision 3, is amended to read:

Subd. 3. **Assessing all public utilities.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to public utilities under sections ~~216A.085~~ 216A.14 and 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2, 6, 7, or 8. The remainder shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been transmitted via mail, personal delivery, or electronic service to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 10. Minnesota Statutes 2010, section 216C.052, is amended to read:

216C.052 ENERGY RELIABILITY ADMINISTRATOR AND INTERVENTION OFFICE.

Subdivision 1. **Responsibilities.** (a) ~~There is established the position of reliability administrator~~ The Energy Reliability and Intervention Office is established in the Department of Commerce to represent the interests of Minnesota residents, businesses, and governments before bodies and agencies outside the state that make, interpret, or implement regional, national, and international energy policy and regulate and implement regional or national energy planning or infrastructure development. The ~~administrator office~~ shall act as a source of independent expertise and ~~a technical advisor to~~ advice for the commissioner of commerce, the Public Utilities Commission, and the public on issues related to the reliability and economics of the electric system. Under the guidance of the commissioner and the commission, the office shall also participate and advocate for the state's interests in other regional, national, and international energy matters potentially impacting Minnesota. In conducting its work, the ~~administrator office~~ shall provide assistance to the commissioner and the commission, as requested, in administering and implementing the department's duties under this section and sections 216B.1612, 216B.1691, 216B.2422, 216B.2425, and 216B.243; chapters 216E, 216F, and 216G; and rules associated with ~~those provisions~~ these sections and shall also:

(1) model and monitor in the state as well as regionally, nationally, and internationally, as appropriate, the use and operation of the energy infrastructure ~~in the state, including,~~ which includes generation facilities, transmission lines, natural gas pipelines, new and emerging energy technologies, demand response and energy efficiency technologies, and other energy infrastructure;

(2) develop and present to the commissioner and the commission and parties technical advice and analyses ~~of~~ on proposed infrastructure projects, and provide technical advice to the commission within and outside of the state that could impact the state;

(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~~ office may give policy or technical advice to the commission as to the impact on the reliability and economic viability of the energy system of a particular project or projects of any state, region, or nation.

Subd. 2. **Administrative issues.** (a) ~~The commissioner may select the administrator. 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 commissioner.~~ The commissioner shall oversee and direct the work of the ~~administrator~~ office, annually review ~~the its~~ its expenses ~~of the administrator~~, and annually approve ~~the its~~ its budget ~~of the administrator~~. The ~~administrator~~ commissioner 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 Department of Commerce shall pay:

(1) the general administrative costs of the ~~administrator~~ office, 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 commissioner under paragraph (a). The 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 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 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 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. 4. **Expiration.** Subdivisions 1 and 2 expire June 30, 2012. Subdivision 3 expires June 30, 2008.~~

Sec. 11. Minnesota Statutes 2010, section 216C.11, is amended to read:

216C.11 ENERGY CONSERVATION INFORMATION CENTER.

The commissioner shall establish an Energy Information Center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The Energy Information Center shall serve as the official Minnesota Alcohol Fuels Information Center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. ~~In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by section 216B.096 or 216B.097, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.~~

Sec. 12. Minnesota Statutes 2010, section 216C.264, subdivision 2, is amended to read:

Subd. 2. **Grants.** The commissioner must make grants of federal and state money to community action agencies and other public or private nonprofit agencies for the purpose of weatherizing the residences of low-income persons. ~~Grant applications must be submitted in accordance with rules promulgated by the commissioner.~~

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

Sec. 13. Minnesota Statutes 2010, section 216E.18, subdivision 3, is amended to read:

Subd. 3. **Funding; assessment.** The commission shall finance its baseline studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site and route permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the commission against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the commission. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision

shall not exceed the sum of the annual budget of the commission for carrying out the purposes of this subdivision. The assessment for the ~~second~~ third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

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

Sec. 14. **MELROSE PUBLIC UTILITIES COMMISSION MEMBERSHIP.**

Notwithstanding Minnesota Statutes, section 412.341, subdivision 1, the city of Melrose may by ordinance increase the membership of the city's public utilities commission to a maximum of seven members. The ordinance may also provide for the terms of the commission members and the terms must be staggered, provide that residency within the city is not a qualification for serving on the commission, and permit one or more members of the city council to serve on the commission.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the governing body of the city of Melrose and its chief clerical officer complete in timely fashion their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 15. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 216C.052, as Minnesota Statutes, section 216A.14, and also make necessary cross-reference changes consistent with this renumbering.

Sec. 16. **REPEALER.**

(a) Minnesota Statutes 2010, section 216A.085 is repealed.

(b) Minnesota Statutes 2010, section 216C.264, subdivision 4, is repealed effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to energy; modifying provisions relating to energy rates, energy conservation and savings programs, utility cost recovery and investments, qualifying facilities and nongenerating utilities, energy-related rate impacts, large energy customers, cold weather notices to energy consumers, hydropower, an innovative energy project, transmission lines, Public Utilities Commission approval for security issuance by utilities, assessments, establishment of Energy Reliability and Intervention Office, the Energy Conservation Information Center and residential weatherization programs, and membership in the Melrose Public Utilities Commission; making technical and clarifying changes; amending Minnesota Statutes 2010, sections 16E.15, subdivision 2; 216B.03; 216B.07; 216B.096, subdivision 3; 216B.16, subdivisions 6b, 7, 9, 15, by adding subdivisions; 216B.1636, subdivision 1; 216B.164, subdivision 3; 216B.1691, subdivision 1, by adding a subdivision; 216B.1694, by adding a subdivision; 216B.2401; 216B.241, subdivisions 1, 1a, 1b, 1c, 2; 216B.2425, subdivision 2; 216B.49, subdivision 3; 216B.62, subdivisions 2, 3; 216C.052; 216C.11; 216C.264, subdivision 2; 216E.18, subdivision 3; repealing Minnesota Statutes 2010, sections 216A.085; 216B.242; 216C.264, subdivision 4."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Dauids from the Committee on Taxes to which was referred:

H. F. No. 1084, A bill for an act relating to taxation; individual income; directing commissioner to negotiate a reciprocity agreement with state of Wisconsin and permitting its termination only by law; amending Minnesota Statutes 2010, section 290.081.

Reported the same back with the following amendments:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2010, section 270B.12, is amended by adding a subdivision to read:

Subd. 14. **Wisconsin secretary of revenue; income tax reciprocity benchmark study.** The commissioner may disclose return information to the secretary of revenue of the state of Wisconsin for the purpose of conducting a joint individual income tax reciprocity study.

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

Page 1, line 6, delete "Section 1." and insert "Sec. 2."

Page 1, line 15, reinstate the stricken language

Page 1, line 16, reinstate the stricken language and before the period, insert ", as they relate to all states except Wisconsin. The provisions of paragraph (a) apply with respect to Wisconsin only for taxable years in which a reciprocity agreement with Wisconsin is in effect as provided by this section"

Page 3, line 1, before "The" insert "(a)"

Page 3, after line 8, insert:

"(b) The commissioner may not enter into an income tax reciprocity agreement with Wisconsin under this section until after Wisconsin has paid in full with interest the amount due to Minnesota under the income tax reciprocity agreement in effect for taxable years beginning before January 1, 2010."

Page 3, after line 13, insert:

"Sec. 3. **INCOME TAX RECIPROCALITY BENCHMARK STUDY.**

(a) The Department of Revenue, in conjunction with the Wisconsin Department of Revenue, must conduct a study to determine at least the following:

(1) the number of residents of each state who earn income from personal services in the other state;

(2) the total amount of income earned by residents of each state who earn income from personal services in the other state; and

(3) the change in tax revenue in each state if an income tax reciprocity arrangement were resumed between the two states under which the taxpayers were required to pay income taxes on the income only in their state of residence.

(b) The study must be conducted as soon as practicable, using information obtained from each state's income tax returns for tax year 2011, and from any other source of information the departments determine is necessary to complete the study.

(c) No later than March 1, 2013, the Department of Revenue must submit a report containing the results of the study to the governor and to the chairs and ranking minority members of the legislative committees having jurisdiction over taxes.

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

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring a study;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Beard from the Committee on Transportation Policy and Finance to which was referred:

H. F. No. 1088, A bill for an act relating to state government; modifying provisions relating to state agency responses to natural disasters; amending Minnesota Statutes 2010, sections 12A.05; 12A.06, subdivision 1; 12A.07, subdivisions 1, 2; 12A.09, subdivision 4; 12A.10, by adding a subdivision; 12A.12, subdivisions 2, 3, by adding a subdivision; 12A.15, by adding a subdivision; 12A.16.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1097, A bill for an act relating to natural resources; providing for certain acquisition by exchange; modifying peatland protection; modifying enforcement provisions for recreational vehicles; modifying cash match requirement for local recreation grants; modifying Mineral Coordinating Committee; repealing Blakeley State Wayside; appropriating money; amending Minnesota Statutes 2010, sections 84.033, subdivision 1; 84.035, subdivision 6; 84.925, subdivision 1; 85.018, subdivision 5; 85.019, subdivisions 4b, 4c; 86B.106; 86B.121; 93.0015, subdivisions 1, 3; repealing Minnesota Statutes 2010, section 85.013, subdivision 2b.

Reported the same back with the following amendments:

Page 3, delete section 7

Page 4, delete section 8

Page 5, after line 14, insert:

"Sec. 9. Minnesota Statutes 2010, section 97A.055, subdivision 4b, is amended to read:

Subd. 4b. **Citizen oversight subcommittees committees.** (a) The commissioner shall appoint ~~subcommittees~~ committees of affected persons to review the reports prepared under subdivision 4; review the proposed work plans and budgets for the coming year; propose changes in policies, activities, and revenue enhancements or reductions; review other relevant information; and make recommendations to the legislature and the commissioner for improvements in the management and use of money in the game and fish fund.

(b) The commissioner shall appoint the following ~~subcommittees~~ committees, each comprised of at least ~~three~~ ten affected persons:

(1) a Fisheries ~~Operations Subcommittee~~ Oversight Committee to review fisheries funding and expenditures, excluding including activities related to trout and salmon ~~stamp stamps~~ and walleye ~~stamp funding stamps; and~~

(2) a Wildlife ~~Operations Subcommittee~~ Oversight Committee to review wildlife funding and expenditures, excluding including activities related to migratory waterfowl, pheasant, and wild turkey management ~~funding and excluding review of the amounts available under section 97A.075, subdivision 1, paragraphs (b) and (c);~~ deer and big game management.

~~(3) a Big Game Subcommittee to review the report required in subdivision 4, paragraph (a), clause (2);~~

~~(4) an Ecological Resources Subcommittee to review ecological services funding;~~

~~(5) a subcommittee to review game and fish fund funding of enforcement and operations support;~~

~~(6) a subcommittee to review the trout and salmon stamp report and address funding issues related to trout and salmon;~~

~~(7) a subcommittee to review the report on the migratory waterfowl stamp and address funding issues related to migratory waterfowl;~~

~~(8) a subcommittee to review the report on the pheasant stamp and address funding issues related to pheasants;~~

~~(9) a subcommittee to review the report on the wild turkey management account and address funding issues related to wild turkeys; and~~

~~(10) a subcommittee to review the walleye stamp and address funding issues related to walleye stocking.~~

(c) The chairs ~~of each~~ of the ~~subcommittees~~ Fisheries Oversight Committee and the Wildlife Oversight Committee, and four additional members from each committee, shall form a Budgetary Oversight Committee to coordinate the integration of the ~~subcommittee~~ fisheries and wildlife oversight committee reports into an annual report to the legislature; recommend changes on a broad level in policies, activities, and revenue enhancements or reductions; and provide a forum to address issues that transcend the ~~subcommittees; and submit a report for any subcommittee that fails to submit its report in a timely manner~~ fisheries and wildlife oversight committees.

(d) The Budgetary Oversight Committee shall develop recommendations for a biennial budget plan and report for expenditures on game and fish activities. By August 15 of each even-numbered year, the committee shall submit the budget plan recommendations to the commissioner and to the senate and house of representatives committees with jurisdiction over natural resources finance.

(e) ~~Each subcommittee shall choose its own chair, except that~~ The chairs of the Fisheries Oversight Committee and the Wildlife Oversight Committee shall be chosen by their respective committees. The chair of the Budgetary Oversight Committee shall be appointed by the commissioner and may not be the chair of ~~any of the subcommittees~~ either of the other oversight committees.

(f) The Budgetary Oversight Committee ~~must~~ may make recommendations to the commissioner and to the senate and house of representatives committees with jurisdiction over natural resources finance for outcome goals from expenditures.

(g) Notwithstanding section 15.059, subdivision 5, or other law to the contrary, the Fisheries Oversight Committee, the Wildlife Oversight Committee, and the Budgetary Oversight Committee ~~and subcommittees~~ do not expire until June 30, ~~2010~~ 2015."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete "enforcement"

Page 1, line 5, before "repealing" insert "providing for citizen oversight committees;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The report was adopted.

Hamilton from the Committee on Agriculture and Rural Development Policy and Finance to which was referred:

H. F. No. 1121, A bill for an act relating to agriculture; clarifying the authority for regulating terrestrial pesticide applications; amending Minnesota Statutes 2010, sections 18B.03, subdivision 1; 115.03, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 18B.03, subdivision 1, as amended by Laws 2011, chapter 14, section 7, is amended to read:

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the Department of Agriculture is the lead state agency for the regulation of pesticides. The commissioner has the sole regulatory authority over the terrestrial application of pesticides, including, but not limited to, the application of pesticides to agricultural crops, structures, and other nonaquatic environments. Except as provided in subdivision 3, a state agency other than the Department of Agriculture shall not regulate or require permits for the terrestrial or nonaquatic application of pesticides.

Sec. 2. Minnesota Statutes 2010, section 115.03, is amended by adding a subdivision to read:

Subd. 11. **Aquatic application of pesticides.** (a) The agency may issue National Pollutant Discharge Elimination System permits for pesticide applications to waters of the United States that are required by federal law or rule. The agency shall not require permits for aquatic pesticide applications beyond what is required by federal law or rule.

(b) The agency shall not regulate or require permits for the terrestrial application of pesticides."

Amend the title as follows:

Page 1, line 2, delete "terrestrial" and insert "certain"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Hamilton from the Committee on Agriculture and Rural Development Policy and Finance to which was referred:

H. F. No. 1122, A bill for an act relating to agriculture; clarifying the authority for regulating terrestrial pesticide applications; amending Minnesota Statutes 2010, sections 18B.03, subdivision 1; 115.03, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 18B.03, subdivision 1, as amended by Laws 2011, chapter 14, section 7, is amended to read:

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the Department of Agriculture is the lead state agency for the regulation of pesticides. The commissioner has the sole regulatory authority over the terrestrial application of pesticides, including, but not limited to, the application of pesticides to agricultural crops, structures, and other nonaquatic environments. Except as provided in subdivision 3, a state agency other than the Department of Agriculture shall not regulate or require permits for the terrestrial or nonaquatic application of pesticides.

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(b) The agency shall not regulate or require permits for the terrestrial application of pesticides."

Amend the title as follows:

Page 1, line 2, delete "terrestrial" and insert "certain"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 1162, A bill for an act relating to natural resources; modifying nonnative species provisions; modifying requirements for permits to control or harvest aquatic plants; providing criminal penalties and civil penalties; amending Minnesota Statutes 2010, sections 84D.01, subdivisions 8a, 16, 21, by adding subdivisions; 84D.02, subdivision 6; 84D.03, subdivisions 3, 4; 84D.09; 84D.10, subdivisions 1, 3, 4; 84D.11, subdivision 2a; 84D.13, subdivisions 3, 4, 5, 6, 7; 84D.15, subdivision 2; 103G.615, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 84D; 86B; repealing Minnesota Statutes 2010, section 84D.02, subdivision 4.

Reported the same back with the following amendments:

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 2010, section 84D.01, is amended by adding a subdivision to read:

Subd. 3a. **Decontaminate.** "Decontaminate" means to wash, drain, dry, or thermally or otherwise treat water-related equipment in order to remove or destroy aquatic invasive species using the "Recommended Uniform Minimum Protocol Standards" developed by the United States Fish and Wildlife Service, or other protocols, as prescribed by the commissioner. The commissioner may prescribe protocols in the same manner provided under section 84D.03, subdivision 1, paragraph (d), for designating infested waters."

Page 9, line 7, delete the new language

Page 9, line 11, delete "\$100" and insert "\$50"

Page 9, line 14, delete the new language and reinstate the stricken language

Page 9, line 16, delete the new language and reinstate the stricken language

Page 9, line 20, reinstate the stricken language

Page 9, line 25, delete the new language and reinstate ", \$50"

Page 9, delete line 26

Page 9, line 27, delete "\$100"

Page 9, delete lines 30 to 32

Page 10, delete section 24

Page 11, delete section 27

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 1164, A bill for an act relating to economic development; modifying JOBZ; amending Minnesota Statutes 2010, section 469.312, subdivision 5.

Reported the same back with the following amendments:

Page 3, after line 10, insert:

"(g) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by five calendar years for each parcel of property that meets the following requirements:

(1) the parcel is located in a county with a median household income that on the date that the business subsidy agreement is executed is at or below 80 percent of the statewide average;

(2) the qualified business is engaged in the business of manufacturing agricultural equipment and the parcel includes one or more of the following facilities of the qualified business:

(i) administrative offices;

(ii) warehousing and distribution facilities;

(iii) manufacturing facilities that are using innovative and state-of-the-art processes; and

(iv) capital investment of at least \$.....; and

(3) the business subsidy agreement is executed after April 1, 2011, and before July 1, 2013."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1214, A bill for an act relating to public safety; modifying provisions relating to child passenger restraint systems; amending Minnesota Statutes 2010, section 169.685, subdivision 6.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 1230, A bill for an act relating to state lands; modifying disposition of certain receipts; adding to and deleting from state parks, state recreation areas, state forests, and state wildlife management areas; modifying Mississippi River management plan; authorizing public and private sales and conveyances of certain state lands; amending Minnesota Statutes 2010, sections 85.052, subdivision 4; 89.021, subdivision 48.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1238, A bill for an act relating to environment; modifying local ordinance requirements; extending subsurface sewage treatment systems ordinance adoption delay; amending Minnesota Statutes 2010, section 115.55, subdivision 2; Laws 2010, chapter 361, article 4, section 73.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1326, A bill for an act relating to alcohol; allowing a bed and breakfast to serve Minnesota beer; amending Minnesota Statutes 2010, section 340A.4011, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 340A.301, is amended by adding a subdivision to read:

Subd. 6b. **Brewer taproom license.** (a) A municipality may issue the holder of a brewer's license under subdivision 6, clause (c), (i), or (j), a brewer taproom license. A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. Nothing in this subdivision precludes the holder of a brewer taproom license from also holding a license to operate a restaurant at the brewery. Section 340A.409 shall apply to a license issued under this subdivision. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

(b) A brewer may only have one taproom license under this subdivision, and may not have an ownership interest in a brewery licensed under subdivision 6, clause (d).

(c) A municipality may not issue a brewer taproom license to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(d) The municipality shall impose a licensing fee on a brewer holding a brewer taproom license under this subdivision, subject to limitations applicable to license fees under section 340A.408, subdivision 2, paragraph (a).

(e) A municipality shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

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

Sec. 2. Minnesota Statutes 2010, section 340A.4011, subdivision 2, is amended to read:

Subd. 2. **License not required.** (a) Notwithstanding section 340A.401, no license under this chapter is required for a bed and breakfast facility to provide at no additional charge to a person renting a room at the facility not more than two glasses per day each containing not more than four fluid ounces of wine, or not more than one glass per day containing not more than 12 ounces of Minnesota-produced beer. Wine or beer so furnished may be consumed only on the premises of the bed and breakfast facility.

(b) A bed and breakfast facility may furnish wine or beer under paragraph (a) only if the facility is registered with the commissioner. Application for such registration must be on a form the commissioner provides. The commissioner may revoke registration under this paragraph for any violation of this chapter or a rule adopted under this chapter.

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

Sec. 3. Minnesota Statutes 2010, section 340A.404, subdivision 7, is amended to read:

Subd. 7. **Airports commission.** On-sale licenses may be issued by the Metropolitan Airports Commission for the sale of intoxicating liquor in major airports owned by the Metropolitan Airports Commission and used as terminals for regularly scheduled air passenger service. Notwithstanding any other law, the license authorized by this subdivision may be issued for space that is not compact and contiguous.

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

Sec. 4. Minnesota Statutes 2010, section 340A.404, is amended by adding a subdivision to read:

Subd. 10a. **Temporary on-sale licenses; farm winery.** The governing body of a municipality may issue to a farm winery licensed under section 340A.315 a temporary license for the on-sale at a county fair located within the municipality of intoxicating liquor produced by the farm winery. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality and all laws and ordinances governing the sale of intoxicating liquor not inconsistent with this section. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

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

Sec. 5. Minnesota Statutes 2010, section 340A.404, is amended by adding a subdivision to read:

Subd. 14. **Private college.** Notwithstanding any other law, local ordinance, or charter provision, the governing body of a municipality may issue an on-sale intoxicating liquor license to a private, nonprofit college located within the municipality, or to any entity holding a caterer's permit and a contract with the private, nonprofit college for catering on the premises of the private, nonprofit college, or for any portion of the premises as described in the approved license application. The license authorized by this subdivision may be issued for space that is not compact and contiguous, provided that all such space is included in the description of the licensed premises on the approved license application. The license authorizes sales on all days of the week to persons attending events at the private, nonprofit college. All other provisions of this chapter not inconsistent with this section apply to the license authorized under this section.

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

Sec. 6. Minnesota Statutes 2010, section 340A.412, subdivision 4, is amended to read:

Subd. 4. **Licenses prohibited in certain areas.** (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the Capitol or on the Capitol grounds, except as provided under Laws 1983, chapter 259, section 9, or Laws 1999, chapter 202, section 13;

(3) on the State Fairgrounds, except as provided under section 37.21, subdivision 2;

(4) on the campus of the College of Agriculture of the University of Minnesota;

(5) within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) within 1,500 feet of a state university, except that:

(i) the minimum distance in the case of Winona and Southwest State University is 1,200 feet, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(ii) within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(iii) at Mankato State University the distance is measured from the front door of the student union of the Highland campus;

(iv) a temporary license under section 340A.404, subdivision 10, may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university; ~~and~~

(v) this restriction does not apply to the area surrounding the premises of Metropolitan State University in Minneapolis; and

(vi) at Minnesota State University, Moorhead, the distance is measured from any point along the property line of the university abutting the right-of-way of the public streets that form the primary campus boundary beginning at the intersection of Sixth Avenue South and Eleventh Street South, then southerly along Eleventh Street South to Ninth Avenue South, then easterly along Ninth Avenue South to Twentieth Street South, then northerly along Twentieth Street South to Sixth Avenue South, then westerly along Sixth Avenue South to the beginning point; and

(8) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

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

Sec. 7. Minnesota Statutes 2010, section 340A.412, subdivision 14, is amended to read:

Subd. 14. **Exclusive liquor stores.** (a) Except as otherwise provided in this subdivision, an exclusive liquor store may sell only the following items:

- (1) alcoholic beverages;
- (2) tobacco products;
- (3) ice;
- (4) beverages, either liquid or powder, specifically designated for mixing with intoxicating liquor;
- (5) soft drinks;
- (6) liqueur-filled candies;
- (7) food products that contain more than one-half of one percent alcohol by volume;
- (8) cork extraction devices;
- (9) books and videos on the use of alcoholic beverages;
- (10) magazines and other publications published primarily for information and education on alcoholic beverages;
- (11) multiple-use bags designed to carry purchased items;
- (12) devices designed to ensure safe storage and monitoring of alcohol in the home, to prevent access by underage drinkers; ~~and~~
- (13) home brewing equipment; and

(14) clothing marked with the specific name, brand, or identifying logo of the exclusive liquor store, and bearing no other name, brand, or identifying logo.

(b) An exclusive liquor store that has an on-sale, or combination on-sale and off-sale license may sell food for on-premise consumption when authorized by the municipality issuing the license.

(c) An exclusive liquor store may offer live or recorded entertainment.

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

Sec. 8. **WHITE BEAR TOWNSHIP; AUTHORITY TO ISSUE LICENSES.**

Notwithstanding any law or ordinance to the contrary, White Bear Township may issue on-sale and off-sale liquor licenses for establishments within its jurisdiction. Only establishments eligible for a license under authority granted to Ramsey County by Minnesota Statutes, chapter 340A, may be issued a license under this section. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, shall apply to the licenses authorized under this section.

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

Sec. 9. **RACEWAY PARK; ON-SALE LICENSE.**

Notwithstanding Minnesota Statutes, section 340A.404, subdivision 1, or any other law to the contrary, the city of Shakopee may issue an on-sale intoxicating liquor license to Raceway Park in addition to the number authorized by law. The license may authorize sales both to persons attending any and all events, and sales in a restaurant, bar, or banquet facility, at Raceway Park. The license authorizes sales on all days of the week. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license under this section. The license may be issued for a space that is not compact and contiguous, provided that the licensed premises may include only the space within the fenced area as described in the approved license application.

EFFECTIVE DATE. This section is effective upon approval by the Shakopee City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 10. **CHANGE IN STATUS; GRANDFATHER PROVISION.**

Notwithstanding Minnesota Statutes, section 340A.413, subdivision 5, the city of Rochester may issue a minimum of 26 off-sale liquor licenses.

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

Sec. 11. **EFFECTIVE DATE.**

Laws 2011, chapter 16, is effective April 20, 2011.

Sec. 12. **BASEBALL.**

The house of representatives and senate committees responsible for alcohol regulation shall consider and examine issues surrounding the provision of alcohol to amateur, town league, semiprofessional, and other forms of community baseball."

Delete the title and insert:

"A bill for an act relating to liquor; authorizing brewer taproom licenses; allowing a bed and breakfast to serve Minnesota beer; making clarifying, technical, and other changes to certain license provisions; authorizing the issuance of certain on-sale and off-sale licenses; amending Minnesota Statutes 2010, sections 340A.301, by adding a subdivision; 340A.401, subdivision 2; 340A.404, subdivision 7, by adding subdivisions; 340A.412, subdivisions 4, 14."

With the recommendation that when so amended the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1359, A bill for an act relating to public safety; aligning state controlled substance schedules with federal controlled substance schedules; modifying the authority of the Board of Pharmacy to regulate controlled substances; allowing the electronic prescribing of controlled substances; amending Minnesota Statutes 2010, sections 152.01, by adding a subdivision; 152.02; 152.11, subdivisions 1, 2, 2d, 3.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1360, A bill for an act relating to environment; modifying the Environmental Quality Board and eliminating and reassigning duties; amending Minnesota Statutes 2010, sections 17.114, subdivision 3; 18B.045; 18E.06; 103A.204; 103B.101, subdivision 9; 103B.151; 103B.315, subdivision 5; 103F.751; 103H.151, subdivision 4; 103H.175, subdivision 3; 115B.20, subdivision 6; 116C.24, subdivision 2; 116C.842, subdivisions 1a, 2a; 116C.91, subdivision 2; 116D.11, subdivisions 2, 3; 216C.052, subdivision 1; 216C.18, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 116D; repealing Minnesota Statutes 2010, sections 40A.122; 103A.403; 103A.43; 103F.614; 115A.32; 115A.33; 115A.34; 115A.35; 115A.36; 115A.37; 115A.38; 115A.39; 116C.02; 116C.03, subdivisions 1, 2, 2a, 3a, 4, 5, 6; 116C.04, subdivisions 1, 2, 3, 4, 7, 10, 11; 116C.06; 116C.08; 116C.71, subdivisions 1c, 2a; 116C.721; 116C.722; 116C.724, subdivisions 2, 3; 473H.15.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Lanning from the Committee on State Government Finance to which was referred:

H. F. No. 1376, A bill for an act relating to state government; requiring use of E-Verify by certain state contractors; proposing coding for new law in Minnesota Statutes, chapter 16C.

Reported the same back with the following amendments:

Page 1, delete lines 12 and 13 and insert:

"EFFECTIVE DATE. This section is effective July 1, 2011, and applies to contracts entered into on or after that date."

With the recommendation that when so amended the bill pass.

The report was adopted.

Erickson from the Committee on Education Reform to which was referred:

H. F. No. 1381, A bill for an act relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, early childhood education, and student transportation; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 119A.50, subdivision 3; 120B.15; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 122A.16, as amended; 122A.60, subdivision 4; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.92, subdivision 5; 124D.091, subdivision 2; 124D.10, subdivisions 3, 4, 6, 6a, 23; 124D.11, subdivision 9; 124D.86, subdivisions 1, 3; 124D.871; 125A.02, subdivision 1; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 126C.44; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 124D; repealing Minnesota Statutes 2010, sections 125A.54; 126C.457.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
GENERAL EDUCATION

Section 1. Minnesota Statutes 2010, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **Calculation of income.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities ~~and~~, dividends on equity securities, and interest earned on certified monthly earnings before transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following ten fiscal years.

Sec. 2. Minnesota Statutes 2010, section 123B.41, subdivision 2, is amended to read:

Subd. 2. **Textbook.** "Textbook" means any book or book substitute, including electronic books as well as other printed materials delivered electronically, which a pupil uses as a text or text substitute in a particular class or program in the school regularly attended and a copy of which is expected to be available for the individual use of each pupil in this class or program. The term shall be limited to books, workbooks, or manuals, whether bound or in loose-leaf form, as well as electronic books and other printed materials delivered electronically, intended for use as a principal source of study material for a given class or a group of students. The term includes only such secular, neutral and nonideological textbooks as are available, used by, or of benefit to Minnesota public school pupils.

Sec. 3. Minnesota Statutes 2010, section 123B.41, subdivision 5, is amended to read:

Subd. 5. **Individualized instructional or cooperative learning materials.** "Individualized instructional or cooperative learning materials" means educational materials which:

(a) are designed primarily for individual pupil use or use by pupils in a cooperative learning group in a particular class or program in the school the pupil regularly attends;

(b) are secular, neutral, nonideological and not capable of diversion for religious use; and

(c) are available, used by, or of benefit to Minnesota public school pupils.

Subject to the requirements in clauses (a), (b), and (c), "individualized instructional or cooperative learning materials" include, but are not limited to, the following if they do not fall within the definition of "textbook" in subdivision 2: published materials; periodicals; documents; pamphlets; photographs; reproductions; pictorial or graphic works; prerecorded video programs; prerecorded tapes, cassettes and other sound recordings; manipulative materials; desk charts; games; study prints and pictures; desk maps; models; learning kits; blocks or cubes; flash cards; individualized multimedia systems; prepared instructional computer software programs; choral and band sheet music; electronic books and other printed materials delivered electronically; and CD-Rom.

"Individualized instructional or cooperative learning materials" do not include instructional equipment, instructional hardware, or ordinary daily consumable classroom supplies.

Sec. 4. Minnesota Statutes 2010, section 123B.63, subdivision 3, is amended to read:

Subd. 3. **Capital project levy referendum.** A district may levy the local tax rate approved by a majority of the electors voting on the question to provide funds for an approved project. The election must take place no more than five years before the estimated date of commencement of the project. The referendum must be held on a date set by the board. A district must meet the requirements of section 123B.71 for projects funded under this section. If a review and comment is required under section 123B.71, subdivision 8, a referendum for a project not receiving a positive review and comment by the commissioner ~~under section 123B.71~~ must be approved by at least 60 percent of the voters at the election. The referendum may be called by the school board and may be held:

(1) separately, before an election for the issuance of obligations for the project under chapter 475; or

(2) in conjunction with an election for the issuance of obligations for the project under chapter 475; or

(3) notwithstanding section 475.59, as a conjunctive question authorizing both the capital project levy and the issuance of obligations for the project under chapter 475. Any obligations authorized for a project may be issued within five years of the date of the election.

The ballot must provide a general description of the proposed project, state the estimated total cost of the project, state whether the project has received a positive or negative review and comment from the commissioner, state the maximum amount of the capital project levy as a percentage of net tax capacity, state the amount that will be raised by that local tax rate in the first year it is to be levied, and state the maximum number of years that the levy authorization will apply.

The ballot must contain a textual portion with the information required in this section and a question stating substantially the following:

"Shall the capital project levy proposed by the board of School District No. be approved?"

If approved, the amount provided by the approved local tax rate applied to the net tax capacity for the year preceding the year the levy is certified may be certified for the number of years, not to exceed ten, approved.

In the event a conjunctive question proposes to authorize both the capital project levy and the issuance of obligations for the project, appropriate language authorizing the issuance of obligations must also be included in the question.

The district must notify the commissioner of the results of the referendum.

Sec. 5. Minnesota Statutes 2010, section 123B.75, subdivision 5, is amended to read:

Subd. 5. **Levy recognition.** (a) For fiscal years 2009 and 2010, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

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

(2) the sum of:

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

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

(iii) zero percent of the amount of the levy certified in the prior calendar year for the school district's general and community service funds, plus or minus auditor's adjustments, not including the levy portions that are assumed by the state, that remains after subtracting the referendum levy certified according to section 126C.17 and the amount recognized according to item (ii).

(b) For fiscal year 2011 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

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

(2) the sum of:

(i) the greater of 48.6 percent of the referendum levy certified according to section 126C.17 in the prior calendar year, or 31 percent of the referendum levy certified according to section 126C.17 in calendar year 2000; plus

(ii) the entire amount of the levy certified in the prior calendar year according to section ~~124D.4531~~, 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, paragraph (a), and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; ~~126C.457~~; and 126C.48, subdivision 6; plus

(iii) 48.6 percent of the amount of the levy certified in the prior calendar year for the school district's general and community service funds, plus or minus auditor's adjustments, not including the levy portions that are assumed by the state, that remains after subtracting the referendum levy certified according to section 126C.17 and the amount recognized according to item (ii).

Sec. 6. Minnesota Statutes 2010, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, equipment, and transportation services under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" ~~for a school district means the sum of the~~ general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, ~~plus the total qualifying referendum revenue specified in paragraph (e) minus~~ transportation sparsity revenue ~~minus and~~ total operating capital revenue. "General revenue" for a charter school means the sum of the general education revenue according to section 124D.11, subdivision 1, excluding alternative teacher compensation revenue, referendum equalization aid, transportation sparsity revenue, and operating capital revenue, and transportation revenue according to section 124D.11, subdivision 2.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2012 and later.

~~(e) "Total qualifying referendum revenue" means two thirds of the district's total referendum revenue as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c), for fiscal year 2006, one third of the district's total referendum revenue for fiscal year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.~~

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

Sec. 7. Minnesota Statutes 2010, section 126C.10, subdivision 8a, is amended to read:

Subd. 8a. **Sparsity revenue for school districts that close facilities.** A school district that closes a school facility is eligible for elementary and secondary sparsity revenue equal to the greater of the amounts calculated under subdivisions 6, 7, and 8 or the total amount of sparsity revenue for the previous fiscal year if the school board of the district has adopted a written resolution stating that the district intends to close the school facility, but cannot proceed with the closure without the adjustment to sparsity revenue authorized by this subdivision. The written resolution must be approved by the school board and filed with the commissioner of education ~~at least 60 days~~ prior to the start of the fiscal year for which aid under this subdivision is first requested.

EFFECTIVE DATE. This section is effective for board resolutions approved by the school board in fiscal year 2011 and later for sparsity revenue calculations in fiscal year 2012 and later.

Sec. 8. Minnesota Statutes 2010, section 126C.15, subdivision 2, is amended to read:

Subd. 2. **Building allocation.** (a) A district or cooperative must allocate its compensatory revenue to each school building in the district or cooperative where the children who have generated the revenue are served unless the school district or cooperative has received permission under Laws 2005, First Special Session chapter 5, article 1, section 50, to allocate compensatory revenue according to student performance measures developed by the school board.

(b) Notwithstanding paragraph (a), a district or cooperative may allocate up to five percent of the amount of compensatory revenue that the district receives to school sites according to a plan adopted by the school board. The money reallocated under this paragraph must be spent for the purposes listed in subdivision 1, but may be spent on students in any grade, including students attending school readiness or other prekindergarten programs.

(c) For the purposes of this section and section 126C.05, subdivision 3, "building" means education site as defined in section 123B.04, subdivision 1.

(d) Notwithstanding section 123A.26, subdivision 1, compensatory revenue generated by students served at a cooperative unit shall be paid to the cooperative unit.

(e) A district or cooperative with school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics between the prior year and the current year may reallocate compensatory revenue among sites to reflect these changes. A district or cooperative must report to the department any adjustments it makes according to this paragraph and the department must use the adjusted compensatory revenue allocations in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

Sec. 9. Minnesota Statutes 2010, section 126C.41, subdivision 2, is amended to read:

Subd. 2. **Retired employee health benefits.** (a) A district may levy an amount up to the amount the district is required by the collective bargaining agreement in effect on March 30, 1992, to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable, before July 1, 1992, and to pay for health insurance or unreimbursed medical expenses for licensed and nonlicensed employees who have terminated services in the employing district and withdrawn from active teaching service or other active service, as applicable before July 1, 1998, only if a sunset clause is in effect for the current collective bargaining agreement. The total amount of the levy each year may not exceed \$600,000.

(b) In addition to the levy authority granted under paragraph (a), a school district may levy for other postemployment benefits expenses actually paid during the previous fiscal year. For purposes of this subdivision, "postemployment benefits" means benefits giving rise to a liability under Statement No. 45 of the Government Accounting Standards Board. A district seeking levy authority under this subdivision must:

(1) create or have created an actuarial liability to pay postemployment benefits to employees or officers after their termination of service;

(2) have a sunset clause in effect for the current collective bargaining agreement as required by paragraph (a); and

(3) apply for the authority in the form and manner required by the commissioner of education.

If the total levy authority requested under this paragraph exceeds the amount established in paragraph (c), the commissioner must proportionately reduce each district's maximum levy authority under this subdivision. The commissioner may subsequently adjust each district's levy authority under this subdivision so long as the total levy authority does not exceed the maximum levy authority for that year.

(c) The maximum levy authority under paragraph (b) must not exceed the following amounts:

(1) \$9,242,000 for taxes payable in 2010;

(2) \$29,863,000 for taxes payable in 2011; and

(3) for taxes payable in 2012 and later, the maximum levy authority must not exceed the sum of the previous year's authority and \$14,000,000.

Sec. 10. **REPEALER.**

Minnesota Statutes 2010, section 126C.457, is repealed.

ARTICLE 2
EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2010, section 13.32, subdivision 6, is amended to read:

Subd. 6. **Admissions forms; remedial instruction.** (a) Minnesota postsecondary education institutions, for purposes of reporting and research, may collect on the 1986-1987 admissions form, and disseminate to any public educational agency or institution the following data on individuals: student sex, ethnic background, age, and disabilities. The data shall not be required of any individual and shall not be used for purposes of determining the person's admission to an institution.

(b) A school district that receives information under subdivision 3, paragraph (h) from a postsecondary institution about an identifiable student shall maintain the data as educational data and use that data to conduct studies to improve instruction. Public postsecondary systems annually shall provide summary data to the Department of Education indicating the extent and content of the remedial instruction received in each system during the prior academic year by, and the results of assessment testing and the academic performance of, students who graduated from a Minnesota school district within two years before receiving the remedial instruction, and include as separate categories of summary data the number and percentage of recent high school graduates who prepared for postsecondary academic and career opportunities under section 120B.35, subdivision 3, paragraph (c), and the number of recent high school graduates who graduated as students with disabilities. The department shall evaluate the data and annually report its findings to the education committees of the legislature.

(c) This section supersedes any inconsistent provision of law.

Sec. 2. Minnesota Statutes 2010, section 120A.22, subdivision 11, is amended to read:

Subd. 11. **Assessment of performance.** (a) Each year the performance of every child who is not enrolled in a public school must be assessed using a nationally norm-referenced standardized achievement examination. ~~The superintendent of the district in which the child receives instruction and the person in charge of the child's instruction must agree about the specific examination to be used and the administration and location of the examination or a nationally recognized college entrance exam.~~

~~(b) To the extent the examination in paragraph (a) does not provide assessment in all of the subject areas in subdivision 9, the parent must assess the child's performance in the applicable subject area. This requirement applies only to a parent who provides instruction and does not meet the requirements of subdivision 10, clause (1), (2), or (3).~~

~~(c) If the results of the assessments in paragraphs (a) and (b) indicate that the child's performance on the total battery score is at or below the 30th percentile or one grade level below the performance level for children of the same age, the parent must obtain additional evaluation of the child's abilities and performance for the purpose of determining whether the child has learning problems.~~

~~(d) (b) A child receiving instruction from a nonpublic school, person, or institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements of this subdivision.~~

Sec. 3. Minnesota Statutes 2010, section 120A.24, is amended to read:

120A.24 REPORTING.

Subdivision 1. **Reports to superintendent.** (a) The person in charge of providing instruction to a child must submit the following information to the superintendent of the district in which the child resides the name, birth date, and address of the child; the annual tests intended to be used under section 120A.22, subdivision 11, if required; the name of each instructor; and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10:

(1) by October 1 of each the first school year, ~~the name, birth date, and address of each child receiving instruction~~ the child receives instruction after reaching the age of seven;

(2) ~~the name of each instructor and evidence of compliance with one of the requirements specified in section 120A.22, subdivision 10;~~

(3) ~~an annual instructional calendar; and~~

(4) ~~for each child instructed by a parent who meets only the requirement of section 120A.22, subdivision 10, clause (6), a quarterly report card on the achievement of the child in each subject area required in section 120A.22, subdivision 9.~~

(2) ~~within 15 days of when a parent withdraws a child from public school after age seven to homeschool;~~

(3) ~~within 15 days of moving out of a district; and~~

(4) ~~by October 1 after a new resident district is established.~~

(b) The person in charge of providing instruction to a child between the ages of seven and 16 must submit, by October 1 of each school year, a letter of intent to continue to provide instruction under this section for all students under the person's supervision and any changes to the information required in paragraph (a) for each student.

(c) The superintendent may collect the required information under this section through an electronic or Web-based format, but must not require electronic submission of information under this section from the person in charge of reporting under this subdivision.

Subd. 2. **Availability of documentation.** (a) The person in charge of providing instruction to a child must ~~make available~~ maintain documentation indicating that the subjects required in section 120A.22, subdivision 9, are being taught and proof that the tests under section 120A.22, subdivision 11, have been administered. This documentation must include class schedules, copies of materials used for instruction, and descriptions of methods used to assess student achievement.

(b) The parent of a child who enrolls full time in public school after having been enrolled in a home school under section 120A.22, subdivision 6, must provide the enrolling public school or school district with the child's scores on any tests administered to the child under section 120A.22, subdivision 11, and other education-related documents the enrolling school or district requires to determine where the child is placed in school and what course requirements apply. This paragraph does not apply to a shared-time student who does not seek a public school diploma.

(c) The person in charge of providing instruction to a child must make the documentation in this subdivision available to the county attorney when a case is commenced under section 120A.26, subdivision 5; chapter 260C; or when diverted under chapter 260A.

Subd. 3. **Exemptions.** A nonpublic school, person, or other institution that is accredited by an accrediting agency, recognized according to section 123B.445, or recognized by the commissioner, is exempt from the requirements in ~~subdivisions 1 and~~ subdivision 2, except for the requirement in subdivision 1, clause (1).

Subd. 4. **Reports to the state.** A superintendent must make an annual report to the commissioner of education by December 1 of the total number of nonpublic schoolchildren reported as residing in the district. ~~The report must include the following information:~~

~~(1) the number of children residing in the district attending nonpublic schools or receiving instruction from persons or institutions other than a public school;~~

~~(2) the number of children in clause (1) who are in compliance with section 120A.22 and this section; and~~

~~(3) the number of children in clause (1) who the superintendent has determined are not in compliance with section 120A.22 and this section.~~

Subd. 5. **Obligations.** Nothing in this section alleviates the obligations under section 120A.22.

Sec. 4. Minnesota Statutes 2010, section 120A.40, is amended to read:

120A.40 SCHOOL CALENDAR.

(a) Except for learning programs during summer, flexible learning year programs authorized under sections 124D.12 to 124D.127, and learning year programs under section 124D.128, a district must not commence an elementary or secondary school year before Labor Day, except as provided under paragraph (b). Days devoted to teachers' workshops may be held before Labor Day. Districts that enter into cooperative agreements are encouraged to adopt similar school calendars.

(b) A district may begin the school year on any day before Labor Day:

(1) to accommodate a construction or remodeling project of \$400,000 or more affecting a district school facility;

(2) if the district has an agreement under section 123A.30, 123A.32, or 123A.35 with a district that qualifies under clause (1); ~~or~~

(3) if the district agrees to the same schedule with a school district in an adjoining state; or

(4) if the district canceled at least two instructional school days in the previous school year because of a flood, tornado, or fire.

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

Sec. 5. Minnesota Statutes 2010, section 120B.023, subdivision 2, is amended to read:

Subd. 2. **Revisions and reviews required.** (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review cycle for state academic standards and related benchmarks, consistent with this subdivision. During each review cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for college readiness and advanced work in the particular subject area.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and

(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 are aligned with the state academic standards in mathematics, consistent with section 120B.30, subdivision 1, paragraph (b). The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011 school year. The commissioner must implement a review of the academic standards and related benchmarks in arts beginning in the 2016-2017 school year.

(d) The commissioner in the 2008-2009 school year must revise and align the state's academic standards and high school graduation requirements in science to require that students satisfactorily complete the revised science standards, beginning in the 2011-2012 school year. Under the revised standards, students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete a chemistry ~~or~~, physics, or career and technical education credit. The commissioner must implement a review of the academic standards and related benchmarks in science beginning in the 2017-2018 school year.

(e) The commissioner in the 2009-2010 school year must revise and align the state's academic standards and high school graduation requirements in language arts to require that students satisfactorily complete the revised language arts standards beginning in the 2012-2013 school year. The commissioner must implement a review of the academic standards and related benchmarks in language arts beginning in the 2018-2019 school year.

(f) The commissioner in the 2010-2011 school year must revise and align the state's academic standards and high school graduation requirements in social studies to require that students satisfactorily complete the revised social studies standards beginning in the 2013-2014 school year. The commissioner must implement a review of the academic standards and related benchmarks in social studies beginning in the 2019-2020 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, world languages, and career and technical education to require students to complete the revised standards beginning in a school year determined by the school district or charter school. School districts and charter schools must formally establish a periodic review cycle for the academic standards and related benchmarks in health, world languages, and career and technical education.

(h) The commissioner is prohibited from adopting common core state standards in any subject and school year listed in any revision cycle under this section that were developed with the participation of the National Governors Association and the Council of Chief State School Officers.

Sec. 6. Minnesota Statutes 2010, section 120B.11, is amended to read:

120B.11 SCHOOL DISTRICT PROCESS FOR REVIEWING CURRICULUM, INSTRUCTION, AND STUDENT ACHIEVEMENT.

Subdivision 1. **Definitions.** For the purposes of this section and section 120B.10, the following terms have the meanings given them.

(a) "Instruction" means methods of providing learning experiences that enable a student to meet state and district academic standards and graduation requirements.

(b) "Curriculum" means district or school adopted programs and written plans for providing students with learning experiences that lead to expected knowledge and skills and college and career readiness.

Subd. 2. **Adopting policies.** A school board shall ~~have in place an adopted written~~ adopt a policy to support and improve teaching and learning that includes ~~the following:~~

(1) district goals for instruction including the use of best teaching practices, district and school curriculum, and achievement for all student subgroups identified in section 120B.35, subdivision 3, paragraph (b), clause (2);

(2) a process for evaluating each student's progress toward meeting state and local academic standards and identifying the strengths and weaknesses of instruction in pursuit of student and school success and curriculum affecting students' ~~progress~~ academic achievement and growth;

(3) a performance-based system for periodically reviewing and evaluating the effectiveness of all instruction and curriculum;

(4) a plan for improving instruction, curriculum, and student academic achievement and growth; and

(5) an education effectiveness plan aligned with ~~section~~ sections 120B.023, subdivision 2, and 122A.625 that integrates high quality instruction, rigorous curriculum, ~~and~~ technology, and a collaborative professional culture that develops teacher quality, performance, and effectiveness.

Subd. 3. **District advisory committee.** Each school board shall establish an advisory committee to ensure active community participation in all phases of planning and improving the instruction and curriculum affecting state and district academic standards, consistent with subdivision 2. A district advisory committee, to the extent

possible, shall reflect the diversity of the district and its learning school sites, and shall include teachers, parents, support staff, students, and other community residents. The district may establish building site teams as subcommittees of the district advisory committee under subdivision 4. The district advisory committee shall recommend to the school board rigorous academic standards, student achievement goals and measures consistent with section 120B.35, district assessments, and program evaluations. Learning School sites may expand upon district evaluations of instruction, curriculum, assessments, or programs. Whenever possible, parents and other community residents shall comprise at least two-thirds of advisory committee members.

Subd. 4. **Building Site team.** A school may establish a building site team to develop and implement an education effectiveness plan to improve instruction, curriculum, and student achievement at the school site, consistent with subdivision 2. The team shall advise the board and the advisory committee about developing an instruction and curriculum improvement plan that aligns curriculum, assessment of student progress in meeting state and district academic standards, and instruction.

Subd. 5. **Local report.** ~~(a) By October 1 of each year, the school board shall use standard statewide reporting procedures the commissioner develops and adopt a report that includes the following:~~

- ~~(1) student achievement goals for meeting state academic standards;~~
- ~~(2) results of local assessment data, and any additional test data;~~
- ~~(3) the annual school district improvement plans including staff development goals under section 122A.60;~~
- ~~(4) information about district and learning site progress in realizing previously adopted improvement plans; and~~
- ~~(5) the amount and type of revenue attributed to each education site as defined in section 123B.04.~~

~~(b) Consistent with requirements for school performance report cards under section 120B.36, subdivision 1, the school board shall publish a summary of the report about student achievement goals, local assessment outcomes, plans for improving curriculum and instruction, and success in realizing previously adopted improvement plans in the local newspaper with the largest circulation in the district, by mail, or by electronic means such as the district Web site. If electronic means are used, school districts must publish notice of the report in a periodical of general circulation in the district. School districts must make copies of the report available to the public on request.~~

~~(c) The title of the report shall contain the name and number of the school district and read "Annual Report on Curriculum, Instruction, and Student Achievement." The report must include at least the following information about advisory committee membership:~~

- ~~(1) the name of each committee member and the date when that member's term expires;~~
- ~~(2) the method and criteria the school board uses to select committee members; and~~
- ~~(3) the date by which a community resident must apply to next serve on the committee.~~

Subd. 6. **Student evaluation.** The school board annually shall provide high school graduates or GED recipients who ~~receive~~ received a diploma or its equivalent from the school district within the two previous school years with an opportunity to report to the board by electronic means on the following:

- (1) the quality of district instruction, curriculum, and services; and
- (2) the quality of district delivery of instruction, curriculum, and services;

(3) ~~the utility of district facilities; and~~

(4) ~~the effectiveness of district administration.~~

For purposes of improving instruction and curriculum and consistent with section 13.32, subdivision 6, paragraph (b), the board must forward a summary of its evaluation findings to the commissioner upon request.

Subd. 7. **Periodic report.** Each school district shall periodically ask affected constituencies about their level of satisfaction with school. The district shall include the results of this evaluation in the report required under subdivision 5.

Subd. 8. **Biennial evaluation; assessment program.** At least once every two years, the district report under subdivision 5 shall include an evaluation of the effectiveness of district testing programs, ~~according to the following:~~

(1) ~~written objectives of the assessment program;~~

(2) ~~names of tests and grade levels tested;~~

(3) ~~use of test results; and~~

(4) ~~student achievement results compared to previous years.~~

EFFECTIVE DATE. This section is effective the day following final enactment and applies to reports on the 2011-2012 school year and later.

Sec. 7. [120B.115] HELPING STUDENTS ACQUIRE GRADE-LEVEL READING PROFICIENCY BY THE END OF GRADE 3.

Subdivision 1. **Local literacy plan for students to achieve grade-level reading proficiency.** (a) To ensure every child succeeds in reading at or above grade level by the end of grade 3, to identify and remediate students' reading deficiencies in a timely manner, and to intervene effectively when students experience reading difficulties so that they acquire the skills they need to make academic progress throughout elementary and secondary school, and consistent with this section and section 120B.12, school districts and charter schools must develop a local literacy plan to monitor the reading proficiency of students in kindergarten through grade 3, inform parents of their students' reading proficiency and growth, and set intervention strategies to bring students to grade-level proficiency. Any student who is identified as not being grade-level proficient in reading based on state or local reading assessments is a student with a reading deficiency for purposes of this section.

(b) Consistent with its local literacy plan, school sites within the district and charter schools annually must assess a student's reading proficiency and provide intensive reading instruction to any student who in any grade, kindergarten through 3, is identified as having a reading deficiency. Each September and May, and periodically throughout the school year, school sites within a district and charter schools must transmit to each parent of an enrolled student updated and timely information about that student's reading needs, proficiency, and growth toward becoming a successful grade-level reader, and, where applicable, information about interventions under subdivision 2, paragraph (c). Reading assessments must identify the nature of a student's difficulty, the student's areas of academic need, and strategies for providing the student with appropriate intervention, support, and instruction. A student must continue to receive intensive, comprehensive, scientifically based reading instruction in the five reading areas: phonemic awareness, phonics, fluency, vocabulary, and comprehension; as defined in section 122A.06, until the student achieves grade-level reading proficiency.

(c) Beginning in the 2014-2015 school year and later, school sites within a district or a charter school must not promote to grade 4 a student who is unable to demonstrate grade-level proficiency as measured by the statewide reading assessment in grade 3 or locally determined reading assessments but may establish a good cause exception to ensure a student is not unnecessarily retained in grade 3, consistent with paragraph (f). At the start of grade 3, a district or charter school, consistent with its literacy plan under paragraph (a), must give written notice to the parent of a student who demonstrates a reading deficiency of the following:

(1) the student has been identified as having a reading deficiency;

(2) reading-related services currently being provided to the student;

(3) proposed supplemental instructional services and supports to be provided to the student to remediate the student's identified reading deficiencies;

(4) that a student whose reading deficiencies are not remediated by the end of grade 3 must be retained in grade 3 unless a good cause exception applies;

(5) strategies for parents to use in helping their student succeed in becoming grade-level proficient in reading; and

(6) that the annual statewide reading assessment score is not the sole factor in determining whether a student is promoted and that multiple assessments of a student's reading proficiency, including additional evaluations, portfolio reviews, and local assessments are available to help parents and the district or charter school jointly decide whether a student is reading at or above grade level and ready to be promoted to grade 4.

Consistent with clause (6) and for purposes of this section, a student may be retained in grade 3 only if the parent agrees in writing to having the student retained after the parent meets with a school administrator, the student's classroom teacher, and other qualified school professionals such as the school's reading teacher or school counselor to consider whether or not to promote the student to grade 4 or retain the student in grade 3.

(d) No district or charter school may assign a student to grade 4 based solely on the student's age or any other factor that relates to keeping the student with the student's social peers despite the student's reading deficiencies and constitutes social promotion. A student must be promoted to grade 4 only after demonstrating mastery of the reading skills needed to achieve academic success in grade 4 unless a good cause exception applies.

(e) Districts and charter schools must include in their literacy plan under paragraph (a) specific criteria and policies for promoting midyear to grade 4 a student retained in grade 3 who subsequently demonstrates grade-level reading proficiency.

(f) Under a good cause exception established by the district or charter school in its literacy plan under paragraph (a), a student who does not demonstrate grade-level reading proficiency on the statewide reading assessment by the end of grade 3 may be promoted to grade 4 if the student is:

(1) a limited English proficient student who has not received instruction in an English language learner program during two school years;

(2) an eligible child with disabilities whose individualized education program indicates that participating in the statewide reading assessment program is not appropriate;

(3) a student who demonstrates grade-level reading proficiency on an alternative locally approved standardized reading assessment or, using a student portfolio compiled by the teacher for this purpose, demonstrates grade-level reading proficiency;

(4) an eligible child with disabilities who participates in statewide assessments under an individualized education program or Section 504 plan that indicates that the child has received intensive reading remediation for more than two school years, remains substantially deficient in reading, and was previously retained in one or more grades in an appropriate alternative placement, consistent with the student's individualized education program; or

(5) a student who received intensive reading instruction for two or more school years, continues to be substantially deficient in reading, and was previously retained for a total of two school years in an appropriate alternative placement as part of the local literacy plan.

A student who is promoted to grade 4 under clause (5) must continue to be provided specialized diagnostic information and specific research-based reading strategies during the school day that are designed to improve the student's reading proficiency under subdivision 2.

(g) To request that a student be promoted to grade 4 under paragraph (f), a teacher must submit to the school principal or other person having administrative control of the school either the student's progress monitoring plan, individualized education program, report card, or student portfolio that demonstrates, based on the student's record, that it is appropriate to promote the student. The principal or other chief school administrator must review the evidence and, after consulting with the student's teacher, determine whether or not to promote the student. A principal employed by a school district must notify the school superintendent of a decision to promote a student under this paragraph.

Subd. 2. Supporting success in reading proficiency for retained students. (a) Using valid and reliable diagnostic assessments, school sites within a district or a charter school must provide a student who is not meeting grade-level reading standards under this section with intensive, comprehensive, scientifically based reading instruction and interventions, consistent with section 122A.06, subdivision 4, until the student demonstrates grade-level reading proficiency. The student must receive expanded instructional time and interventions that accommodate the student's learning style and provide intensive skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension, consistent with sections 120B.12 and 122A.06.

(b) Beginning in the 2014-2015 school year, school sites within a district or a charter school, in consultation with a student's parent, must review the student progress monitoring plan for each student in grade 3 who is unable to demonstrate grade-level proficiency on the statewide reading assessment and who does not meet the criteria for a good cause exception. The review must identify additional supports and services needed to remediate students' reading deficiency and enable the students to attain grade-level reading proficiency.

(c) School sites within districts and charter schools, consistent with their literacy plan under subdivision 1, paragraph (a), must provide a student who is not a grade-level reader or not promoted to grade 4 with intensive interventions to enhance the student's ability to become a successful, grade-level reader. These interventions may include but are not limited to:

(1) small group instruction;

(2) more frequent progress monitoring;

(3) tutoring or mentoring by an individual trained in scientifically based reading instruction;

(4) extended school day, week, or year programs; and

(5) summer reading camps.

(d) School sites within a district or a charter school, consistent with its literacy plan under subdivision 1, paragraph (a), must notify a parent in writing when a student is not promoted because the student has a substantial reading deficiency and is ineligible for a good cause exception under subdivision 1, paragraph (f). The notice must indicate the interventions and supports that the school site or charter school will provide to the student to remediate the student's reading deficiencies. The notice also must offer parents at least one of the following instructional options for their student:

(1) supplemental tutoring in comprehensive, scientifically based reading instruction, including tutoring before or after school;

(2) a read-at-home plan with parent-guided home reading; or

(3) a mentor or tutor with specialized reading training.

(e) The commissioner annually must analyze and publicly report data on the number of students retained under this subdivision and section 120B.36, subdivision 1, paragraph (f), on a school-by-school basis to indicate the extent of state and local progress in enabling students to attain grade-level reading proficiency by the end of grade 3.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to students entering grade 3 in the 2014-2015 school year and later.

Sec. 8. Minnesota Statutes 2010, section 120B.12, is amended to read:

120B.12 READING INTERVENTION.

Subdivision 1. **Literacy goal.** The legislature seeks to have Minnesota's children able to read no later than the end of ~~second~~ third grade.

Subd. 2. **Identification; report.** ~~For the 2002-2003 school year and later,~~ Each school district and charter school shall identify before the end of ~~first~~ second grade students who are at risk of not ~~learning to read~~ reading at or above grade level before the end of ~~second~~ third grade. The district and charter school must use a locally adopted assessment method, consistent with section 120B.115, subdivision 1, to assess a student's reading proficiency and to intervene effectively when a student demonstrates reading deficiencies. The district and charter school must annually report the assessment results ~~of the assessment~~ to the commissioner by June 1, consistent with section 120B.36, subdivision 1, paragraph (f).

Subd. 3. **Intervention.** For each student identified under subdivision 2, the district and charter school shall provide a reading intervention method or program to assist the student in reaching the goal of ~~learning to read~~ reading at or above grade level no later than the end of ~~second~~ third grade. District intervention methods shall encourage parental involvement and, where possible, collaboration with appropriate school and community programs. Intervention methods may include, but are not limited to, requiring attendance in summer school and intensified reading instruction that may require that the student be removed from the regular classroom for part of the school day.

Subd. 4. **Staff development.** Each district and charter school shall identify the staff development needs to ensure that:

(1) elementary teachers are able to implement comprehensive, scientifically based, and balanced reading instruction programs that have resulted in improved student performance;

(2) elementary teachers who are instructing students identified under subdivision 2 are prepared to teach using the intervention methods or programs selected by the district or charter school for the identified students; and

(3) all licensed teachers employed by the district or charter school have regular opportunities to improve reading instruction.

Subd. 5. **Commissioner.** The commissioner shall recommend to districts and charter schools multiple assessment tools that will assist districts, charter schools, and teachers with identifying students under subdivision 2. The commissioner shall also make available to districts and charter schools examples of nationally recognized and research-based instructional methods or programs that districts and charter schools may use to provide reading intervention according to this section and section 120B.115.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to school districts on that date. For charter schools, this section is effective for the 2014-2015 school year and later.

Sec. 9. Minnesota Statutes 2010, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. **Statewide testing.** (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed from and aligned with the state's required academic standards under section 120B.021, include multiple choice questions, and be administered annually to all students in grades 3 through 8. State-developed high school tests aligned with the state's required academic standards under section 120B.021 and administered to all high school students in a subject other than writing must include multiple choice questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year. Schools that the commissioner identifies for stand-alone field testing or other national sampling must participate as directed. Superintendents or charter school directors may appeal in writing to the commissioner for an exemption from a field test based on undue hardship. The commissioner's decision regarding the appeal is final. For students enrolled in grade 8 before the 2005-2006 school year, Minnesota basic skills tests in reading, mathematics, and writing shall fulfill students' basic skills testing requirements for a passing state notation. The passing scores of basic skills tests in reading and mathematics are the equivalent of 75 percent correct for students entering grade 9 based on the first uniform test administered in February 1998. Students who have not successfully passed a Minnesota basic skills test by the end of the 2011-2012 school year must pass the graduation-required assessments for diploma under paragraph (c).

(b) The state assessment system must be aligned to the most recent revision of academic standards as described in section 120B.023 in the following manner:

(1) mathematics;

(i) grades 3 through 8 beginning in the 2010-2011 school year; and

(ii) high school level beginning in the 2013-2014 school year;

(2) science; grades 5 and 8 and at the high school level beginning in the 2011-2012 school year; and

(3) language arts and reading; grades 3 through 8 and high school level beginning in the 2012-2013 school year.

(c) For students enrolled in grade 8 in the 2005-2006 school year and later, only the following options shall fulfill students' state graduation test requirements:

(1) for reading and mathematics:

(i) obtaining an achievement level equivalent to or greater than proficient as determined through a standard setting process on the Minnesota comprehensive assessments in grade 10 for reading and grade 11 for mathematics or achieving a passing score as determined through a standard setting process on the graduation-required assessment for diploma in grade 10 for reading and grade 11 for mathematics or subsequent retests;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in reading and the mathematics test for English language learners or the graduation-required assessment for diploma equivalent of those assessments for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan;

(iv) obtaining achievement level equivalent to or greater than proficient as determined through a standard setting process on the state-identified alternate assessment or assessments in grade 10 for reading and grade 11 for mathematics for students with an individual education plan; or

(v) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan; and

(2) for writing:

(i) achieving a passing score on the graduation-required assessment for diploma;

(ii) achieving a passing score as determined through a standard setting process on the state-identified language proficiency test in writing for students designated as English language learners;

(iii) achieving an individual passing score on the graduation-required assessment for diploma as determined by appropriate state guidelines for students with an individual education plan or 504 plan; or

(iv) achieving an individual passing score on the state-identified alternate assessment or assessments as determined by appropriate state guidelines for students with an individual education plan.

(d) Students enrolled in grade 8 in any school year from the 2005-2006 school year to the 2009-2010 school year who do not pass the mathematics graduation-required assessment for diploma under paragraph (c) are eligible to receive a high school diploma if they:

(1) complete with a passing score or grade all state and local coursework and credits required for graduation by the school board granting the students their diploma;

(2) participate in district-prescribed academic remediation in mathematics; and

(3) fully participate in at least two retests of the mathematics GRAD test or until they pass the mathematics GRAD test, whichever comes first. A school, district, or charter school must place on the high school transcript a student's highest current pass status for each subject that has a required graduation assessment score for each of the following assessments on the student's high school transcript: the mathematics Minnesota Comprehensive Assessment, reading Minnesota Comprehensive Assessment, and writing Graduation Required Assessment for Diploma, and when applicable, the mathematics Graduation Required Assessment for Diploma and reading Graduation Required Assessment for Diploma.

In addition, the school board granting the students their diplomas may formally decide to include a notation of high achievement on the high school diplomas of those graduating seniors who, according to established school board criteria, demonstrate exemplary academic achievement during high school.

(e) The 3rd through 8th grade and high school test results shall be available to districts for diagnostic purposes affecting student learning and district instruction and curriculum, and for establishing educational accountability. The commissioner must disseminate to the public the high school test results upon receiving those results.

(f) The 3rd through 8th grade and high school tests must be aligned with state academic standards. The commissioner shall determine the testing process and the order of administration. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

(g) In addition to the testing and reporting requirements under this section, the commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide testing of all students in grades 3 through 8 and at the high school level that provides appropriate, technically sound accommodations or alternate assessments;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) state results on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

Sec. 10. Minnesota Statutes 2010, section 120B.30, subdivision 3, is amended to read:

Subd. 3. **Reporting.** The commissioner shall report test ~~data~~ results publicly and to stakeholders, including the performance achievement levels developed from students' unweighted test scores in each tested subject and a listing of demographic factors that strongly correlate with student performance. The test results must not include personally identifiable information as defined in Code of Federal Regulations, title 34, section 99.3. The commissioner shall also report data that compares performance results among school sites, school districts, Minnesota and other states, and Minnesota and other nations. The commissioner shall disseminate to schools and school districts a more comprehensive report containing testing information that meets local needs for evaluating instruction and curriculum.

Sec. 11. Minnesota Statutes 2010, section 120B.30, subdivision 4, is amended to read:

Subd. 4. **Access to tests.** Consistent with section 13.34, the commissioner must adopt and publish a policy to provide public and parental access for review of basic skills tests, Minnesota Comprehensive Assessments, or any other such statewide test and assessment which would not compromise the objectivity or fairness of the testing or examination process. Upon receiving a written request, the commissioner must make available to parents or guardians a copy of their student's actual responses to the test questions for their review.

Sec. 12. Minnesota Statutes 2010, section 120B.31, subdivision 4, is amended to read:

Subd. 4. ~~Statistical adjustments;~~ **Student performance data.** In developing policies and assessment processes to hold schools and districts accountable for high levels of academic standards under section 120B.021, the commissioner shall aggregate student data over time to report student performance and growth levels measured

at the school, school district, and statewide level. When collecting and reporting the performance data, the commissioner shall: ~~(1) acknowledge the impact of significant demographic factors such as residential instability, the number of single parent families, parents' level of education, and parents' income level on school outcomes; and~~ (2) organize and report the data so that state and local policy makers can understand the educational implications of changes in districts' demographic profiles over time. Any report the commissioner disseminates containing summary data on student performance must integrate student performance and the demographic factors that strongly correlate with that performance.

Sec. 13. Minnesota Statutes 2010, section 120B.36, subdivision 1, is amended to read:

Subdivision 1. **School performance report cards.** (a) The commissioner shall report student academic performance under section 120B.35, subdivision 2; the percentages of students showing low, medium, and high growth under section 120B.35, subdivision 3, paragraph (b); school safety and student engagement and connection under section 120B.35, subdivision 3, paragraph (d); rigorous coursework under section 120B.35, subdivision 3, paragraph (c); two separate student-to-teacher ratios that clearly indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for purposes of determining these ratios; staff characteristics excluding salaries; student enrollment demographics; district mobility; students' reading proficiency; and extracurricular activities. The report also must indicate a school's adequate yearly progress status, and must not set any designations applicable to high- and low-performing schools due solely to adequate yearly progress status.

(b) The commissioner shall develop, annually update, and post on the department Web site school performance report cards.

(c) The commissioner must make available performance report cards by the beginning of each school year.

(d) A school or district may appeal its adequate yearly progress status in writing to the commissioner within 30 days of receiving the notice of its status. The commissioner's decision to uphold or deny an appeal is final.

(e) School performance report card data are nonpublic data under section 13.02, subdivision 9, until ~~not later than ten days after the appeal procedure described in paragraph (d) concludes~~ the commissioner publicly releases the data. The ~~department~~ commissioner shall annually post school performance report cards to ~~its~~ the department's public Web site no later than September 1, except that in the years when the report card reflects new performance standards, the commissioner may post the school performance report cards no later than October 1 if specifically authorized by the legislature to do so.

(f) Consistent with this subdivision and sections 120B.115 and 120B.12, each school site within a district and charter school must report to parents and the department on:

(1) on a grade-by-grade basis, the progress that students are making toward achieving local and state expectations for attaining reading proficiency and growth;

(2) the effect of academic policies and procedures, including parent notification among other policies and procedures, on promoting and retaining students based on a student's reading proficiency;

(3) the number and percentage of students in each grade, 3 through 10, who do or do not demonstrate proficiency on statewide reading assessments;

(4) the number and percentage of students promoted to grade 4 under section 120B.115, subdivision 1, paragraph (f); and

(5) changes in local literacy policies to increase the number of students in each grade, 3 through 10, who demonstrate reading proficiency and growth.

Upon request, the department may provide school sites within a district and charter schools with technical assistance to improve students' grade-level reading proficiency, consistent with the data under this subdivision and sections 120B.115 and 120B.12.

EFFECTIVE DATE. This section is effective for the 2014-2015 school year and later and applies to reports prepared using data from the 2014-2015 school year and later.

Sec. 14. Minnesota Statutes 2010, section 120B.36, subdivision 2, is amended to read:

Subd. 2. **Adequate yearly progress and other data.** All data the department receives, collects, or creates to determine adequate yearly progress status under Public Law 107-110, section 1116, set state growth targets, and determine student growth are nonpublic data under section 13.02, subdivision 9, until ~~not later than ten days after the appeal procedure described in subdivision 1, paragraph (d), concludes the commissioner publicly releases the data.~~ Districts must provide parents sufficiently detailed summary data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). ~~The department commissioner~~ shall annually post federal adequate yearly progress data and state student growth data to ~~its~~ the department's public Web site no later than September 1, except that in years when adequate yearly progress reflects new performance standards, the commissioner may post federal adequate yearly progress data and state student growth data no later than October 1 if specifically authorized by the legislature to do so.

Sec. 15. Minnesota Statutes 2010, section 121A.15, subdivision 8, is amended to read:

Subd. 8. **Report.** The administrator or other person having general control and supervision of the elementary or secondary school shall file a report with the commissioner on all persons enrolled in the school. The superintendent of each district shall file a report with the commissioner for all persons within the district receiving instruction in a home school in compliance with sections 120A.22 and 120A.24. The parent of persons receiving instruction in a home school shall submit the statements as required by subdivisions 1, 2, 3, ~~and 4,~~ and 12 to the superintendent of the district in which the person resides by October 1 of ~~each school year~~ the first year of their homeschooling in Minnesota and the grade 7 year. The school report must be prepared on forms developed jointly by the commissioner of health and the commissioner of education and be distributed to the local districts by the commissioner of health. The school report must state the number of persons attending the school, the number of persons who have not been immunized according to subdivision 1 or 2, and the number of persons who received an exemption under subdivision 3, clause (c) or (d). The school report must be filed with the commissioner of education within 60 days of the commencement of each new school term. Upon request, a district must be given a 60-day extension for filing the school report. The commissioner of education shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The administrator or other person having general control and supervision of the child care facility shall file a report with the commissioner of human services on all persons enrolled in the child care facility. The child care facility report must be prepared on forms developed jointly by the commissioner of health and the commissioner of human services and be distributed to child care facilities by the commissioner of health. The child care facility report must state the number of persons enrolled in the facility, the number of persons with no immunizations, the number of persons who received an exemption under subdivision 3, clause (c) or (d), and the number of persons with partial or full immunization histories. The child care facility report must be filed with the commissioner of human services by November 1 of each year. The commissioner of human services shall forward the report, or a copy thereof, to the commissioner of health who shall provide summary reports to boards of health as defined in section 145A.02, subdivision 2. The report required by this subdivision is not required of a family child care or group family child care facility, for prekindergarten children enrolled in any elementary or secondary school provided services according to sections 125A.05 and 125A.06, nor for child care facilities in which at least 75 percent of children in the facility participate on a onetime only or occasional basis to a maximum of 45 hours per child, per month.

Sec. 16. Minnesota Statutes 2010, section 122A.09, subdivision 4, is amended to read:

Subd. 4. **License and rules.** (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to ~~successfully complete~~ pass a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board-approved teacher preparation program to ~~provide~~ offer remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a postsecondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a postsecondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring candidates for initial licenses to ~~successfully complete~~ pass an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective by September 1, 2001. The rules under this paragraph also must require candidates for initial licenses to teach prekindergarten or elementary students to ~~successfully complete~~ pass, as part of the examination of licensure-specific teaching skills, test items assessing the candidates' knowledge, skill, and ability in comprehensive, scientifically based reading instruction under section 122A.06, subdivision 4, and their knowledge and understanding of the foundations of reading development, the development of reading comprehension, and reading assessment and instruction, and their ability to integrate that knowledge and understanding.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses based on appropriate professional competencies that are aligned with the board's licensing system and students' diverse learning needs. The board must include these licenses in a statewide differentiated licensing system that creates new leadership roles for successful experienced teachers premised on a collaborative professional culture dedicated to meeting students' diverse learning needs in the 21st century and formalizes mentoring and induction for newly licensed teachers that is provided through a teacher support framework to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law. Teachers who do not provide direct instruction including, at least, counselors, school psychologists, school nurses, school social workers, audiovisual directors and coordinators, and recreation personnel are exempt from this section.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

Sec. 17. Minnesota Statutes 2010, section 122A.14, subdivision 3, is amended to read:

Subd. 3. **Rules for continuing education requirements.** The board shall adopt rules establishing continuing education requirements that promote continuous improvement and acquisition of new and relevant skills by school administrators. A retired school principal who serves as a substitute principal or assistant principal for the same person on a day-to-day basis for no more than 15 consecutive school days is not subject to continuing education requirements as a condition of serving as a substitute principal or assistant principal.

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

Sec. 18. Minnesota Statutes 2010, section 122A.16, as amended by Laws 2011, chapter 5, section 2, is amended to read:

122A.16 HIGHLY QUALIFIED TEACHER DEFINED.

(a) A qualified teacher is one holding a valid license, under this chapter, to perform the particular service for which the teacher is employed in a public school.

(b) For the purposes of the federal No Child Left Behind Act, a highly qualified teacher is one who holds a valid license under this chapter, including under section 122A.245, among other sections, ~~to perform the particular service for which the teacher is employed in a public school or who meets the requirements of a highly objective uniform state standard of evaluation (HOUSSE) and is determined by local administrators as having highly qualified status according to the approved Minnesota highly qualified plan.~~ Teachers delivering core content instruction must be deemed highly qualified at the local level and reported to the state via the staff automated reporting system.

~~All Minnesota teachers teaching in a core academic subject area, as defined by the federal No Child Left Behind Act, in which they are not fully licensed may complete the following HOUSSE process in the core subject area for which the teacher is requesting highly qualified status by completing an application, in the form and manner described by the commissioner, that includes:~~

- ~~(1) documentation of student achievement as evidenced by norm-referenced test results that are objective and psychometrically valid and reliable;~~
- ~~(2) evidence of local, state, or national activities, recognition, or awards for professional contribution to achievement;~~
- ~~(3) description of teaching experience in the teachers' core subject area in a public school under a waiver, variance, limited license or other exception; nonpublic school; and postsecondary institution;~~
- ~~(4) test results from the Praxis II content test;~~
- ~~(5) evidence of advanced certification from the National Board for Professional Teaching Standards;~~
- ~~(6) evidence of the successful completion of course work or pedagogy courses; and~~
- ~~(7) evidence of the successful completion of high-quality professional development activities.~~

~~Districts must assign a school administrator to serve as a HOUSSE reviewer to meet with teachers under this paragraph and, where appropriate, certify the teachers' applications. Teachers satisfy the definition of highly qualified when the teachers receive at least 100 of the total number of points used to measure the teachers' content expertise under clauses (1) to (7). Teachers may acquire up to 50 points only in any one clause (1) to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified for more than one subject area.~~

~~(c) Achievement of the HOUSSE criteria is not equivalent to a license. A teacher must obtain permission from the Board of Teaching in order to teach in a public school.~~

EFFECTIVE DATE. This section is effective for the 2011-2012 school year and later.

Sec. 19. Minnesota Statutes 2010, section 122A.18, subdivision 2, is amended to read:

Subd. 2. **Teacher and support personnel qualifications.** (a) The Board of Teaching must issue licenses under its jurisdiction to persons the board finds to be qualified and competent for their respective positions.

(b) The board must require a person to ~~successfully complete~~ pass an examination of skills in reading, writing, and mathematics before being granted an initial teaching license to provide direct instruction to pupils in prekindergarten, elementary, secondary, or special education programs. The board must require colleges and universities offering a board approved teacher preparation program to ~~provide~~ offer remedial assistance that includes a formal diagnostic component to persons enrolled in their institution who did not achieve a qualifying score on the skills examination, including those for whom English is a second language. The colleges and universities must ~~provide~~ offer assistance in the specific academic areas of deficiency in which the person did not achieve a qualifying score. The board must issue a one-year license to teach in Minnesota to an otherwise qualified person who completed his or her teacher preparation program outside the state of Minnesota, during which time that person must take and pass the state skills examination in reading, writing, and math. School districts must ~~provide similar~~ offer, appropriate, and timely remedial assistance that includes a formal diagnostic component and mentoring to those persons employed by the district who completed their teacher ~~education~~ preparation program outside the state of Minnesota, received a one-year license to teach in Minnesota and did not achieve a qualifying score on the skills examination, including those persons for whom English is a second language. The Board of Teaching shall report annually to the education committees of the legislature on the total number of teacher candidates during the most recent school year taking the skills examination, the number who achieve a qualifying score on the examination, the number who do not achieve a qualifying score on the examination, the distribution of all candidates' scores, the number of candidates who have taken the examination at least once before, and the number of candidates who have taken the examination at least once before and achieve a qualifying score.

~~(c) A person who has completed an approved teacher preparation program and obtained a one-year license to teach, but has not successfully completed the skills examination, may renew the one-year license for two additional one-year periods. Each renewal of the one-year license is contingent upon the licensee:~~

~~(1) providing evidence of participating in an approved remedial assistance program provided by a school district or postsecondary institution that includes a formal diagnostic component in the specific areas in which the licensee did not obtain qualifying scores; and~~

~~(2) attempting to successfully complete the skills examination during the period of each one-year license.~~

~~(d) (c) The Board of Teaching must grant continuing licenses only to those persons who have met board criteria for granting a continuing license, which includes ~~successfully completing~~ passing the skills examination in reading, writing, and mathematics.~~

~~(e) (d) All colleges and universities approved by the board of teaching to prepare persons for teacher licensure must include in their teacher preparation programs a common core of teaching knowledge and skills to be acquired by all persons recommended for teacher licensure. This common core shall meet the standards developed by the interstate new teacher assessment and support consortium in its 1992 "model standards for beginning teacher licensing and development." Amendments to standards adopted under this paragraph are covered by chapter 14. The board of teaching shall report annually to the education committees of the legislature on the performance of teacher candidates on common core assessments of knowledge and skills under this paragraph during the most recent school year.~~

Sec. 20. Minnesota Statutes 2010, section 122A.23, subdivision 2, is amended to read:

Subd. 2. **Applicants licensed in other states.** (a) Subject to the requirements of sections 122A.18, ~~subdivision subdivisions 2, paragraph (b), and 8,~~ and 123B.03, the Board of Teaching must issue a teaching license or a temporary teaching license under paragraphs (b) to (e) to an applicant who holds at least a baccalaureate degree from a regionally accredited college or university and holds or held a similar out-of-state teaching license that requires the applicant to successfully complete a teacher preparation program approved by the issuing state, which includes field-specific teaching methods and student teaching or essentially equivalent experience.

(b) The Board of Teaching must issue a teaching license to an applicant who:

(1) successfully completed all exams and human relations preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license to teach the same content field and grade levels if the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license.

(c) The Board of Teaching, consistent with board rules, must issue up to three one-year temporary teaching licenses to an applicant who holds or held an out-of-state teaching license to teach the same content field and grade levels, where the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license, but has not successfully completed all exams and human relations preparation components required by the Board of Teaching.

(d) The Board of Teaching, consistent with board rules, must issue up to three one-year temporary teaching licenses to an applicant who:

(1) successfully completed all exams and human relations preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license to teach the same content field and grade levels, where the scope of the out-of-state license is no more than one grade level less than a similar Minnesota license, but has not completed field-specific teaching methods or student teaching or equivalent experience.

The applicant may complete field-specific teaching methods and student teaching or equivalent experience by successfully participating in a one-year school district mentorship program consistent with board-adopted standards of effective practice and Minnesota graduation requirements.

(e) The Board of Teaching must issue a temporary teaching license for a term of up to three years only in the content field or grade levels specified in the out-of-state license to an applicant who:

(1) successfully completed all exams and human relations preparation components required by the Board of Teaching; and

(2) holds or held an out-of-state teaching license where the out-of-state license is more limited in the content field or grade levels than a similar Minnesota license.

(f) The Board of Teaching must not issue to an applicant more than three one-year temporary teaching licenses under this subdivision.

(g) The Board of Teaching must not issue a license under this subdivision if the applicant has not attained the additional degrees, credentials, or licenses required in a particular licensure field.

Sec. 21. Minnesota Statutes 2010, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and ~~after completion thereof,~~ the probationary period in each district in which the teacher is thereafter employed also shall be one year three consecutive years of teaching experience, except that for purposes of this provision, the probationary period for principals and assistant principals shall be two consecutive years. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times each school year for a teacher performing services ~~on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days~~ during that school year. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following school year written notice to that effect before ~~July~~ June 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 122A.44.

(b) A board must discharge a probationary teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

(c) A probationary teacher whose first three years of consecutive employment in a district are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(d) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all probationary teacher employment contracts ratified or modified after that date.

Sec. 22. Minnesota Statutes 2010, section 122A.40, is amended by adding a subdivision to read:

Subd. 8a. Probationary period for principals hired internally. A two school year probationary period is required for a licensed teacher employed by the board who is subsequently employed by the board as a licensed school principal or assistant principal, and an additional probationary period of two years is required for a licensed assistant principal employed by the board who is subsequently employed by the board as a licensed principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains the teacher's continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to his or her previous position or an equivalent position, if available, if the teacher is not promoted.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all contracts for internally hired licensed school principals and assistant principals ratified or modified after that date.

Sec. 23. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

Subd. 11. Unrequested leave of absence. (a) The board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave is effective at the close of the school year. In placing teachers on unrequested leave, the board may exempt from the effects of paragraphs (b) to (g) those teachers who teach in a Montessori or language immersion program, provide instruction in an advanced placement course, or hold a kindergarten through grade 12 instrumental vocal classroom music license and currently serve as a choir, band, or orchestra director and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher must be placed on unrequested leave of absence consistent with paragraph (c). The board is governed by the following provisions: of paragraphs (b) to (g), consistent with this paragraph.

~~(a)~~ (b) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. A teacher who has acquired continuing contract rights must not be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

~~(b)~~ (c) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed is negotiable;

~~(c)~~ (d) Notwithstanding the provisions of ~~clause (b)~~ paragraph (c), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses;

~~(d)~~ (e) Notwithstanding ~~clauses (a), (b) and (c)~~ paragraphs (b), (c), and (d), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of ~~clause (c)~~ paragraph (d) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher.

~~(e)~~ (f) Teachers placed on unrequested leave of absence must be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement must be in the inverse order of placement on leave of absence. A teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year is negotiable.

~~(f)~~ (g) Appointment of a new teacher must not be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher who may return to employment and assume the duties of the position to which appointed on a future date determined by the board.

~~(g)~~ (h) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave.

~~(h)~~ (i) The unrequested leave of absence must not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service.

~~(i)~~ (j) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate. The teacher's right to reinstatement shall also terminate if the teacher fails to file with the board by April 1 of any year a written statement requesting reinstatement.

~~(j)~~ (k) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of absence.

~~(k)~~ (l) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment benefits if otherwise eligible.

EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all collective bargaining agreements ratified or modified after that date.

Sec. 24. Minnesota Statutes 2010, section 122A.41, subdivision 1, is amended to read:

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of the following subdivisions in this section shall be defined as follows:

(a) **Teachers.** The term "teacher" includes every person regularly employed, as a principal, or to give instruction in a classroom, or to superintend or supervise classroom instruction, or as placement teacher and visiting teacher. Persons regularly employed as counselors and school librarians shall be covered by these sections as teachers if licensed as teachers or as school librarians.

(b) **School board.** The term "school board" includes a majority in membership of any and all boards or official bodies having the care, management, or control over public schools.

(c) **Demote.** The word "demote" means to reduce ~~in rank or to transfer to a lower branch of the service or to a position carrying a lower salary or~~ the compensation a person actually receives in the new position.

(d) **Nonprovisional license.** For purposes of this section, "nonprovisional license" shall mean an entrance, continuing, or life license.

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

Sec. 25. Minnesota Statutes 2010, section 122A.41, subdivision 2, is amended to read:

Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 3, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 3. Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3 shall occur at least three times each ~~school year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days.~~ Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

(b) A probationary teacher whose first three years of consecutive employment are interrupted for active military service and who promptly resumes teaching consistent with federal reemployment timelines for uniformed service personnel under United States Code, title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service each year during the probationary period. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school do not count as days of teaching service under this paragraph.

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

Sec. 26. Minnesota Statutes 2010, section 122A.41, subdivision 5a, is amended to read:

Subd. 5a. **Probationary period for principals hired internally.** ~~A board and the exclusive representative of the school principals in the district may negotiate a plan for a~~ A two school year probationary period of up to two school years is required for licensed teachers employed by the board who are subsequently employed by the board as a licensed school principal or assistant principal and an additional probationary period of ~~up to two years is~~ required for licensed assistant principals employed by the board who are subsequently employed by the board as a licensed school principal. A licensed teacher subsequently employed by the board as a licensed school principal or assistant principal retains his or her continuing contract status as a licensed teacher during the probationary period under this subdivision and has the right to return to his or her previous position or an equivalent position, if available, if the teacher is not promoted.

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

Sec. 27. Minnesota Statutes 2010, section 122A.41, subdivision 10, is amended to read:

Subd. 10. **Decision, when rendered.** The hearing must be concluded and a decision in writing, stating the grounds on which it is based, rendered within 25 days after giving of such notice. Where the hearing is before a school board the teacher may be discharged or demoted upon the affirmative vote of a majority of the members of the board. If the charges, or any of such, are found to be true, the board conducting the hearing must discharge, demote, or suspend the teacher, as seems to be for the best interest of the school. ~~A teacher must not be discharged for either of the causes specified in subdivision 6, clause (3), except during the school year, and then only upon charges filed at least four months before the close of the school sessions of such school year.~~

EFFECTIVE DATE. This section is effective July 1, 2011, and applies to discharge actions commenced on or after that date.

Sec. 28. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

Subd. 14. **Services terminated by discontinuance or lack of pupils; preference given.** (a) ~~A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is qualified.~~ In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must receive first consideration in the district for which that teacher is qualified and must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan providing otherwise.

(b) The board may exempt from the effects of paragraph (a) those teachers who teach in a Montessori or language immersion program or provide instruction in an advanced placement course and who, in the superintendent's judgment, meet a unique need in delivering curriculum. However, within the Montessori or language immersion program, a teacher shall be discontinued based on the inverse order in which the teacher was employed.

(c) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the Board of Teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.

~~(e)~~ (d) Notwithstanding the provisions of clause (a), a teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.

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

Sec. 29. Minnesota Statutes 2010, section 123B.88, is amended by adding a subdivision to read:

Subd. 1a. **Full-service school zones.** The board may establish a full-service school zone by adopting a written resolution and may provide transportation for students attending a school in that full-service school zone. A full-service school zone may be established for a school that is located in an area with higher than average crime or other social and economic challenges and that provides education, health or human services, or other parental support in collaboration with a city, county, state, or nonprofit agency. The pupil transportation must be intended to stabilize enrollment and reduce mobility at the school located in a full-service school zone.

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

Sec. 30. Minnesota Statutes 2010, section 124D.091, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** A district that offers a concurrent enrollment course according to an agreement under section 124D.09, subdivision 10, is eligible to receive aid for the costs of providing postsecondary courses at the high school. Beginning in fiscal year 2011, districts only are eligible for aid if the college or university concurrent enrollment courses offered by the district are accredited by the National Alliance of Concurrent Enrollment Partnership, in the process of being accredited, or are shown by clear evidence to be of comparable standard to accredited courses, or are technical courses within a recognized career and technical education program of study approved by the commissioner of education and the chancellor of the Minnesota State Colleges and Universities.

Sec. 31. Minnesota Statutes 2010, section 124D.36, is amended to read:

124D.36 CITATION; ~~MINNESOTA YOUTHWORKS~~ SERVE MINNESOTA INNOVATION ACT.

Sections 124D.37 to 124D.45 shall be cited as the "~~Minnesota Youthworks~~ Serve Minnesota Innovation Act."

Sec. 32. Minnesota Statutes 2010, section 124D.37, is amended to read:

124D.37 PURPOSE OF ~~MINNESOTA YOUTHWORKS~~ SERVE MINNESOTA INNOVATION ACT.

The purposes of sections 124D.37 to 124D.45 are to:

- (1) renew the ethic of civic responsibility in Minnesota;
- (2) empower youth to improve their life opportunities through literacy, job placement, and other essential skills;
- (3) empower government to meet its responsibility to prepare young people to be contributing members of society;
- (4) help meet human, educational, environmental, and public safety needs, particularly those needs relating to poverty;
- (5) prepare a citizenry that is academically competent, ready for work, and socially responsible;
- (6) demonstrate the connection between youth and community service, community service and education, and education and meaningful opportunities in the business community;
- (7) demonstrate the connection between providing opportunities for at-risk youth and reducing crime rates and the social costs of troubled youth;
- (8) create linkages for a comprehensive youth service and learning program in Minnesota including school age programs, higher education programs, youth work programs, and service corps programs; and
- (9) coordinate federal and state activities that advance the purposes in this section.

Sec. 33. Minnesota Statutes 2010, section 124D.38, subdivision 3, is amended to read:

Subd. 3. **Federal law.** "Federal law" means Public Law ~~401-610~~ 111-13, as amended, or any other federal law or program assisting youth community service, work-based learning, or youth transition from school to work.

Sec. 34. Minnesota Statutes 2010, section 124D.385, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The commission shall:

(1) develop, with the assistance of the governor, the commissioner of education, and affected state agencies, a comprehensive state plan to provide services under sections 124D.37 to 124D.45 and federal law;

(2) actively pursue public and private funding sources for services, including funding available under federal law;

(3) administer the ~~Youthworks~~ ServeMinnesota Innovation grant program under sections 124D.39 to 124D.44, including soliciting and approving grant applications from eligible organizations, and administering individual postservice benefits;

(4) establish an evaluation plan for programs developed and services provided under sections 124D.37 to 124D.45;

(5) report to the governor, commissioner of education, and legislature; and

(6) administer the federal AmeriCorps Program.

(b) Nothing in sections 124D.37 to 124D.45 precludes an organization from independently seeking public or private funding to accomplish purposes similar to those described in paragraph (a).

Sec. 35. Minnesota Statutes 2010, section 124D.39, is amended to read:

124D.39 ~~YOUTHWORKS~~ SERVEMINNESOTA INNOVATION PROGRAM.

The ~~Youthworks~~ ServeMinnesota Innovation program is established to provide funding for the commission to leverage federal and private funding to fulfill the purposes of section 124D.37. The ~~Youthworks~~ ServeMinnesota Innovation program must supplement existing programs and services. The program must not displace existing programs and services, existing funding of programs or services, or existing employment and employment opportunities. No eligible organization may terminate, layoff, or reduce the hours of work of an employee to place or hire a program participant. No eligible organization may place or hire an individual for a project if an employee is on layoff from the same or a substantially equivalent position.

Sec. 36. Minnesota Statutes 2010, section 124D.40, is amended to read:

124D.40 ~~YOUTHWORKS~~ SERVEMINNESOTA INNOVATION GRANTS.

Subdivision 1. **Application.** An eligible organization interested in receiving a grant under sections 124D.39 to 124D.44 may prepare and submit an application to the commission. As part of the grant application process, the commission must establish and publish grant application guidelines that: (1) are consistent with this subdivision, section 124D.37, and Public Law 111-13; (2) include criteria for reviewing an applicant's cost-benefit analysis; and (3) require grantees to use research-based measures of program outcomes to generate valid and reliable data that are available to the commission for evaluation and public reporting purposes.

Subd. 2. **Grant authority.** The commission must use any state appropriation and any available federal funds, including any grant received under federal law, to award grants to establish programs for ~~Youthworks~~ ServeMinnesota Innovation. At least one grant each must be available for a metropolitan proposal, a rural proposal, and a statewide proposal. If a portion of the suburban metropolitan area is not included in the metropolitan grant proposal, the statewide grant proposal must incorporate at least one suburban metropolitan area. In awarding grants, the commission may select at least one residential proposal and one nonresidential proposal.

Sec. 37. Minnesota Statutes 2010, section 124D.42, subdivision 6, is amended to read:

Subd. 6. **Program training.** The commission must, within available resources:

- (1) orient each grantee organization in the nature, philosophy, and purpose of the program; ~~and~~
- (2) build an ethic of community service through general community service training; ~~and~~
- (3) provide guidance on integrating performance-based measurement into program models.

Sec. 38. Minnesota Statutes 2010, section 124D.42, subdivision 8, is amended to read:

Subd. 8. **Minnesota reading corps program.** (a) A Minnesota reading corps program is established to provide ~~Americorps ServeMinnesota Innovation~~ members with a data-based problem-solving model of literacy instruction to use in helping to train local Head Start program providers, other prekindergarten program providers, and staff in schools with students in kindergarten through grade 3 to evaluate and teach early literacy skills to children age 3 to grade 3.

(b) Literacy programs under this subdivision must comply with the provisions governing literacy program goals and data use under section 119A.50, subdivision 3, paragraph (b).

Sec. 39. Minnesota Statutes 2010, section 124D.44, is amended to read:

124D.44 MATCH REQUIREMENTS.

~~Youthworks ServeMinnesota Innovation~~ grant funds must be used for the living allowance, cost of employer taxes under sections 3111 and 3301 of the Internal Revenue Code of 1986, workers' compensation coverage, health benefits, training and evaluation for each program participant, and administrative expenses, which must not exceed five seven percent of total program costs. ~~Youthworks grant funds may also be used to supplement applicant resources to fund postservice benefits for program participants.~~ Applicant resources, from sources and in a form determined by the commission, must be used to provide for all other program costs, ~~including the portion of the applicant's obligation for postservice benefits that is not covered by state or federal grant funds and such costs as supplies, materials, transportation, and salaries and benefits of those staff directly involved in the operation, internal monitoring, and evaluation of the program.~~

Sec. 40. Minnesota Statutes 2010, section 124D.45, subdivision 2, is amended to read:

Subd. 2. **Interim report.** The commission must report ~~semiannually~~ annually to the legislature with interim recommendations to change the program.

Sec. 41. Minnesota Statutes 2010, section 124D.52, subdivision 7, is amended to read:

Subd. 7. **Performance tracking system.** (a) By July 1, 2000, each approved adult basic education program must develop and implement a performance tracking system to provide information necessary to comply with federal law and serve as one means of assessing the effectiveness of adult basic education programs. For required reporting, longitudinal studies, and program improvement, the tracking system must be designed to collect data on the following core outcomes for learners who have completed ~~participation~~ participating in the adult basic education program:

- (1) demonstrated improvements in literacy skill levels in reading, writing, speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;

(2) placement in, retention in, or completion of postsecondary education, training, unsubsidized employment, or career advancement; ~~and~~

(3) receipt of a secondary school diploma or its recognized equivalent; and

(4) reduction in participation in the diversionary work program, Minnesota family investment program, and food support education and training program.

(b) A district, group of districts, state agency, or private nonprofit organization providing an adult basic education program may meet this requirement by developing a tracking system based on either or both of the following methodologies:

(1) conducting a reliable follow-up survey; or

(2) submitting student information, including Social Security numbers for data matching.

Data related to obtaining employment must be collected in the first quarter following program completion or can be collected while the student is enrolled, if known. Data related to employment retention must be collected in the third quarter following program exit. Data related to any other specified outcome may be collected at any time during a program year.

(c) When a student in a program is requested to provide the student's Social Security number, the student must be notified in a written form easily understandable to the student that:

(1) providing the Social Security number is optional and no adverse action may be taken against the student if the student chooses not to provide the Social Security number;

(2) the request is made under section 124D.52, subdivision 7;

(3) if the student provides the Social Security number, it will be used to assess the effectiveness of the program by tracking the student's subsequent career; and

(4) the Social Security number will be shared with the Department of Education; Minnesota State Colleges and Universities; Office of Higher Education; Department of Human Services; and ~~the~~ Department of Employment and Economic Development in order to accomplish the purposes ~~of this section~~ described in paragraph (a) and will not be used for any other purpose or reported to any other governmental entities.

(d) Annually a district, group of districts, state agency, or private nonprofit organization providing programs under this section must forward the tracking data collected to the Department of Education. For the purposes of longitudinal studies on the employment status of former students under this section, the Department of Education must forward the Social Security numbers to the Department of Employment and Economic Development to electronically match the Social Security numbers of former students with wage detail reports filed under section 268.044. The results of data matches must, for purposes of this section and consistent with the requirements of the United States Code, title 29, section 2871, of the Workforce Investment Act of 1998, be compiled in a longitudinal form by the Department of Employment and Economic Development and released to the Department of Education in the form of summary data that does not identify the individual students. The Department of Education may release this summary data. State funding for adult basic education programs must not be based on the number or percentage of students who decline to provide their Social Security numbers or on whether the program is evaluated by means of a follow-up survey instead of data matching.

EFFECTIVE DATE. This section is effective the day following final enactment and applies through the 2020-2021 school year.

Sec. 42. Minnesota Statutes 2010, section 124D.871, is amended to read:

124D.871 MAGNET SCHOOL AND PROGRAM GRANTS.

(a) The commissioner of education, in consultation with the desegregation/integration office under section 124D.892, shall award grants to school districts and chartered public schools for planning and developing magnet schools and magnet programs.

(b) Grant recipients must use the grant money under paragraph (a) to establish or operate a magnet school or a magnet program and provide all students with equal educational opportunities. Grant recipients may expend grant money on:

- (1) teachers who provide instruction or services to students in a magnet school or magnet program;
- (2) educational paraprofessionals who assist teachers in providing instruction or services to students in a magnet school or magnet program;
- (3) clerical support needed to operate a magnet school or magnet program;
- (4) equipment, equipment maintenance contracts, materials, supplies, and other property needed to operate a magnet school or magnet program;
- (5) minor remodeling needed to operate a magnet school or magnet program;
- (6) transportation for field trips that are part of a magnet school or magnet program curriculum;
- (7) program planning and staff and curriculum development for a magnet school or magnet program; and
- (8) disseminating information on magnet schools and magnet programs; ~~and~~
- ~~(9) indirect costs calculated according to the state's statutory formula governing indirect costs.~~

Sec. 43. Minnesota Statutes 2010, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, ~~the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides, and~~ the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety, and the student's parent has certified the student's homeschool and home-classroom driver training status on the form approved by the commissioner;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) For the purposes of determining compliance with the certification in paragraph (a), clause (1), item (ii), the commissioner may request verification of a student's homeschool status from the superintendent of the school district in which the student resides, and the superintendent shall provide that verification.

(c) The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

Sec. 44. Minnesota Statutes 2010, section 171.17, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of:

(1) manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) a violation of section 169A.20 or 609.487;

(3) a felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under section 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the application, ownership, or operation of a motor vehicle, including on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student;

(6) except as this section otherwise provides, three charges of violating within a period of 12 months any of the provisions of chapter 169 or of the rules or municipal ordinances enacted in conformance with chapter 169, for which the accused may be punished upon conviction by imprisonment;

(7) two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);

(8) the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b);

(9) an offense in another state that, if committed in this state, would be grounds for revoking the driver's license; or

(10) a violation of an applicable speed limit by a person driving in excess of 100 miles per hour. The person's license must be revoked for six months for a violation of this clause, or for a longer minimum period of time applicable under section 169A.53, 169A.54, or 171.174.

(b) The department shall immediately revoke the school bus endorsement of a driver upon receiving a record of the driver's conviction of the misdemeanor offense described in section 169.443, subdivision 7.

Sec. 45. Minnesota Statutes 2010, section 171.22, subdivision 1, is amended to read:

Subdivision 1. **Violations.** With regard to any driver's license, including a commercial driver's license, it shall be unlawful for any person:

(1) to display, cause or permit to be displayed, or have in possession, any fictitious or fraudulently altered driver's license or Minnesota identification card;

(2) to lend the person's driver's license or Minnesota identification card to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license or Minnesota identification card not issued to that person;

(4) to use a fictitious name or date of birth to any police officer or in any application for a driver's license or Minnesota identification card, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(5) to alter any driver's license or Minnesota identification card;

(6) to take any part of the driver's license examination for another or to permit another to take the examination for that person;

(7) to make a counterfeit driver's license or Minnesota identification card;

(8) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer; ~~or~~

(9) to display as a valid driver's license any canceled, revoked, or suspended driver's license. A person whose driving privileges have been withdrawn may display a driver's license only for identification purposes; or

(10) to submit a false affidavit or statement to the department on the certification required under section 171.05, subdivision 2, paragraph (a), clause (1), item (ii), to issue an instruction permit to a homeschool student.

Sec. 46. Minnesota Statutes 2010, section 181A.05, subdivision 1, is amended to read:

Subdivision 1. **When issued.** Any minor 14 or 15 years of age who wishes to work on school days during school hours shall first secure an employment certificate. The certificate shall be issued only by the school district superintendent, the superintendent's agent, ~~or~~ some other person designated by the Board of Education, or by the person in charge of providing instruction for students enrolled in nonpublic schools under section 120A.22, subdivision 4. The employment certificate shall be issued only for a specific position with a designated employer and shall be issued only in the following circumstances:

(1) if a minor is to be employed in an occupation not prohibited by rules promulgated under section 181A.09 and as evidence thereof presents a signed statement from the prospective employer; and

(2) if the parent or guardian of the minor consents to the employment; and

(3) if the issuing officer believes the minor is physically capable of handling the job in question and further believes the best interests of the minor will be served by permitting the minor to work.

Sec. 47. Laws 2011, chapter 5, section 1, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective the day following final enactment and applies to individuals who complete a teacher preparation program ~~by the end of~~ beginning no later than the 2013-2014 school year ~~or later~~. The Board of Teaching shall submit to the kindergarten through grade 12 education finance and reform committees of the legislature by April 1, 2012, a progress report on its implementation of teacher performance assessment under paragraph (d).

Sec. 48. **RECOMMENDATIONS ON COUNSELOR-TO-STUDENT RATIOS.**

The commissioner must submit to the legislature by January 1, 2012, recommendations for providing all public school students with access to licensed counselors so that the counselor-to-student ratio in Minnesota public schools approximately equals the average counselor-to-student ratio in public schools throughout the United States, as determined by the American School Counselors Association. The commissioner also must recommend appropriate professional-to-student ratios for licensed school nurses, licensed school social workers, licensed school psychologists, and licensed alcohol and chemical dependency counselors as determined by the national association representing that particular group of professionals.

Sec. 49. **TIERED LICENSURE ADVISORY TASK FORCE.**

(a) The Board of Teaching and the commissioner of education must jointly convene and facilitate an advisory task force to develop recommendations for a statewide tiered teacher licensure system, consistent with Minnesota Statutes, section 122A.09, subdivision 4, paragraph (g), that is premised on:

(1) appropriate research-based professional competencies that include content skills, adaptive expertise, college-readiness preparation, multicultural skills, use of student performance data, and skills for fostering citizenship, among other competencies that improve all students' learning outcomes;

(2) ongoing teacher professional growth to enable teachers to develop multiple professional competencies;

(3) an assessment system for evaluating teachers' performance that is aligned with student expectations and value-added measures of student outcomes and includes an emphasis on developing students' reading and literacy skills, among other measures and outcomes, and recognizes and rewards successful teachers;

(4) an expectation that teachers progress through various stages of teaching practice throughout their teaching careers and receive opportunities for leadership roles commensurate with their practice and competency; and

(5) a periodic evaluation of the licensing structure to determine its effectiveness in meeting students' learning needs.

When developing its recommendations, the task force is encouraged to consider, among other resources, the draft "Model Core Teaching Standards" developed by the Interstate Teacher Assessment and Support Consortium.

(b) Each of the following entities shall appoint a member to the advisory task force: Education Minnesota, the Minnesota Association of School Administrators, the Minnesota Association for Colleges of Teacher Education, the Minnesota Association of School Personnel Administrators, the Minnesota Elementary School Principals Association, the Minnesota Secondary School Principals Association, the Parents United Network, the Minnesota

Business Partnership, the Minnesota Chamber of Commerce, the Minnesota School Boards Association, and the Minnesota Association of Career and Technical Educators. The executive director of the Board of Teaching or the commissioner may appoint additional advisory task force members. Task force members may seek advice from the Educator Development and Resource Center at the University of Minnesota on developing a research-based framework for a differentiated licensure system in Minnesota.

(c) Upon request, the commissioner must provide the task force with technical, fiscal, and other support services.

(d) Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The commissioner may reimburse task force members from the Department of Education's current operating budget but may not compensate task force members for task force activities.

(e) The executive director of the Board of Teaching and the commissioner must submit by February 15, 2012, a joint report to the education policy and finance committees of the legislature recommending a differentiated statewide teacher licensing structure.

(f) The advisory task force expires on February 16, 2012.

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

Sec. 50. **90-DAY GOOD FAITH EFFORT EXCEPTION.**

Notwithstanding Minnesota Statutes, section 128C.07, subdivision 3, or other law to the contrary, the Minnesota State High School League must work with Albany Senior High in Independent School District No. 745, Albany, Melrose Secondary School in Independent School District No. 740, Melrose, and New London-Spicer Senior High in Independent School District No. 345, New London-Spicer, to help each school arrange an interscholastic conference membership after a 90-day good faith attempt by the school to join a conference.

EFFECTIVE DATE. This section is effective the day following final enactment and applies through December 31, 2011.

Sec. 51. **REPEALER.**

Minnesota Statutes 2010, sections 120A.26, subdivisions 1 and 2; and 124D.38, subdivisions 4, 5, and 6, are repealed.

ARTICLE 3
SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2010, section 125A.02, subdivision 1, is amended to read:

Subdivision 1. **Child with a disability.** "Child with a disability" means a child identified under federal and state special education law as ~~having a hearing impairment, blindness, visual disability, deaf or hard-of-hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical disability impairment, other health impairment disability, mental developmental cognitive disability, emotional/behavioral an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or severe multiple disabilities impairments, or deafblind disability~~ and who needs special education and related services, as determined by the rules of the commissioner, ~~is a child with a disability~~. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

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

Sec. 2. Minnesota Statutes 2010, section 125A.15, is amended to read:

125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

The responsibility for special instruction and services for a child with a disability temporarily placed in another district for care and treatment shall be determined in the following manner:

(a) The district of residence of a child shall be the district in which the child's parent resides, if living, or the child's guardian, ~~or the district designated by the commissioner if neither parent nor guardian is living within the state.~~ If there is a dispute between school districts regarding residency, the commissioner shall designate the district of residence.

(b) If a district other than the resident district places a pupil for care and treatment, the district placing the pupil must notify and give the resident district an opportunity to participate in the placement decision. When an immediate emergency placement of a pupil is necessary and time constraints foreclose a resident district from participating in the emergency placement decision, the district in which the pupil is temporarily placed must notify the resident district of the emergency placement within 15 days. The resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(c) When a child is temporarily placed for care and treatment in a day program located in another district and the child continues to live within the district of residence during the care and treatment, the district of residence is responsible for providing transportation to and from the care and treatment program and an appropriate educational program for the child. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the educational program at a school within the district of residence, at the child's residence, or in the district in which the day treatment center is located by paying tuition to that district.

(d) When a child is temporarily placed in a residential program for care and treatment, the nonresident district in which the child is placed is responsible for providing an appropriate educational program for the child and necessary transportation while the child is attending the educational program; and must bill the district of the child's residence for the actual cost of providing the program, as outlined in section 125A.11, except as provided in paragraph (e). However, the board, lodging, and treatment costs incurred in behalf of a child with a disability placed outside of the school district of residence by the commissioner of human services or the commissioner of corrections or their agents, for reasons other than providing for the child's special educational needs must not become the responsibility of either the district providing the instruction or the district of the child's residence. For the purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(e) A privately owned and operated residential facility may enter into a contract to obtain appropriate educational programs for special education children and services with a joint powers entity. The entity with which the private facility contracts for special education services shall be the district responsible for providing students placed in that facility an appropriate educational program in place of the district in which the facility is located. If a privately owned and operated residential facility does not enter into a contract under this paragraph, then paragraph (d) applies.

(f) The district of residence shall pay tuition and other program costs, not including transportation costs, to the district providing the instruction and services. The district of residence may claim general education aid for the child as provided by law. Transportation costs must be paid by the district responsible for providing the transportation and the state must pay transportation aid to that district.

Sec. 3. Minnesota Statutes 2010, section 125A.51, is amended to read:

125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION AND TRANSPORTATION.

The responsibility for providing instruction and transportation for a pupil without a disability who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the commissioner, and who is temporarily placed for care and treatment for that illness or disability, must be determined as provided in this section.

(a) The school district of residence of the pupil is the district in which the pupil's parent or guardian resides. If there is a dispute between school districts regarding residency, the commissioner shall designate the district of residence.

(b) When parental rights have been terminated by court order, the legal residence of a child placed in a residential or foster facility for care and treatment is the district in which the child resides.

(c) Before the placement of a pupil for care and treatment, the district of residence must be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, must notify the district of residence of the emergency placement within 15 days of the placement. When a nonresident district makes an emergency placement without first consulting with the resident district, the resident district has up to five business days after receiving notice of the emergency placement to request an opportunity to participate in the placement decision, which the placing district must then provide.

(d) When a pupil without a disability is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence must provide instruction and necessary transportation to and from the care and treatment program for the pupil. The resident district may establish reasonable restrictions on transportation, except if a Minnesota court or agency orders the child placed at a day care and treatment program and the resident district receives a copy of the order, then the resident district must provide transportation to and from the program unless the court or agency orders otherwise. Transportation shall only be provided by the resident district during regular operating hours of the resident district. The resident district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district. The district of placement may contract with a facility to provide instruction by teachers licensed by the state Board of Teaching.

(e) When a pupil without a disability is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed must provide instruction for the pupil and necessary transportation while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district must bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs.

(f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or private homeless shelter, then the district that enrolls the pupil under section 127A.47, subdivision 2, shall provide the transportation, unless the district that enrolls the pupil and the district in which the pupil is temporarily placed agree that the district in which the pupil is temporarily placed shall provide transportation. When a pupil without a disability is temporarily placed in a residential program outside the district of residence, the administrator of the court placing the pupil must send timely written notice of the placement to the district of residence. The district of placement may contract with a residential facility to provide instruction by teachers licensed by the state Board of Teaching. For purposes of this section, the state correctional facilities operated on a fee-for-service basis are considered to be residential programs for care and treatment.

(g) The district of residence must include the pupil in its residence count of pupil units and pay tuition as provided in section 123A.488 to the district providing the instruction. Transportation costs must be paid by the district providing the transportation and the state must pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision must be included in the disabled transportation category if the pupils cannot be transported on a regular school bus route without special accommodations.

Sec. 4. **REPEALER.**

Minnesota Statutes 2010, section 125A.54, is repealed.

ARTICLE 4
FACILITIES AND TECHNOLOGY

Section 1. Minnesota Statutes 2010, section 123B.57, is amended to read:

123B.57 CAPITAL EXPENDITURE; HEALTH AND SAFETY.

Subdivision 1. **Health and safety program revenue application.** (a) To receive health and safety revenue for any fiscal year a district must submit to the commissioner ~~an a capital expenditure health and safety revenue application for aid and levy~~ by the date determined by the commissioner. ~~The application may be for hazardous substance removal, fire and life safety code repairs, labor and industry regulated facility and equipment violations, and health, safety, and environmental management, including indoor air quality management.~~ The application must include a health and safety ~~program~~ budget adopted and confirmed by the school district board as being consistent with the district's health and safety policy under subdivision 2. The ~~program~~ budget must include the estimated cost, ~~per building,~~ of the program per Uniform Financial Accounting and Reporting Standards (UFARS) finance code, by fiscal year. Upon approval through the adoption of a resolution by each of an intermediate district's member school district boards and the approval of the Department of Education, a school district may include its proportionate share of the costs of health and safety projects for an intermediate district in its application.

(b) Health and safety projects with an estimated cost of \$500,000 or more per site are not eligible for health and safety revenue. Health and safety projects with an estimated cost of \$500,000 or more per site that meet all other requirements for health and safety funding, are eligible for alternative facilities bonding and levy revenue according to section 123B.59. A school board shall not separate portions of a single project into components to qualify for health and safety revenue, and shall not combine unrelated projects into a single project to qualify for alternative facilities bonding and levy revenue.

(c) The commissioner of education shall not make eligibility for health and safety revenue contingent on a district's compliance status, level of program development, or training. The commissioner shall not mandate additional performance criteria such as training, certifications, or compliance evaluations as a prerequisite for levy approval.

Subd. 2. **Contents of program Health and safety policy.** To qualify for health and safety revenue, a district school board must adopt a health and safety program policy. The program policy must include plans, where applicable, for hazardous substance removal, fire and life safety code repairs, regulated facility and equipment violations, and provisions for implementing a health and safety program that complies with health, safety, and environmental management, regulations and best practices including indoor air quality management.

~~(a) A hazardous substance plan must contain provisions for the removal or encapsulation of asbestos from school buildings or property, asbestos related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, and cleanup, removal, disposal, and repairs related to storing heating fuel or transportation~~

~~fuels such as alcohol, gasoline, fuel, oil, and special fuel, as defined in section 296A.01. If a district has already developed a plan for the removal or encapsulation of asbestos as required by the federal Asbestos Hazard Emergency Response Act of 1986, the district may use a summary of that plan, which includes a description and schedule of response actions, for purposes of this section. The plan must also contain provisions to make modifications to existing facilities and equipment necessary to limit personal exposure to hazardous substances, as regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or is determined by the commissioner to present a significant risk to district staff or student health and safety as a result of foreseeable use, handling, accidental spill, exposure, or contamination.~~

~~(b) A fire and life safety plan must contain a description of the current fire and life safety code violations, a plan for the removal or repair of the fire and life safety hazard, and a description of safety preparation and awareness procedures to be followed until the hazard is fully corrected.~~

~~(c) A facilities and equipment violation plan must contain provisions to correct health and safety hazards as provided in Department of Labor and Industry standards pursuant to section 182.655.~~

~~(d) A health, safety, and environmental management plan must contain a description of training, record keeping, hazard assessment, and program management as defined in section 123B.56.~~

~~(e) A plan to test for and mitigate radon produced hazards.~~

~~(f) A plan to monitor and improve indoor air quality.~~

Subd. 3. **Health and safety revenue.** A district's health and safety revenue for a fiscal year equals the district's alternative facilities levy under section 123B.59, subdivision 5, paragraph (b), plus the greater of zero or:

(1) the sum of (a) the total approved cost of the district's hazardous substance plan for fiscal years 1985 through 1989, plus (b) the total approved cost of the district's health and safety program for fiscal year 1990 through the fiscal year to which the levy is attributable, excluding expenditures funded with bonds issued under section 123B.59 or 123B.62, or chapter 475; certificates of indebtedness or capital notes under section 123B.61; levies under section 123B.58, 123B.59, 123B.63, or 126C.40, subdivision 1 or 6; and other federal, state, or local revenues, minus

(2) the sum of (a) the district's total hazardous substance aid and levy for fiscal years 1985 through 1989 under sections 124.245 and 275.125, subdivision 11c, plus (b) the district's health and safety revenue under this subdivision, for years before the fiscal year to which the levy is attributable.

Subd. 4. **Health and safety levy.** To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the adjusted marginal cost pupil units in the district for the school year to which the levy is attributable, to \$2,935.

Subd. 5. **Health and safety aid.** A district's health and safety aid is the difference between its health and safety revenue and its health and safety levy. If a district does not levy the entire amount permitted, health and safety aid must be reduced in proportion to the actual amount levied. Health and safety aid may not be reduced as a result of reducing a district's health and safety levy according to section 123B.79.

Subd. 6. **Uses of health and safety revenue.** ~~(a) Health and safety revenue may be used only for approved expenditures necessary to correct for the correction of fire and life safety hazards, or for the design, purchase, installation, maintenance, and inspection of fire protection and alarm equipment; purchase or construction of appropriate facilities for the storage of combustible and flammable materials; inventories and facility modifications~~

not related to a remodeling project to comply with lab safety requirements under section 121A.31; inspection, testing, repair, removal or encapsulation, and disposal of asbestos from school buildings or property owned or being acquired by the district, asbestos-related repairs, asbestos-containing building materials; cleanup and disposal of polychlorinated biphenyls found in school buildings or property owned or being acquired by the district, or the; cleanup and disposal of hazardous and infectious wastes; cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296A.01, Minnesota; correction of occupational safety and health administration regulated facility and equipment hazards; indoor air quality inspections, investigations, and testing; mold abatement; upgrades or replacement of mechanical ventilation systems to meet American Society of Heating, Refrigerating and Air Conditioning Engineers standards and State Mechanical Code; design, materials, and installation of local exhaust ventilation systems, including required make-up air for controlling regulated hazardous substances; correction of Department of Health Food Code and violations; correction of swimming pool hazards excluding depth correction; playground safety inspections, the correction of unsafe outdoor playground equipment, and the installation of impact surfacing materials; bleacher repair or rebuilding to comply with the order of a building code inspector under section 326B.112; testing and mitigation of elevated radon hazards; lead testing; copper in water testing; cleanup after major weather-related disasters or flooding; reduction of excessive organic and inorganic levels in wells and capping of abandoned wells; installation and testing of boiler backflow valves to prevent contamination of potable water; vaccinations, titers, and preventative supplies for bloodborne pathogen compliance; costs to comply with the Janet B. Johnson Parents' Right to Know Act; automated external defibrillators and other emergency plan equipment and supplies specific to the district's emergency action plan; and health, safety, and environmental management costs associated with implementing the district's health and safety program including costs to establish and operate safety committees, in school buildings or property owned or being acquired by the district. Testing and calibration activities are permitted for existing mechanical ventilation systems at intervals no less than every five years. Health and safety revenue must not be used to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement. Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms, for interest or other financing expenses, or for energy efficiency projects under section 123B.65. The revenue may not be used for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education.

Subd. 6a. **Restrictions on health and safety revenue.** (b) Notwithstanding paragraph (a) subdivision 6, health and safety revenue must not be used;

(1) to finance a lease purchase agreement, installment purchase agreement, or other deferred payments agreement;

(2) for the construction of new facilities, remodeling of existing facilities, or the purchase of portable classrooms;

(3) for interest or other financing expenses;

(4) for energy-efficiency projects under section 123B.65, for a building or property or part of a building or property used for postsecondary instruction or administration or for a purpose unrelated to elementary and secondary education;

(5) for replacement of building materials or facilities including roof, walls, windows, internal fixtures and flooring, nonhealth and safety costs associated with demolition of facilities, structural repair or replacement of facilities due to unsafe conditions, violence prevention and facility security, ergonomics, or public announcement systems and emergency communication devices; or

(6) for building and heating, ventilating and air conditioning supplies, maintenance, and cleaning activities. All assessments, investigations, inventories, and support equipment not leading to the engineering or construction of a project shall be included in the health, safety, and environmental management costs in subdivision 8, paragraph (a).

Subd. 6b. Health and safety projects. (a) Health and safety revenue applications defined in subdivision 1 must be accompanied by a description of each project for which funding is being requested. Project descriptions must provide enough detail for an auditor to determine if the work qualifies for revenue. For projects other than fire and life safety projects, playground projects, and health, safety, and environmental management activities, a project description does not need to include itemized details such as material types, room locations, square feet, names, or license numbers. The commissioner may request supporting information and shall approve only projects that comply with subdivisions 6 and 8, as defined by the Department of Education.

(b) Districts may request funding for allowable projects based on self-assessments, safety committee recommendations, insurance inspections, management assistance reports, fire marshal orders, or other mandates. Notwithstanding subdivision 1, paragraph (b), and subdivision 8, paragraph (b), for projects under \$500,000, individual project size for projects authorized by this subdivision is not limited and may include related work in multiple facilities. Health and safety management costs from subdivision 8 may be reported as a single project.

(c) All costs directly related to a project shall be reported in the appropriate Uniform Financial Accounting and Reporting Standards (UFARS) finance code.

(d) For fire and life safety egress and all other projects exceeding \$20,000, cited under Minnesota Fire Code, a fire marshal plan review is required.

(e) Districts shall update project estimates with actual expenditures for each fiscal year. If a project's final cost is significantly higher than originally approved, the commissioner may request additional supporting information.

Subd. 6c. Appeals process. In the event a district is denied funding approval for a project the district believes complies with subdivisions 6 and 8, and is not otherwise excluded, a district may appeal the decision. All such requests must be in writing. The commissioner shall respond in writing. A written request must contain the following: project number; description and amount; reason for denial; unresolved questions for consideration; reasons for reconsideration; and a specific statement of what action the district is requesting.

Subd. 7. Proration. In the event that the health and safety aid available for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Subd. 8. Health, safety, and environmental management cost. (a) "Health, safety, and environmental management" is defined in section 123B.56.

(b) A district's cost for health, safety, and environmental management is limited to the lesser of:

(1) actual cost to implement their plan; or

(2) an amount determined by the commissioner, based on enrollment, building age, and size.

~~(b)~~ (c) The department may contract with regional service organizations, private contractors, Minnesota Safety Council, or state agencies to provide management assistance to school districts for health and safety capital projects. Management assistance is the development of written programs for the identification, recognition and control of hazards, and prioritization and scheduling of district health and safety capital projects. The ~~department~~ commissioner shall not mandate management assistance or exclude private contractors from the opportunity to provide any health and safety services to school districts.

~~(c) Notwithstanding paragraph (b), the department may approve revenue, up to the limit defined in paragraph (a) for districts having an approved health, safety, and environmental management plan that uses district staff to accomplish coordination and provided services.~~

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

Sec. 2. Minnesota Statutes 2010, section 123B.71, subdivision 5, is amended to read:

Subd. 5. **Final plans.** If a construction contract has not been awarded within two years of approval, the approval shall not be valid. After approval, final plans and the approval shall be ~~filed with~~ made available, if requested, to the commissioner of education. If substantial changes are made to the initial approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

Sec. 3. Minnesota Statutes 2010, section 123B.72, subdivision 3, is amended to read:

Subd. 3. **Certification.** Prior to occupying or reoccupying a school facility affected by this section, a school board or its designee shall submit a document prepared by a system inspector to the building official or to the commissioner, verifying that the facility's heating, ventilation, and air conditioning system has been installed and operates according to design specifications and code, according to section 123B.71, subdivision 9, clause ~~(11)~~ (12). A systems inspector shall also verify that the facility's design will provide the ability for monitoring of outdoor airflow and total airflow of ventilation systems in new school facilities and that any heating, ventilation, or air conditioning system that is installed or modified for a project subject to this section must provide a filtration system with a current ASHRAE standard.

Sec. 4. **HEALTH AND SAFETY POLICY.**

Notwithstanding Minnesota Statutes, section 123B.57, subdivision 2, a school board that has not yet adopted a health and safety policy by September 30, 2011, may submit an application for health and safety revenue for taxes payable in 2012 in the form and manner specified by the commissioner of education.

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

ARTICLE 5 ACCOUNTING

Section 1. Minnesota Statutes 2010, section 127A.42, subdivision 2, is amended to read:

Subd. 2. **Violations of law.** The commissioner may reduce or withhold the district's state aid for any school year whenever the board of the district authorizes or permits violations of law within the district by:

(1) employing a teacher in a public school, including a charter school, who does not hold a valid teaching license or ~~permit in a public school~~ have appropriate permission to teach from the Board of Teaching;

(2) noncompliance with a mandatory rule of general application promulgated by the commissioner in accordance with statute, unless special circumstances make enforcement inequitable, impose an extraordinary hardship on the district, or the rule is contrary to the district's best interests;

(3) the district's continued performance of a contract made for the rental of rooms or buildings for school purposes or for the rental of any facility owned or operated by or under the direction of any private organization, if the contract has been disapproved, the time for review of the determination of disapproval has expired, and no proceeding for review is pending;

(4) any practice which is a violation of sections 1 and 2 of article 13 of the Constitution of the state of Minnesota;

(5) failure to reasonably provide for a resident pupil's school attendance under Minnesota Statutes;

(6) noncompliance with state laws prohibiting discrimination because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, as defined in sections 363A.08 to 363A.19 and 363A.28, subdivision 10; or

(7) using funds contrary to the statutory purpose of the funds.

The reduction or withholding must be made in the amount and upon the procedure provided in this section or, in the case of a violation under clause (1), using the procedure provided in section 127A.43.

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

Sec. 2. Minnesota Statutes 2010, section 127A.43, is amended to read:

127A.43 DISTRICT EMPLOYMENT OF UNLICENSED TEACHERS; AID REDUCTION.

When a district or charter school employs one or more teachers who do not hold a valid teaching license, state aid ~~shall may~~ be ~~withheld~~ reduced in the proportion that the number of such teachers is to the total number of teachers employed by the district, multiplied by 60 percent of the basic revenue, as defined in section 126C.10, subdivision 2, of the district for the year in which the employment occurred.

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

Sec. 3. Minnesota Statutes 2010, section 127A.45, is amended by adding a subdivision to read:

Subd. 17. **Payment to creditors.** Except where otherwise specifically authorized, state education aid payments shall be made only to the school district, charter school, or other education organization earning state aid revenues as a result of providing education services.

ARTICLE 6
EARLY CHILDHOOD EDUCATION

Section 1. Minnesota Statutes 2010, section 119A.50, subdivision 3, is amended to read:

Subd. 3. **Early childhood literacy programs.** (a) A research-based early childhood literacy program premised on actively involved parents, ongoing professional staff development, and high quality early literacy program standards is established to increase the literacy skills of children participating in Head Start to prepare them to be successful readers and to increase families' participation in providing early literacy experiences to their children. Program providers must:

(1) work to prepare children to be successful learners;

(2) work to close the achievement gap for at-risk children;

(3) use an integrated approach to early literacy that daily offers a literacy-rich classroom learning environment composed of books, writing materials, writing centers, labels, rhyming, and other related literacy materials and opportunities;

(4) support children's home language while helping the children master English and use multiple literacy strategies to provide a cultural bridge between home and school;

(5) use literacy mentors, ongoing literacy groups, and other teachers and staff to provide appropriate, extensive professional development opportunities in early literacy and classroom strategies for preschool teachers and other preschool staff;

(6) use ongoing data-based assessments that enable preschool teachers to understand, plan, and implement literacy strategies, activities, and curriculum that meet children's literacy needs and continuously improve children's literacy; and

(7) foster participation by parents, community stakeholders, literacy advisors, and evaluation specialists.

Program providers are encouraged to collaborate with qualified, community-based early childhood providers in implementing this program and to seek nonstate funds to supplement the program.

(b) Program providers under paragraph (a) interested in extending literacy programs to children in kindergarten through grade 3 may elect to form a partnership with an eligible organization under section 124D.38, subdivision 2, or 124D.42, subdivision 6, clause (3), schools enrolling children in kindergarten through grade 3, and other interested and qualified community-based entities to provide ongoing literacy programs that offer seamless literacy instruction focused on closing the literacy achievement gap. To close the literacy achievement gap by the end of third grade, partnership members must agree to use best efforts and practices and to work collaboratively to implement a seamless literacy model from age three to grade 3, consistent with paragraph (a) and sections 120B.115, 120B.12, and 122A.06. Literacy programs under this paragraph must collect and use literacy data to:

(1) evaluate children's literacy skills; and

(2) formulate specific intervention strategies to provide reading instruction to children premised on the outcomes of formative and summative assessments and research-based indicators of literacy development.

The literacy programs under this paragraph also must train teachers and other providers working with children to use the assessment outcomes under clause (2) to develop and use effective, long-term literacy coaching models that are specific to the program providers.

(c) The commissioner must collect and evaluate literacy data on children from age three to grade 3 who participate in literacy programs ~~under this section~~, consistent with this section and sections 120B.115 and 120B.36, subdivision 1, paragraph (f), to determine the efficacy of early literacy programs on children's success in developing the literacy skills that they need for long-term academic success and the programs' success in closing the literacy achievement gap. Annually by February 1, the commissioner must report to the education policy and finance committees of the legislature on the ongoing impact of these programs.

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

Sec. 2. Minnesota Statutes 2010, section 121A.17, subdivision 3, is amended to read:

Subd. 3. **Screening program.** (a) A screening program must include at least the following components: developmental assessments, hearing and vision screening or referral, immunization review and referral, the child's height and weight, identification of risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified. The district and the person performing or supervising the screening must provide a parent or guardian with clear written notice that the parent or guardian may decline to answer questions or provide information about family circumstances that might

affect development and identification of risk factors that may influence learning. The notice must clearly state that declining to answer questions or provide information does not prevent the child from being enrolled in kindergarten or first grade if all other screening components are met. If a parent or guardian is not able to read and comprehend the written notice, the district and the person performing or supervising the screening must convey the information in another manner. The notice must also inform the parent or guardian that a child need not submit to the district screening program if the child's health records indicate to the school that the child has received comparable developmental screening performed within the preceding 365 days by a public or private health care organization or individual health care provider. The notice must be given to a parent or guardian at the time the district initially provides information to the parent or guardian about screening and must be given again at the screening location.

(b) All screening components shall be consistent with the standards of the state commissioner of health for early developmental screening programs. A developmental screening program must not provide laboratory tests or a physical examination to any child. The district must request from the public or private health care organization or the individual health care provider the results of any laboratory test or physical examination within the 12 months preceding a child's scheduled screening.

(c) If a child is without health coverage, the school district must refer the child to an appropriate health care provider.

(d) A board may offer additional components such as nutritional, physical and dental assessments, review of family circumstances that might affect development, blood pressure, laboratory tests, and health history.

(e) If a statement signed by the child's parent or guardian is submitted to the administrator or other person having general control and supervision of the school that the child has not been screened because of conscientiously held beliefs of the parent or guardian, the screening is not required.

(f) Early childhood developmental screening helps a school district identify children who may benefit from district and community resources available to help in their development. Early childhood developmental screening includes a vision screening that helps detect potential eye problems but is not a substitute for a comprehensive eye exam by an ophthalmologist or optometrist.

ARTICLE 7 STUDENT TRANSPORTATION

Section 1. Minnesota Statutes 2010, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type III vehicles, as defined in section 169.011, subdivision 71, which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person or other location chosen by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence, or program is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education initial aid under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

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

Sec. 2. Minnesota Statutes 2010, section 123B.92, subdivision 5, is amended to read:

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, must be allocated among transportation categories based on cost-per-mile; or cost-per-student, cost-per-hour, or cost-per-route; regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among transportation categories based on cost-per-mile; or cost-per-student, cost-per-hour, or cost-per-route. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

(e) Notwithstanding paragraph (d), districts contracting for transportation services are exempt from the standard cost allocation method for authorized and nonauthorized transportation categories if the district: (1) bids its contracts separately for authorized and nonauthorized transportation categories and for special transportation separately from regular and excess transportation; (2) receives bids or quotes from more than one vendor for these transportation categories; and (3) the district's cost-per-mile does not vary more than ten percent among categories, excluding the salaries and fringe benefits of bus aides. If the costs reported by the district for contractor-owned operations vary by more than ten percent among categories, the department shall require the district to reallocate its transportation costs, excluding the salaries and fringe benefits of bus aides, among all categories."

Delete the title and insert:

"A bill for an act relating to education; providing for policy for prekindergarten through grade 12 education, including general education, education excellence, special programs, facilities and technology, early childhood education, and student transportation; amending Minnesota Statutes 2010, sections 11A.16, subdivision 5; 13.32,

subdivision 6; 119A.50, subdivision 3; 120A.22, subdivision 11; 120A.24; 120A.40; 120B.023, subdivision 2; 120B.11; 120B.12; 120B.30, subdivisions 1, 3, 4; 120B.31, subdivision 4; 120B.36, subdivisions 1, 2; 121A.15, subdivision 8; 121A.17, subdivision 3; 122A.09, subdivision 4; 122A.14, subdivision 3; 122A.16, as amended; 122A.18, subdivision 2; 122A.23, subdivision 2; 122A.40, subdivisions 5, 11, by adding a subdivision; 122A.41, subdivisions 1, 2, 5a, 10, 14; 123B.41, subdivisions 2, 5; 123B.57; 123B.63, subdivision 3; 123B.71, subdivision 5; 123B.72, subdivision 3; 123B.75, subdivision 5; 123B.88, by adding a subdivision; 123B.92, subdivisions 1, 5; 124D.091, subdivision 2; 124D.36; 124D.37; 124D.38, subdivision 3; 124D.385, subdivision 3; 124D.39; 124D.40; 124D.42, subdivisions 6, 8; 124D.44; 124D.45, subdivision 2; 124D.52, subdivision 7; 124D.871; 125A.02, subdivision 1; 125A.15; 125A.51; 125A.79, subdivision 1; 126C.10, subdivision 8a; 126C.15, subdivision 2; 126C.41, subdivision 2; 127A.42, subdivision 2; 127A.43; 127A.45, by adding a subdivision; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05, subdivision 1; Laws 2011, chapter 5, section 1; proposing coding for new law in Minnesota Statutes, chapter 120B; repealing Minnesota Statutes 2010, sections 120A.26, subdivisions 1, 2; 124D.38, subdivisions 4, 5, 6; 125A.54; 126C.457."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Education Finance.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1384, A bill for an act relating to fraudulent transfers; excluding certain transfers to charitable or religious organizations from the fraudulent transfers act; amending Minnesota Statutes 2010, section 513.41.

Reported the same back with the following amendments:

Page 3, line 17, after "unless" insert "within 60 days after the contribution"

With the recommendation that when so amended the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1391, A bill for an act relating to state government; authorizing designation of state agency programs as performance-based organizations; proposing coding for new law in Minnesota Statutes, chapter 15.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1440, A bill for an act relating to energy; providing for exception to municipal approval for hydroelectric facility; amending Minnesota Statutes 2010, section 103G.535, subdivision 4.

Reported the same back with the following amendments:

Page 1, line 20, delete everything after the period

Page 1, delete lines 21 to 23

Page 2, delete lines 1 and 2

With the recommendation that when so amended the bill pass.

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 1448, A bill for an act relating to employment; modifying reliance on credit or criminal history for employment requirements; amending Minnesota Statutes 2010, sections 181.981, subdivision 1; 364.021.

Reported the same back with the following amendments:

Page 1, line 21, delete "credit history"

Page 1, line 22, delete the new language

Amend the title as follows:

Page 1, line 2, delete "credit or"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Regulatory Reform.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1451, A bill for an act relating to natural resources; requiring a shallow lakes management report.

Reported the same back with the following amendments:

Page 1, line 14, before the semicolon, insert "and drainage laws under Minnesota Statutes, chapter 103E"

Page 1, line 17, before the period, insert "including carp and the use of fish barriers"

With the recommendation that when so amended the bill pass.

The report was adopted.

McNamara from the Committee on Environment, Energy and Natural Resources Policy and Finance to which was referred:

H. F. No. 1463, A bill for an act relating to environment; modifying Waste Management Act; amending Minnesota Statutes 2010, sections 115A.03, subdivision 25a; 115A.95.

Reported the same back with the following amendments:

Page 1, line 15, before the period, insert ", or any other facility permitted to recycle or compost the materials"

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 1466, A bill for an act relating to state government; making technical changes to data practices; amending Minnesota Statutes 2010, sections 13.02, subdivisions 3, 4, 8a, 9, 12, 13, 14, 15; 13.03, subdivision 1; 13.10, subdivision 1; 13.201; 13.202, subdivision 3; 13.35; 13.3805, subdivisions 1, 2; 13.384, subdivision 1; 13.39, subdivision 2; 13.392, subdivision 1; 13.393; 13.40, subdivision 1; 13.41, subdivision 2; 13.46, subdivisions 2, 3, 4, 5, 6; 13.462, subdivision 1; 13.467, subdivision 1; 13.47, subdivision 1; 13.485, by adding subdivisions; 13.495; 13.51, subdivisions 1, 2; 13.52; 13.548; 13.55, subdivision 1; 13.585, subdivisions 2, 3, 4; 13.59, subdivisions 1, 2, 3; 13.591, subdivision 4; 13.601, subdivision 3; 13.643, subdivisions 1, 2, 3, 5, 6, 7; 13.6435, by adding a subdivision; 13.65, subdivisions 1, 2, 3; 13.67; 13.679, subdivisions 1, 2; 13.714; 13.719, subdivisions 1, 5; 13.7191, subdivisions 14, 18; 13.72, subdivision 7; 13.792; 13.7932; 13.82, subdivisions 2, 3, 6, 7; 13.83, subdivisions 2, 4, 6; 13.861, subdivision 1; 13.87, subdivisions 1, 2; 79A.16; 79A.28; proposing coding for new law in Minnesota Statutes, chapter 13D.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 13.02, subdivision 3, is amended to read:

Subd. 3. **Confidential data on individuals.** "Confidential data on individuals" ~~means~~ are data ~~which is~~ made not public by statute or federal law applicable to the data and ~~is~~ are inaccessible to the individual subject of ~~that~~ those data.

Sec. 2. Minnesota Statutes 2010, section 13.02, subdivision 4, is amended to read:

Subd. 4. **Data not on individuals.** "Data not on individuals" ~~means~~ are all government data ~~which is~~ that are not data on individuals.

Sec. 3. Minnesota Statutes 2010, section 13.02, subdivision 8a, is amended to read:

Subd. 8a. **Not public data.** "Not public data" ~~means~~ are any government data ~~which is~~ classified by statute, federal law, or temporary classification as confidential, private, nonpublic, or protected nonpublic.

Sec. 4. Minnesota Statutes 2010, section 13.02, subdivision 9, is amended to read:

Subd. 9. **Nonpublic data.** "Nonpublic data" ~~means~~ are data not on individuals ~~that is~~ made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data.

Sec. 5. Minnesota Statutes 2010, section 13.02, subdivision 12, is amended to read:

Subd. 12. **Private data on individuals.** "Private data on individuals" ~~means~~ are data ~~which is~~ made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of ~~that~~ those data.

Sec. 6. Minnesota Statutes 2010, section 13.02, subdivision 13, is amended to read:

Subd. 13. **Protected nonpublic data.** "Protected nonpublic data" ~~means~~ are data not on individuals ~~which is~~ made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.

Sec. 7. Minnesota Statutes 2010, section 13.02, subdivision 14, is amended to read:

Subd. 14. **Public data not on individuals.** "Public data not on individuals" ~~means~~ are data ~~which is~~ accessible to the public pursuant to section 13.03.

Sec. 8. Minnesota Statutes 2010, section 13.02, subdivision 15, is amended to read:

Subd. 15. **Public data on individuals.** "Public data on individuals" ~~means~~ are data ~~which is~~ accessible to the public in accordance with the provisions of section 13.03.

Sec. 9. Minnesota Statutes 2010, section 13.10, subdivision 1, is amended to read:

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

(a) "Confidential data on decedents" ~~means~~ are data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as confidential data.

(b) "Private data on decedents" ~~means~~ are data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as private data.

(c) "Representative of the decedent" ~~means~~ is the personal representative of the estate of the decedent during the period of administration, or if no personal representative has been appointed or after discharge of the personal representative, the surviving spouse, any child of the decedent, or, if there is no surviving spouse or children, the parents of the decedent.

Sec. 10. Minnesota Statutes 2010, section 13.202, subdivision 3, is amended to read:

Subd. 3. **Hennepin County.** (a) Data collected by the Hennepin Healthcare System, Inc. are governed under section ~~383B.17~~ 383B.917, subdivision 1.

(b) Records of Hennepin County board meetings permitted to be closed under section 383B.217, subdivision 7, are classified under that subdivision.

Sec. 11. Minnesota Statutes 2010, section 13.3805, subdivision 1, is amended to read:

Subdivision 1. **Health data generally.** (a) **Definitions.** As used in this subdivision:

(1) "Commissioner" means the commissioner of health.

(2) "Health data" ~~means~~ are data on individuals created, collected, received, or maintained by the Department of Health, political subdivisions, or statewide systems relating to the identification, description, prevention, and control of disease or as part of an epidemiologic investigation the commissioner designates as necessary to analyze, describe, or protect the public health.

(b) **Data on individuals.** (1) Health data are private data on individuals. Notwithstanding section 13.05, subdivision 9, health data may not be disclosed except as provided in this subdivision and section 13.04.

(2) The commissioner or a local board of health as defined in section 145A.02, subdivision 2, may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify persons at risk of illness, or to conduct an epidemiologic investigation.

(3) With the approval of the commissioner, health data may be disclosed to the extent necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to alert persons who may be threatened by illness as evidenced by epidemiologic data, to control or prevent the spread of serious disease, or to diminish an imminent threat to the public health.

(c) **Health summary data.** Summary data derived from data collected under section 145.413 may be provided under section 13.05, subdivision 7.

Sec. 12. Minnesota Statutes 2010, 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~~ are 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 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 2010, 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 a government entity or by independent appraisers acting for 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 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.

The data made confidential or protected nonpublic under paragraph (a) also become public at the discretion of the government entity, determined by majority vote of the entity's governing body, or, in the case of a state agency, as determined by the commissioner of the agency.

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

Sec. 14. Minnesota Statutes 2010, section 13.46, subdivision 2, is amended to read:

Subd. 2. **General.** (a) ~~Unless the data is summary data or a statute specifically provides a different classification,~~ Data on individuals collected, maintained, used, or disseminated by the welfare system ~~is~~ are private data on individuals, and shall not be disclosed except:

- (1) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) to the Department of Revenue to assess parental contribution amounts for purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;
- (9) between the Department of Human Services, the Department of Employment and Economic Development, and when applicable, the Department of Education, for the following purposes:
 - (i) to monitor the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency;
 - (ii) to administer any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system;
 - (iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of 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; and
 - (iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1 (c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced-price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of 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;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions;

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education; or

(30) child support data on the parents and the child may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, as provided by federal law. Data may be disclosed only to the extent necessary for the purpose of establishing parentage or for determining who has or may have parental rights with respect to a child, which could be related to permanency planning.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but ~~is~~ are not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 15. Minnesota Statutes 2010, section 13.46, subdivision 3, is amended to read:

Subd. 3. **Investigative data.** (a) data on persons, including data on vendors of services, licensees, and applicants that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute, and relating to the enforcement of rules or law ~~is~~ are confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to statute or valid court order;
- (3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (4) to provide notices required or permitted by statute.

The data referred to in this subdivision shall be classified as public data upon ~~its~~ submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental health and developmental disabilities upon the request of the ombudsman.

Sec. 16. Minnesota Statutes 2010, section 13.46, subdivision 4, is amended to read:

Subd. 4. **Licensing data.** (a) As used in this subdivision:

(1) "licensing data" ~~means~~ are all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" ~~means~~ are Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license holders, and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician.

(ii) When a correction order, an order to forfeit a fine, an order of license suspension, an order of temporary immediate suspension, an order of license revocation, an order of license denial, or an order of conditional license has been issued, or a complaint is resolved, the following data on current and former licensees and applicants are public: the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, temporary immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; whether a fine has been paid; and the status of any appeal of these actions. ~~If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that the license holder or applicant is responsible for maltreatment or is disqualified under chapter 245C, the identity of the license holder or applicant as the individual responsible for maltreatment or as the disqualified individual is public data at the time of the issuance of the licensing sanction or denial.~~

(iii) When a sanction under section 245A.07 is based on a determination that the license holder is responsible for maltreatment under section 626.556 or 626.557, the identity of the license holder as the individual responsible for maltreatment is public data at the time of the issuance of the sanction.

(iv) When a sanction under section 245A.07 is based on a determination that the license holder is disqualified under chapter 245C, the identity of the license holder as the disqualified individual and the reason for the disqualification are public data at the time of the issuance of the licensing sanction. If the license holder requests reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data.

(2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when any person subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 256.045; 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely exercised appeal rights under these sections, except as provided under clause (1).

(3) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(4) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(5) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the nature of any disqualification for which a variance was granted under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to a background study under section 245C.03, subdivision 1, has successfully passed a background study. If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that an individual subject to disqualification under chapter 245C is disqualified, the disqualification as a basis for the licensing sanction or denial is public data. As specified in clause (1), item (iv), if the disqualified individual is the license holder or applicant, the identity of the license holder or applicant is and the reason for the disqualification are public data; and, if the license holder requested reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data. If the disqualified individual is an individual other than the license holder or applicant, the identity of the disqualified individual shall remain private data.

(6) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(7) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment under sections 626.556 and 626.557, are confidential data and may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, and data on individuals collected by the commissioner of human services according to ~~maltreatment~~ investigations under chapters 245A, 245B, and 245C, and sections 626.556 and 626.557; may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

Sec. 17. Minnesota Statutes 2010, section 13.46, subdivision 5, is amended to read:

Subd. 5. **Medical data; contracts.** data relating to the medical, psychiatric, or mental health of any individual, including diagnosis, progress charts, treatment received, case histories, and opinions of health care providers, that ~~is collected,~~ are maintained, used, or disseminated by any agency to the welfare system is private data on individuals and will be available to the data subject, unless the private health care provider has clearly requested in writing that the data be withheld pursuant to sections 144.291 to 144.298. Data on individuals that is collected, maintained, used, or disseminated by a private health care provider under contract to any agency of the welfare system ~~is~~ are private data on individuals, and ~~is~~ are subject to the provisions of sections 13.02 to 13.07 and this section, except that the provisions of section 13.04, subdivision 3, shall not apply. Access to medical data referred to in this subdivision by the individual who is the subject of the data is subject to the provisions of sections 144.291 to 144.298. Access to information that is maintained by the public authority responsible for support enforcement and that is needed to enforce medical support is subject to the provisions of section 518A.41.

Sec. 18. Minnesota Statutes 2010, section 13.46, subdivision 6, is amended to read:

Subd. 6. **Other data.** Data collected, used, maintained, or disseminated by the welfare system that ~~is~~ are not data on individuals ~~is~~ are public pursuant to section 13.03, except the following data:

- (a) investigative data classified by section 13.39;
- (b) welfare investigative data classified by section 13.46, subdivision 3; and
- (c) security information classified by section 13.37, subdivision 2.

Sec. 19. Minnesota Statutes 2010, section 13.462, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section, "benefit data" ~~means~~ are 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 government entities. Benefit data does not include welfare data which shall be administered in accordance with section 13.46.

Sec. 20. Minnesota Statutes 2010, section 13.47, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) "Employment and training data" ~~means~~ are data on individuals collected, maintained, used, or disseminated because an individual applies for, is currently enrolled in, or has been enrolled in employment and training programs funded with federal, state, or local resources, including those provided under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

(b) "Employment and training service provider" means an entity certified, or seeking to be certified, by the commissioner of employment and economic development to deliver employment and training services under section 116J.401, subdivision 2, or an organization that contracts with a certified entity or the Department of Employment and Economic Development to deliver employment and training services.

(c) "Provider of training services" means an organization or entity that provides training under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

Sec. 21. Minnesota Statutes 2010, section 13.485, is amended by adding a subdivision to read:

Subd. 5. **Corporations created before May 31, 1997.** Government data maintained by a corporation created by a political subdivision before May 31, 1997, are governed by section 465.719, subdivision 14.

Sec. 22. Minnesota Statutes 2010, section 13.485, is amended by adding a subdivision to read:

Subd. 6. **Northern Technology Initiative, Inc.** Government data maintained by Northern Technology Initiative, Inc. are classified under section 116T.02, subdivisions 7 and 8.

Sec. 23. Minnesota Statutes 2010, section 13.548, is amended to read:

13.548 SOCIAL RECREATIONAL DATA.

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 13.02, subdivision 12: the name, address, telephone number, any other data that ~~identifies~~ identify the individual, and any data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

Sec. 24. Minnesota Statutes 2010, section 13.585, subdivision 2, is amended to read:

Subd. 2. **Confidential data.** The following data on individuals maintained by the housing agency are ~~classified as~~ confidential data, pursuant to section 13.02, subdivision 3: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to: referrals to the Office of the Inspector General or other prosecuting agencies for possible prosecution for fraud; initiation of lease terminations and eviction actions; admission denial hearings concerning prospective tenants; commencement of actions against independent contractors of the agency; and tenant grievance hearings.

Sec. 25. Minnesota Statutes 2010, section 13.585, subdivision 3, is amended to read:

Subd. 3. **Protected nonpublic data.** The following data not on individuals maintained by the housing agency are ~~classified as~~ protected nonpublic data, pursuant to section 13.02, subdivision 13: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to, referrals to the Office of the Inspector General or other prosecuting bodies or agencies for possible prosecution for fraud and commencement of actions against independent contractors of the agency.

Sec. 26. Minnesota Statutes 2010, section 13.601, subdivision 3, is amended to read:

Subd. 3. **Applicants for appointment.** (a) Data about applicants for appointment to a public body collected by a government entity as a result of the applicant's application for appointment to the public body are private data on individuals except that the following are public:

(1) name;

(2) city of residence, except when the appointment has a residency requirement that requires the entire address to be public;

(3) education and training;

(4) employment history;

(5) volunteer work;

(6) awards and honors;

(7) prior government service; ~~and~~

(8) any data required to be provided or that ~~is~~ are voluntarily provided in an application for appointment to a multimember agency pursuant to section 15.0597; ~~and~~

(9) veteran status.

(b) Once an individual is appointed to a public body, the following additional items of data are public:

(1) residential address; and

(2) either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee.

(c) Notwithstanding paragraph (b), any electronic mail address or telephone number provided by a public body for use by an appointee shall be public. An appointee may use an electronic mail address or telephone number provided by the public body as the designated electronic mail address or telephone number at which the appointee can be reached.

Sec. 27. Minnesota Statutes 2010, section 13.643, subdivision 5, is amended to read:

Subd. 5. **Data received from federal government.** All data received by the Department of Agriculture from the United States Department of Health and Human Services, the Food and Drug Administration, and the Agriculture, Food Safety, and Inspection Service that is are necessary for the purpose of carrying out the Department of Agriculture's statutory food safety regulatory and enforcement duties are classified as nonpublic data under section 13.02, subdivision 9, and private data on individuals under section 13.02, subdivision 12. This section does not preclude the obligation of the Department of Agriculture to appropriately inform consumers of issues that could affect public health.

Sec. 28. Minnesota Statutes 2010, section 13.643, subdivision 7, is amended to read:

Subd. 7. **Research, monitoring, or assessment data.** (a) Except as provided in paragraph (b), the following data created, collected, and maintained by the Department of Agriculture during research, monitoring, or the assessment of farm practices and related to natural resources, the environment, agricultural facilities, or agricultural practices are classified as private or nonpublic:

- (1) names, addresses, telephone numbers, and e-mail addresses of study participants or cooperators; and
- (2) location of research, study site, and global positioning system data.

(b) The following data is are public:

- (1) location data and unique well numbers for wells and springs unless protected under section 18B.10 or another statute or rule; and
- (2) data from samples collected from a public water supply as defined in section 144.382, subdivision 4.

(c) The Department of Agriculture may disclose data collected under paragraph (a) if the Department of Agriculture determines that there is a substantive threat to human health and safety or to the environment, or to aid in the law enforcement process. The Department of Agriculture may also disclose data with written consent of the subject of the data.

Sec. 29. Minnesota Statutes 2010, section 13.6435, is amended by adding a subdivision to read:

Subd. 13. **Ethanol producer payments.** Audited financial statements and notes and disclosure statements submitted to the commissioner of agriculture regarding ethanol producer payments pursuant to section 41A.09 are governed by section 41A.09, subdivision 3a.

Sec. 30. Minnesota Statutes 2010, section 13.65, subdivision 1, is amended to read:

Subdivision 1. **Private data.** The following data created, collected and maintained by the Office of the Attorney General are ~~classified as~~ private data on individuals:

(a) the record, including but not limited to, the transcript and exhibits of all disciplinary proceedings held by a state agency, board or commission, except in those instances where there is a public hearing;

(b) communications and noninvestigative files regarding administrative or policy matters which do not evidence final public actions;

(c) consumer complaint data, other than ~~that~~ those data classified as confidential, including consumers' complaints against businesses and follow-up investigative materials;

(d) investigative data, obtained in anticipation of, or in connection with litigation or an administrative proceeding where the investigation is not currently active; and

(e) data collected by the Consumer Division of the Attorney General's Office in its administration of the home protection hot line including: the name, address, and phone number of the consumer; the name and address of the mortgage company; the total amount of the mortgage; the amount of money needed to bring the delinquent mortgage current; the consumer's place of employment; the consumer's total family income; and the history of attempts made by the consumer to renegotiate a delinquent mortgage.

Sec. 31. Minnesota Statutes 2010, section 13.65, subdivision 2, is amended to read:

Subd. 2. **Confidential data.** The following data created, collected and maintained by the Office of the Attorney General are ~~classified as~~ confidential, pursuant to section 13.02, subdivision 3: data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data.

Sec. 32. Minnesota Statutes 2010, section 13.65, subdivision 3, is amended to read:

Subd. 3. **Public data.** Data describing the final disposition of disciplinary proceedings held by any state agency, board, or commission are ~~classified as~~ public, pursuant to section 13.02, subdivision 15.

Sec. 33. Minnesota Statutes 2010, section 13.679, subdivision 2, is amended to read:

Subd. 2. **Utility or telephone company employee or customer.** (a) The following are private data on individuals: data collected by the commissioner of commerce or the Public Utilities Commission, including the names or any other data that would reveal the identity of either an employee or customer of a telephone company or public utility who files a complaint or provides information regarding a violation or suspected violation by the telephone company or public utility of any federal or state law or rule; except ~~this~~ these data may be released as needed to law enforcement authorities.

(b) The following are private data on individuals: data collected by the commission or the commissioner of commerce on individual public utility or telephone company customers or prospective customers, including copies of tax forms, needed to administer federal or state programs that provide relief from telephone company bills, public utility bills, or cold weather disconnection. The determination of eligibility of the customers or prospective customers may be released to public utilities or telephone companies to administer the programs.

Sec. 34. Minnesota Statutes 2010, section 13.719, subdivision 1, is amended to read:

Subdivision 1. **Comprehensive health insurance data.** (a) The following data on eligible persons and enrollees of the state comprehensive health insurance plan are classified as private: all data collected or maintained by the Minnesota Comprehensive Health Association, the writing carrier, and the Department of Commerce.

(b) The Minnesota Comprehensive Health Association is considered a state agency for purposes of this chapter.

(c) The Minnesota Comprehensive Health Association may disclose data on eligible persons and enrollees of the state comprehensive health insurance plan to conduct actuarial and research studies, notwithstanding the classification of ~~this~~ these data, if:

- (1) the board authorizes the disclosure;
- (2) no individual may be identified in the actuarial or research report;
- (3) materials allowing an individual to be identified are returned or destroyed as soon as they are no longer needed; and
- (4) the actuarial or research organization agrees not to disclose the information unless the disclosure would be permitted under this chapter is made by the association.

Sec. 35. Minnesota Statutes 2010, section 13.719, subdivision 5, is amended to read:

Subd. 5. **Data on insurance companies and township mutual companies.** The following data collected and maintained by the Department of Commerce are ~~classified as~~ nonpublic data:

(a) that portion of any of the following data which would identify the affected insurance company or township mutual company: (1) any order issued pursuant to section 60A.031, subdivision 5, or 67A.241, subdivision 4, and based in whole or in part upon a determination or allegation by the Commerce Department or commissioner that an insurance company or township mutual company is in an unsound, impaired, or potentially unsound or impaired condition; or (2) any stipulation, consent agreement, letter agreement, or similar document evidencing the settlement of any proceeding commenced pursuant to an order of a type described in clause (1), or an agreement between the department and an insurance company or township mutual company entered in lieu of the issuance of an order of the type described in clause (1); and

(b) any correspondence or attachments relating to the data listed in this subdivision.

Sec. 36. Minnesota Statutes 2010, section 13.7191, subdivision 14, is amended to read:

Subd. 14. **Requirements for health plan companies.** (a) **Minnesota Risk Adjustment Association.** Data privacy issues concerning the Minnesota Risk Adjustment Association are governed by section 62Q.03, subdivision 9.

(b) **Essential community provider.** Data on applications for designation as an essential community provider are classified under section 62Q.19, subdivision 2.

(c) **Disclosure of executive compensation.** Disclosure of certain data to consumer advisory boards is governed by section 62Q.64.

(d) **Audits conducted by independent organizations.** Data provided by an independent organization related to an audit report are governed by section 62Q.37, subdivision 8.

Sec. 37. Minnesota Statutes 2010, section 13.7191, subdivision 18, is amended to read:

Subd. 18. **Workers' compensation self-insurance.** (a) **Self-Insurers' Advisory Committee.** Data received by the Self-Insurers' Advisory Committee from the commissioner are classified under section 79A.02, subdivision 2.

(b) **Self-insurers' security fund.** Disclosure of certain data received by the self-insurers' security is governed by section 79A.09, subdivision 4.

(c) **Commercial self-insurers' security fund.** Disclosure of certain data received by the commercial self-insurers' security fund is governed by section 79A.26, subdivision 4.

(d) **Self-insurers' security fund and the board of trustees.** The security fund and its board of trustees are governed by section 79A.16.

(e) **Commercial self-insurance group security fund.** The commercial self-insurance group security fund and its board of trustees are governed by section 79A.28.

Sec. 38. Minnesota Statutes 2010, section 13.72, is amended by adding a subdivision to read:

Subd. 17. **Adopt-a-highway data.** The following data on participants collected by the Department of Transportation to administer the adopt-a-highway program are classified as private data on individuals: home addresses, except for zip codes; home e-mail addresses; and home telephone numbers.

Sec. 39. Minnesota Statutes 2010, section 13.7932, is amended to read:

13.7932 LOGGER SAFETY AND EDUCATION PROGRAM DATA.

The following data collected from persons who attend safety and education programs or seminars for loggers established or approved by the commissioner under section 176.130, subdivision 11, ~~is~~ are public data:

- (1) the names of the individuals attending the program or seminar;
- (2) the names of each attendee's employer;
- (3) the city where the employer is located;
- (4) the date the program or seminar was held; and
- (5) a description of the seminar or program.

Sec. 40. Minnesota Statutes 2010, section 13.82, subdivision 2, is amended to read:

Subd. 2. **Arrest data.** The following data created or collected by law enforcement agencies which ~~documents~~ document any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency:

- (a) time, date and place of the action;
- (b) any resistance encountered by the agency;
- (c) any pursuit engaged in by the agency;
- (d) whether any weapons were used by the agency or other individual;
- (e) the charge, arrest or search warrants, or other legal basis for the action;
- (f) the identities of the agencies, units within the agencies and individual persons taking the action;
- (g) whether and where the individual is being held in custody or is being incarcerated by the agency;

(h) the date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;

(i) the date, time and legal basis for any release from custody or incarceration;

(j) the name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;

(k) whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;

(l) the manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 17; and

(m) response or incident report number.

Sec. 41. Minnesota Statutes 2010, section 13.82, subdivision 3, is amended to read:

Subd. 3. **Request for service data.** The following data created or collected by law enforcement agencies which ~~documents~~ document requests by the public for law enforcement services shall be public government data:

(a) the nature of the request or the activity complained of;

(b) the name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 17;

(c) the time and date of the request or complaint; and

(d) the response initiated and the response or incident report number.

Sec. 42. Minnesota Statutes 2010, section 13.82, subdivision 6, is amended to read:

Subd. 6. **Response or incident data.** The following data created or collected by law enforcement agencies which ~~documents~~ document the agency's response to a request for service including, but not limited to, responses to traffic accidents, or which ~~describes~~ describe actions taken by the agency on its own initiative shall be public government data:

(a) date, time and place of the action;

(b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 17;

(c) any resistance encountered by the agency;

(d) any pursuit engaged in by the agency;

(e) whether any weapons were used by the agency or other individuals;

(f) a brief factual reconstruction of events associated with the action;

(g) names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 17;

(h) names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 17;

(i) the name and location of the health care facility to which victims or casualties were taken;

(j) response or incident report number;

(k) dates of birth of the parties involved in a traffic accident;

(l) whether the parties involved were wearing seat belts; and

(m) the alcohol concentration of each driver.

Sec. 43. Minnesota Statutes 2010, section 13.82, subdivision 7, is amended to read:

Subd. 7. **Criminal investigative data.** Except for the data defined in subdivisions 2, 3, and 6, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has primary investigative responsibility ~~is~~ are confidential or protected nonpublic while the investigation is active. Inactive investigative data ~~is~~ are public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 17. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private or nonpublic data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

(a) a decision by the agency or appropriate prosecutorial authority not to pursue the case;

(b) expiration of the time to bring a charge or file a complaint under the applicable statute of limitations, or 30 years after the commission of the offense, whichever comes earliest; or

(c) exhaustion of or expiration of all rights of appeal by a person convicted on the basis of the investigative data.

Any investigative data presented as evidence in court shall be public. Data determined to be inactive under clause (a) may become active if the agency or appropriate prosecutorial authority decides to renew the investigation.

During the time when an investigation is active, any person may bring an action in the district court located in the county where the data ~~is~~ are being maintained to authorize disclosure of investigative data. The court may order that all or part of the data relating to a particular investigation be released to the public or to the person bringing the action. In making the determination as to whether investigative 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, to the agency or to any person identified in the data. The data in dispute shall be examined by the court in camera.

Sec. 44. Minnesota Statutes 2010, section 13.82, is amended by adding a subdivision to read:

Subd. 30. **Access by probationary agencies.** Any law enforcement agency may share criminal investigative data on domestic violence-related offenders with any corrections or probationary agency for criminal justice purposes. Not public data shared with a probationary agency remain classified pursuant to this section.

Sec. 45. Minnesota Statutes 2010, section 13.83, subdivision 2, is amended to read:

Subd. 2. **Public data.** Unless specifically classified otherwise by state statute or federal law, the following data created or collected by a medical examiner or coroner on a deceased individual ~~is~~ are public: name of the deceased; date of birth; date of death; address; sex; race; citizenship; height; weight; hair color; eye color; build; complexion; age, if known, or approximate age; identifying marks, scars and amputations; a description of the decedent's clothing; marital status; location of death including name of hospital where applicable; name of spouse; whether or not the decedent ever served in the armed forces of the United States; occupation; business; father's name (also birth name, if different); mother's name (also birth name, if different); birthplace; birthplace of parents; cause of death; causes of cause of death; whether an autopsy was performed and if so, whether it was conclusive; date and place of injury, if applicable, including work place; how injury occurred; whether death was caused by accident, suicide, homicide, or was of undetermined cause; certification of attendance by physician; physician's name and address; certification by coroner or medical examiner; name and signature of coroner or medical examiner; type of disposition of body; burial place name and location, if applicable; date of burial, cremation or removal; funeral home name and address; and name of local register or funeral director.

Sec. 46. Minnesota Statutes 2010, section 13.83, subdivision 4, is amended to read:

Subd. 4. **Investigative data.** Data created or collected by a county coroner or medical examiner which ~~is~~ are part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners ~~is~~ are confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings but may be disclosed to a state or federal agency charged by law with investigating the death of the deceased individual about whom the medical examiner or coroner has medical examiner data. Upon completion of the coroner's or medical examiner's final summary of findings, the data collected in the investigation and the final summary of it are private or nonpublic data. However, if the final summary and the record of death indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section 13.82, subdivision 7, relating to the death of the deceased individual, the data remain confidential or protected nonpublic. Upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data are private or nonpublic data. Nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Sec. 47. Minnesota Statutes 2010, section 13.83, subdivision 6, is amended to read:

Subd. 6. **Classification of other data.** Unless a statute specifically provides a different classification, all other data created or collected by a county coroner or medical examiner that ~~is~~ are not data on deceased individuals or the manner and circumstances of their death ~~is~~ are public pursuant to section 13.03.

Sec. 48. Minnesota Statutes 2010, section 13.84, subdivision 6, is amended to read:

Subd. 6. **Public benefit data.** (a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to:

(1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; ~~and~~

(2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim's legal right to restitution; and

(3) history of domestic violence-related acts and domestic violence risk assessments to a court, a law enforcement agency, a prosecuting authority, a court services department, a parole or probation authority, a state or local correctional agency, or an agency performing pretrial release supervision or studies for criminal justice purposes.

(b) A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.

(c) The responsible authority or its designee of a juvenile correctional agency may release private or confidential court services data to a victim of a delinquent act to the extent the data are necessary to enable the victim to assert the victim's right to request notice of release under section 611A.06. The data that may be released include only the name, home address, and placement site of a juvenile who has been placed in a juvenile correctional facility as a result of a delinquent act.

Sec. 49. Minnesota Statutes 2010, section 13.84, is amended by adding a subdivision to read:

Subd. 10. **Law enforcement data.** Data shared by a law enforcement agency pursuant to section 13.82, subdivision 30, remain classified pursuant to that section and may be released as provided in subdivision 5.

Sec. 50. Minnesota Statutes 2010, 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 government entities pursuant to sections 624.712 to 624.719 are ~~classified~~ as private, pursuant to section 13.02, subdivision 12.

Sec. 51. **[13D.08] OPEN MEETING LAW CODED ELSEWHERE.**

Subdivision 1. **Board of Animal Health.** Certain meetings of the Board of Animal Health are governed by section 35.0661, subdivision 1.

Subd. 2. **Minnesota Life and Health Guaranty Association.** Meetings of the Minnesota Life and Health Guaranty Association Board of Directors are governed by section 61B.22.

Subd. 3. **Comprehensive Health Association.** Certain meetings of the Comprehensive Health Association are governed by section 62E.10, subdivision 4.

Subd. 4. **Health Technology Advisory Committee.** Certain meetings of the Health Technology Advisory Committee are governed by section 62J.156.

Subd. 5. **Health Coverage Reinsurance Association.** Meetings of the Health Coverage Reinsurance Association are governed by section 62L.13, subdivision 3.

Subd. 6. **Self-insurers' security fund.** Meetings of the self-insurers' security fund and its board of trustees are governed by section 79A.16.

Subd. 7. **Commercial self-insurance group security fund.** Meetings of the commercial self-insurance group security fund are governed by section 79A.28.

Subd. 8. **Lessard-Sams Outdoor Heritage Council.** Certain meetings of the Lessard-Sams Outdoor Heritage Council are governed by section 97A.056, subdivision 5.

Subd. 9. **Enterprise Minnesota, Inc.** Certain meetings of the board of directors of Enterprise Minnesota, Inc. are governed by section 116O.03.

Subd. 10. **Minnesota Business Finance, Inc.** Certain meetings of Minnesota Business Finance, Inc. are governed by section 116S.02.

Subd. 11. **Northern Technology Initiative, Inc.** Certain meetings of Northern Technology Initiative, Inc. are governed by section 116T.02.

Subd. 12. **Agricultural Utilization Research Institute.** Certain meetings of the Agricultural Utilization Research Institute are governed by section 116V.01, subdivision 10.

Subd. 13. **Hospital authorities.** Certain meetings of hospitals established under section 144.581 are governed by section 144.581, subdivisions 4 and 5.

Subd. 14. **Advisory Council on Workers' Compensation.** Certain meetings of the Advisory Council on Workers' Compensation are governed by section 175.007, subdivision 3.

Subd. 15. **Electric cooperatives.** Meetings of a board of directors of an electric cooperative that has more than 50,000 members are governed by section 308A.327.

Subd. 16. **Town boards.** Certain meetings of town boards are governed by section 366.01, subdivision 11.

Subd. 17. **Hennepin County Medical Center and HMO.** Certain meetings of the Hennepin County Board on behalf of the HMO or Hennepin Healthcare System, Inc. are governed by section 383B.217.

Subd. 18. **Hennepin Healthcare System, Inc.** Certain meetings of the Hennepin Healthcare System, Inc. are governed by section 383B.917.

Sec. 52. Minnesota Statutes 2010, section 79A.16, is amended to read:

79A.16 OPEN MEETING; ADMINISTRATIVE PROCEDURE ACT.

The security fund and its board of trustees shall not be subject to (1) the Open Meeting Law, chapter 13D, (2) the Open Appointments Law, (3) the ~~Data Privacy Law~~ Minnesota Government Data Practices Act, chapter 13, and (4) except where specifically set forth, the Administrative Procedure Act.

The Self-Insurers' Advisory Committee shall not be subject to clauses (2) and (4).

Sec. 53. Minnesota Statutes 2010, section 79A.28, is amended to read:

79A.28 OPEN MEETING; ADMINISTRATIVE PROCEDURE ACT.

The commercial self-insurance group security fund and its board of trustees shall not be subject to:

(1) the Open Meeting Law, chapter 13D;

(2) the Open Appointments Law;

(3) the ~~Data Privacy Law~~ Minnesota Government Data Practices Act, chapter 13; and

(4) except where specifically set forth, the Administrative Procedure Act.

Sec. 54. **[136A.051] STUDENT RECORDS AND DATA.**

When a nonpublic institution of higher education provides the Office of Higher Education student data or records pursuant to section 136A.05, subdivision 1; 136A.121, subdivision 18; or 136A.1701, subdivision 11, the institution of higher education is not liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student data or records, if the breach, disclosure, use, retention, or destruction results from acts or omissions of:

(1) the Office of Higher Education; or

(2) persons provided access to the data or records by the Office of Higher Education."

Delete the title and insert:

"A bill for an act relating to state government; making changes to data practices; amending Minnesota Statutes 2010, sections 13.02, subdivisions 3, 4, 8a, 9, 12, 13, 14, 15; 13.10, subdivision 1; 13.202, subdivision 3; 13.3805, subdivision 1; 13.384, subdivision 1; 13.44, subdivision 3; 13.46, subdivisions 2, 3, 4, 5, 6; 13.462, subdivision 1; 13.47, subdivision 1; 13.485, by adding subdivisions; 13.548; 13.585, subdivisions 2, 3; 13.601, subdivision 3; 13.643, subdivisions 5, 7; 13.6435, by adding a subdivision; 13.65, subdivisions 1, 2, 3; 13.679, subdivision 2; 13.719, subdivisions 1, 5; 13.7191, subdivisions 14, 18; 13.72, by adding a subdivision; 13.7932; 13.82, subdivisions 2, 3, 6, 7, by adding a subdivision; 13.83, subdivisions 2, 4, 6; 13.84, subdivision 6, by adding a subdivision; 13.87, subdivision 2; 79A.16; 79A.28; proposing coding for new law in Minnesota Statutes, chapters 13D; 136A."

With the recommendation that when so amended the bill pass.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1467, A bill for an act relating to firearms; directing the commissioner of human services to report mental health commitment information to the National Instant Criminal Background Check System for the purpose of facilitating firearms background checks; creating a reporting requirement; extending time period for renewal of permit to purchase a pistol from a federally licensed dealer; providing for an annual background check; requiring courts to report certain data to the National Instant Criminal Background Check System for the purpose of firearms background checks; clarifying and delimiting the authority of public officials to disarm individuals at any time; clarifying law on use of force in defense of home and person; codifying and extending Minnesota's self-defense and defense of home laws; eliminating the common law duty to retreat in cases of self defense outside the home; expanding the boundaries of dwelling for purposes of self-defense; creating a presumption in the case of a person entering a dwelling or occupied vehicle by stealth or force; extending the rights available to a person in that person's dwelling to a person defending against entry of that person's occupied vehicle; providing for the recognition by Minnesota of other states' permits to carry a pistol within and under the laws of Minnesota; amending Minnesota Statutes 2010, sections 245.041; 609.065; 624.713, by adding a subdivision; 624.7131, subdivisions 2, 6, 8; 624.714, subdivision 16; proposing coding for new law in Minnesota Statutes, chapter 624.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1468, A bill for an act relating to public safety; authorizing law enforcement agencies to sell forfeited firearms at auction to federally licensed firearms dealers; amending Minnesota Statutes 2010, section 609.5316, subdivision 1.

Reported the same back with the following amendments:

Page 1, line 12, delete "at auction"

Amend the title as follows:

Page 1, line 3, delete "at auction"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hoppe from the Committee on Commerce and Regulatory Reform to which was referred:

H. F. No. 1471, A bill for an act relating to environment; modifying electronic device recycling requirements; amending Minnesota Statutes 2010, sections 115A.1310; 115A.1312; 115A.1314, subdivision 1; 115A.1316; 115A.1318; 115A.1320; 115A.1322; 115A.1324; 115A.1326; 115A.1330.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

The report was adopted.

Cornish from the Committee on Public Safety and Crime Prevention Policy and Finance to which was referred:

H. F. No. 1478, A bill for an act relating to human services; modifying certain provisions regarding the Minnesota sex offender program; amending Minnesota Statutes 2010, sections 253B.141, subdivision 2; 253B.185, subdivisions 1, 16, by adding subdivisions; 253B.19, subdivision 2; 609.485, subdivision 2.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1500, A bill for an act relating to human services; making changes to chemical and mental health services; making rate reforms; amending Minnesota Statutes 2010, sections 245.462, subdivision 8; 245.467, subdivision 2; 245A.03, subdivision 7; 253B.02, subdivision 9; 254B.03, subdivisions 5, 9; 254B.05; 254B.12; 254B.13, subdivision 3; 256.9693; 256B.0622, subdivision 8; 256B.0623, subdivisions 3, 8; 256B.0624, subdivisions 2, 4, 6; 256B.0625, subdivisions 23, 38; 256B.0926, subdivision 2; 256B.0947; repealing Minnesota Statutes 2010, sections 254B.01, subdivision 7; 256B.0622, subdivision 8a.

Reported the same back with the following amendments:

Page 2, after line 19, insert:

"Sec. 3. Minnesota Statutes 2010, section 245.4874, subdivision 1, is amended to read:

Subdivision 1. **Duties of county board.** (a) The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4889;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) consider the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4889;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4889 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4889;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally competent mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third

or subsequent time, unless a screening or diagnostic assessment has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the ~~potential~~ mental health screening and ~~the option to prevent the screening by notifying the court or county agency in writing~~ obtain written, informed consent from the parent or legal guardian before the screening is conducted or upon receiving court approval upon a finding a screening would be in the best interest of a child. The screening shall be conducted with a screening instrument approved by the commissioner of human services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their families and shall comply with the Minnesota Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results.

(b) When the county board refers clients to providers of children's therapeutic services and supports under section 256B.0943, the county board must clearly identify the desired services components not covered under section 256B.0943 and identify the reimbursement source for those requested services, the method of payment, and the payment rate to the provider."

Page 6, after line 2, insert:

"(9) reports information about the vendor's current capacity in a manner prescribed by the commissioner;

(10) maintains insurance in the types and amounts needed in connection with providing chemical dependency treatment services, and in at least the following types and amounts:

(i) employee dishonesty in the amount of \$10,000 if the vendor ever has custody or control of money or property belonging to clients; and

(ii) bodily injury and property damage in the amount of \$2,000,000 for each occurrence."

Renumber the remaining clauses in sequence

Page 6, line 18, delete "(13)" and insert "(15)"

Page 6, line 19, delete "of room and board"

Page 6, line 23, after the semicolon, insert "and"

Page 6, delete lines 24 to 27 and insert:

"(4) submit an annual financial statement which reports functional expenses of chemical dependency treatment costs in a form approved by the commissioner."

Page 8, line 31, delete "under appropriate supervision" and before the comma, insert "and are under the supervision of a licensed alcohol and drug counselor supervisor and licensed mental health professional"

Page 8, line 36, delete "and"

Page 9, line 2, delete the period and insert "; and"

Page 9, after line 2, insert:

"(vi) co-occurring counseling staff will receive eight hours of co-occurring disorder training annually."

Page 11, line 4, delete ", as" and insert "shall include direct services costs, other program costs, and other costs"

Page 11, line 5, delete "portion of"

Page 11, line 8, delete "for" and delete ", the rate must include" and insert "shall be determined as"

Page 11, line 9, delete "to be paid beyond" and insert "of" and after "costs" insert "as determined by item (i)"

Page 11, line 20, delete "may" and insert "shall"

Page 11, line 21, delete "return to agency" and delete "specified"

Page 11, line 24, delete "approved by the commissioner"

Page 12, line 8, strike "assertive community team"

Page 12, line 14, delete "approved allowable"

Page 12, line 15, after "period" insert "using the criteria established in paragraph (c)"

Page 12, after line 26, insert:

"(i) A provider may request of the commissioner a review of any rate-setting decision made under this subdivision."

Page 20, line 17, after "services" insert "for a period of at least two years"

Page 20, line 20, delete "and"

Page 20, line 22, delete the period and insert "; and"

Page 20, after line 22, insert:

"(vii) must be free of substance use problems for at least one year."

Page 28, after line 25, insert:

"Sec. 22. Minnesota Statutes 2010, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under ~~this subdivision~~ this chapter, chapter 260D, and section 245.487, subdivision 3. Screenings shall be conducted within 15 days of a request for a screening. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, ~~and~~ persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability, and the child's parent, guardian, or permanent legal custodian under section 260C.201, subdivision 11. ~~The team shall involve parents or guardians in the screening process as appropriate.~~ The team may be the same team as defined in section 260B.157, subdivision 3.

(b) The social services agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child, as defined in section 260C.007, subdivision 21, and shall determine the identity of the Indian child's tribe, as defined in section 260.755, subdivision 9. When a child to be evaluated is an Indian child, the team provided in paragraph (a) shall include a designated representative of the Indian child's tribe, unless the child's tribal authority declines to appoint a representative. The Indian child's tribe may delegate its authority to represent the child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12.

(c) If the court, prior to, or as part of, a final disposition, proposes to place a child:

(1) for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A; or

(2) in any out-of-home setting potentially exceeding 30 days in duration, including a postdispositional placement in a facility licensed by the commissioner of corrections or human services, the court shall ascertain whether the child is an Indian child and shall notify the county welfare agency and, if the child is an Indian child, shall notify the Indian child's tribe. The county's juvenile treatment screening team must either: (i) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (ii) elect not to screen a given case and notify the court of that decision within three working days.

~~(d) If the screening team has elected to screen and evaluate the child,~~ The child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

(e) When the county's juvenile treatment screening team has elected to screen and evaluate a child determined to be an Indian child, the team shall provide notice to the tribe or tribes that accept jurisdiction for the Indian child or that recognize the child as a member of the tribe or as a person eligible for membership in the tribe, and permit the tribe's representative to participate in the screening team.

(f) When the Indian child's tribe or tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's tribe to designate a representative to the screening team.

Sec. 23. Minnesota Statutes 2010, section 260D.01, is amended to read:

260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

(a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under ~~section~~ sections 256B.092, 260C.157, and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section

626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835."

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1532, A bill for an act relating to elections; imposing certain duties; requiring certain lists; proposing coding for new law in Minnesota Statutes, chapter 201.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 201.155, is amended to read:

201.155 REPORT ON FELONY CONVICTIONS.

(a) Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been convicted of a felony. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.

(b) At least monthly, the secretary of state must compare all data reported electronically by the state court administrator to data in the statewide voter registration system to determine whether any data newly indicates that:

(1) an individual with an active voter registration in the statewide voter registration system is currently serving a felony sentence and the individual's voter record does not already have a challenged status due to a felony conviction;

(2) an individual with an active voter registration in the statewide voter registration system who is currently serving a felony sentence appears to have registered to vote or to have voted during a period when the individual's civil rights were revoked; or

(3) an individual with a voter record that has a challenged status due to a felony conviction who was serving a felony sentence has been discharged from a sentence.

The secretary of state shall prepare a list of the registrants included under clause (1), (2), or (3) for each county auditor. For individuals under clause (1), the county auditor shall challenge the individual's record in the statewide voter registration system. The county auditor must provide information to the county attorney about individuals under clause (2) for the county attorney's investigation. For individuals under clause (3), the county auditor must determine if the challenge status should be removed from the voter record for the individual, and if so, must remove the challenge.

(c) For each state general election that occurs before the statewide voter registration system is programmed to generate lists as required by paragraph (b), the secretary of state must make the determination and provide lists to the county auditors between 30 and 60 days before the election and again between six and ten weeks after the election. In the year following that state election, the secretary of state must make this determination and provide lists to the county auditors again as part of the annual list maintenance."

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Westrom from the Committee on Civil Law to which was referred:

H. F. No. 1533, A bill for an act relating to campaign finance; changing certain procedures and requirements of the Campaign Finance and Public Disclosure Board; amending Minnesota Statutes 2010, sections 10A.01, by adding subdivisions; 10A.02, subdivisions 9, 10, 11, 12, 13, by adding a subdivision; 10A.105, subdivision 1; 10A.12, subdivisions 1, 1a, 2; 10A.121, subdivision 1; 10A.14, subdivision 1, by adding a subdivision; 10A.20, subdivisions 1, 2, 3, 4, 5, 6, 12, by adding a subdivision; 10A.24, by adding a subdivision; 10A.27, subdivisions 14, 15; 10A.31, subdivision 7; 10A.315; repealing Minnesota Rules, parts 4501.0500, subpart 2, item A; 4503.0200, subpart 6; 4503.0500, subpart 8; 4503.1700; 4512.0100, subparts 2, 4.

Reported the same back with the following amendments:

Page 3, delete section 6

Renumber the sections in sequence

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1543, A bill for an act relating to human services; making changes to health care program provisions; making technical and policy changes; clarifying obsolete language; making federal conformity changes; clarifying eligibility requirements; modifying pharmaceutical provisions; clarifying certain covered services; eliminating the elderly waiver payment; providing a right to appeal and appeal processes; imposing provider requirements; requiring a report on nonemergency medical transportation; requiring reporting of managed care and county-based purchasing data; providing civil penalties; amending Minnesota Statutes 2010, sections 13.461, subdivision 24a; 256B.02, by adding a subdivision; 256B.03, by adding subdivisions; 256B.04, by adding a subdivision; 256B.056, subdivisions 1c, 3, 3c; 256B.057, subdivision 9; 256B.0625, subdivisions 13, 13d, 13e, 17a, 22, 30, 31, by adding subdivisions; 256B.064, subdivisions 1a, 1b, 2; 256B.0641, subdivision 1; 256B.0659, subdivision 30; 256B.199; 256B.27, subdivision 3; 256B.69, subdivisions 5, 28, by adding a subdivision; 256B.76, subdivision 4; 256L.04, subdivision 7b; 256L.05, subdivision 3; 256L.11, subdivision 6; 256L.15, subdivision 1; Laws 2010, First Special Session chapter 1, article 16, sections 8; 9; 10; repealing Minnesota Statutes 2010, sections 256.01, subdivision 18b; 256B.69, subdivision 9b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1
REHABILITATION TECHNICAL

Section 1. Laws 2010, First Special Session chapter 1, article 16, section 8, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2010, for services provided through fee-for-service, ~~and January 1, 2011, for services provided through managed care.~~

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

Sec. 2. Laws 2010, First Special Session chapter 1, article 16, section 9, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2010, for services provided through fee-for-service, ~~and January 1, 2011, for services provided through managed care.~~

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

Sec. 3. Laws 2010, First Special Session chapter 1, article 16, section 10, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective July 1, 2010, for services provided through fee-for-service, ~~and January 1, 2011, for services provided through managed care.~~

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

ARTICLE 2 PERSONAL CARE ASSISTANCE SERVICES

Section 1. Minnesota Statutes 2010, section 256B.0659, subdivision 30, is amended to read:

Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

(1) by October 31, 2009, information to recipients likely to be affected that (i) describes the changes to the personal care assistance program that may result in the loss of access to personal care assistance services, and (ii) includes resources to obtain further information;

(2) notice of changes in medical assistance personal care assistance services to each affected recipient at least 30 days before the effective date of the change.

The notice shall include how to get further information on the changes, how to get help to obtain other services, a list of community resources, and appeal rights. Notwithstanding section 256.045, a recipient may request continued services pending appeal within ~~the time period allowed to request an appeal~~ 30 days after the notice of change in personal care assistance services, or before the effective date of action, whichever is later. A managed care enrollee may request continuation of services pending an appeal to the state within ten days after the written resolution of a managed care organization appeal, or before the effective date of action, whichever is later; and

(3) a service agreement authorizing personal care assistance hours of service at the previously authorized level, throughout the appeal process period, when a recipient requests services pending an appeal.

ARTICLE 3 FEDERAL POVERTY GUIDELINES

Section 1. Minnesota Statutes 2010, section 256B.056, subdivision 1c, is amended to read:

Subd. 1c. **Families with children income methodology.** (a)(1) [Expired, 1Sp2003 c 14 art 12 s 17]

(2) For applications processed within one calendar month prior to July 1, 2003, eligibility shall be determined by applying the income standards and methodologies in effect prior to July 1, 2003, for any months in the six-month budget period before July 1, 2003, and the income standards and methodologies in effect on July 1, 2003, for any months in the six-month budget period on or after that date. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.

(3) For children ages one through 18 whose eligibility is determined under section 256B.057, subdivision 2, the following deductions shall be applied to income counted toward the child's eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: \$90 work expense, dependent care, and child support paid under court order. This clause is effective October 1, 2003.

(b) For families with children whose eligibility is determined using the standard specified in section 256B.056, subdivision 4, paragraph (c), 17 percent of countable earned income shall be disregarded for up to four months and the following deductions shall be applied to each individual's income counted toward eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: dependent care and child support paid under court order.

(c) If the four-month disregard in paragraph (b) has been applied to the wage earner's income for four months, the disregard shall not be applied again until the wage earner's income has not been considered in determining medical assistance eligibility for 12 consecutive months.

(d) The commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services except that the income standards shall not go below ~~those~~ the income standards in effect on July 1, ~~2009~~ of the preceding year.

(e) For children age 18 or under, annual gifts of \$2,000 or less by a tax-exempt organization to or for the benefit of the child with a life-threatening illness must be disregarded from income.

Sec. 2. Minnesota Statutes 2010, section 256L.04, subdivision 7b, is amended to read:

Subd. 7b. **Annual income limits adjustment.** The commissioner shall adjust the income limits under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services except that the income standards shall not go below ~~those~~ the income standards in effect on the preceding July 1, ~~2009~~.

ARTICLE 4 CLARIFICATION OF AMERICAN INDIAN LANGUAGE IN ARRA

Section 1. Minnesota Statutes 2010, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **Asset limitations for individuals and families.** (a) To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets excluded under the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:

- (1) household goods and personal effects are not considered;
- (2) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered;
- (3) motor vehicles are excluded to the same extent excluded by the supplemental security income program;

(4) assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses; ~~and~~

(5) effective upon federal approval, for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (c); and

(6) effective July 1, 2009, certain assets owned by American Indians are excluded, as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is a person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(b) No asset limit shall apply to persons eligible under section 256B.055, subdivision 15.

Sec. 2. Minnesota Statutes 2010, section 256B.056, subdivision 3c, is amended to read:

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

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business up to \$200,000 are not considered, except that a bank account that contains personal income or assets, or is used to pay personal expenses, is not considered a capital or operating asset of a trade or business;

(3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;

(4) assets designated as burial expenses are excluded to the same extent they are excluded by the Supplemental Security Income program;

(5) court-ordered settlements up to \$10,000 are not considered;

(6) individual retirement accounts and funds are not considered; ~~and~~

(7) assets owned by children are not considered; and

(8) effective July 1, 2009, certain assets owned by American Indians are excluded, as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is a person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

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

Sec. 3. Minnesota Statutes 2010, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

(1) but for excess earnings or assets, meets the definition of disabled under the Supplemental Security Income program;

(2) is at least 16 but less than 65 years of age;

(3) meets the asset limits in paragraph (c); and

(4) pays a premium and other obligations under paragraph (e).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(b) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, may retain eligibility for up to four calendar months; or

(2) effective January 1, 2004, loses employment for reasons not attributable to the enrollee, may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

(c) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and

(3) medical expense accounts set up through the person's employer.

(d)(1) Effective January 1, 2004, for purposes of eligibility, there will be a \$65 earned income disregard. To be eligible, a person applying for medical assistance under this subdivision must have earned income above the disregard level.

(2) Effective January 1, 2004, to be considered earned income, Medicare, Social Security, and applicable state and federal income taxes must be withheld. To be eligible, a person must document earned income tax withholding.

(e)(1)(i) Except as provided in item (ii), a person whose earned and unearned income is equal to or greater than 100 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance under this subdivision. The premium shall be based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines. Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(ii) Effective July 1, 2009, American Indians are exempt from paying premiums as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this paragraph, an American Indian is a person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(2) Effective January 1, 2004, all enrollees must pay a premium to be eligible for medical assistance under this subdivision. An enrollee shall pay the greater of a \$35 premium or the premium calculated in clause (1).

(3) Effective November 1, 2003, all enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount.

(4) Effective November 1, 2003, for enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

(5) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(f) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(g) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(h) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(i) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

(j) The commissioner shall notify enrollees annually beginning at least 24 months before the person's 65th birthday of the medical assistance eligibility rules affecting income, assets, and treatment of a spouse's income and assets that will be applied upon reaching age 65.

Sec. 4. Minnesota Statutes 2010, section 256L.05, subdivision 3, is amended to read:

Subd. 3. **Effective date of coverage.** (a) The effective date of coverage is the first day of the month following the month in which eligibility is approved and either the first premium payment or documentation of American Indian status according to section 256L.15, subdivision 1, paragraph (d), has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health coverage. The effective date of coverage for eligible newly adoptive children added to a family receiving covered health services is the month of placement. The effective date of coverage for other new members added to the

family is the first day of the month following the month in which the change is reported. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

(b) The initial premium must be received by the last working day of the month for coverage to begin the first day of the following month.

(c) Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage.

(d) Notwithstanding any other law to the contrary, benefits under sections 256L.01 to 256L.18 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 5. Minnesota Statutes 2010, section 256L.15, subdivision 1, is amended to read:

Subdivision 1. **Premium determination.** (a) Families with children and individuals shall pay a premium determined according to subdivision 2.

(b) Pregnant women and children under age two are exempt from the provisions of section 256L.06, subdivision 3, paragraph (b), clause (3), requiring disenrollment for failure to pay premiums. For pregnant women, this exemption continues until the first day of the month following the 60th day postpartum. Women who remain enrolled during pregnancy or the postpartum period, despite nonpayment of premiums, shall be disenrolled on the first of the month following the 60th day postpartum for the penalty period that otherwise applies under section 256L.06, unless they begin paying premiums.

(c) Members of the military and their families who meet the eligibility criteria for MinnesotaCare upon eligibility approval made within 24 months following the end of the member's tour of active duty shall have their premiums paid by the commissioner. The effective date of coverage for an individual or family who meets the criteria of this paragraph shall be the first day of the month following the month in which eligibility is approved. This exemption applies for 12 months. This paragraph expires June 30, 2010. If the expiration of this provision is in violation of section 5001 of Public Law 111-5, this provision will expire on the date when it is no longer subject to section 5001 of Public Law 111-5. The commissioner of human services shall notify the revisor of statutes of that date.

(d) Beginning July 1, 2009, American Indians enrolled in MinnesotaCare and their families must have their premiums waived by the commissioner in accordance with section 5006 of Public Law 111-5. An individual must document status as an American Indian, as defined under Code of Federal Regulations, title 42, section 447.50, to qualify for the exception from premium requirements.

Sec. 6. **REPEALER.**

Minnesota Statutes 2010, section 256.01, subdivision 18b, is repealed.

ARTICLE 5 ACTIVE PHARMACEUTICAL INGREDIENTS

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician, physician assistant, or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) For the purpose of this subdivision and subdivision 13d, an "active pharmaceutical ingredient" is defined as a substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient of the drug product. An excipient is defined as an inert substance used as a diluent or vehicle for a drug. The commissioner shall establish a list of active pharmaceutical ingredients and excipients which are included in the medical assistance formulary. Medical assistance covers selected active pharmaceutical ingredients and excipients used in compounded prescriptions when the compounded combination is specifically approved by the commissioner or when:

(1) a commercially available product is not a therapeutic option for the patient;

(2) a commercially available product does not exist in the same combination of active ingredients in the same strengths as the compounded prescription; and

(3) a commercially available product cannot be used in place of the active pharmaceutical ingredient in the compounded prescription.

~~(e)~~ (d) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

~~(e)~~ (e) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

Sec. 2. Minnesota Statutes 2010, section 256B.0625, subdivision 13d, is amended to read:

Subd. 13d. **Drug formulary.** (a) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the Formulary Committee shall review and comment on the formulary contents.

(b) The formulary shall not include:

- (1) drugs, active pharmaceutical ingredients, or products for which there is no federal funding;
- (2) over-the-counter drugs, except as provided in subdivision 13;
- (3) drugs or active pharmaceutical ingredients used for weight loss, except that medically necessary lipase inhibitors may be covered for a recipient with type II diabetes;
- (4) drugs or active pharmaceutical ingredients when used for the treatment of impotence or erectile dysfunction;
- (5) drugs or active pharmaceutical ingredients for which medical value has not been established; and
- (6) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act.

(c) If a single-source drug used by at least two percent of the fee-for-service medical assistance recipients is removed from the formulary due to the failure of the manufacturer to sign a rebate agreement with the Department of Health and Human Services, the commissioner shall notify prescribing practitioners within 30 days of receiving notification from the Centers for Medicare and Medicaid Services (CMS) that a rebate agreement was not signed.

ARTICLE 6 MINIMUM QUANTITY OF OVER-THE-COUNTER DRUGS

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician, physician assistant, or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner.

(c) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals. Over-the-counter medications must be dispensed in a quantity that is the lower of:

- (1) the number of dosage units contained in the manufacturer's original package; and
- (2) the number of dosage units required to complete the patient's course of therapy.

(d) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

Sec. 2. Minnesota Statutes 2010, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Effective July 1, 2009, the actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus 15 percent. The actual acquisition cost of antihemophilic factor drugs shall be estimated at the average wholesale price minus 30 percent. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. ~~Over the counter medications must be dispensed in the manufacturer's unopened package.~~ The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a maximum allowable cost has been set for a multisource drug, payment shall be on the basis of the maximum allowable cost established by the commissioner unless prior authorization for the brand name product has been granted according to the criteria established by the Drug Formulary Committee as required by subdivision 13f, paragraph (a), and the prescriber has indicated "dispense as written" on the prescription in a manner consistent with section 151.21, subdivision 2.

(d) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider or the amount established for Medicare by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act.

(e) The commissioner may negotiate lower reimbursement rates for specialty pharmacy products than the rates specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers with whom the commissioner

has negotiated lower reimbursement rates. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of these conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products include injectable and infusion therapies, biotechnology drugs, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the formulary committee to develop a list of specialty pharmacy products subject to this paragraph. In consulting with the formulary committee in developing this list, the commissioner shall take into consideration the population served by specialty pharmacy products, the current delivery system and standard of care in the state, and access to care issues. The commissioner shall have the discretion to adjust the reimbursement rate to prevent access to care issues.

(f) Home infusion therapy services provided by home infusion therapy pharmacies must be paid at rates according to subdivision 8d.

ARTICLE 7 AMBULANCE REIMBURSEMENT

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 17a, is amended to read:

Subd. 17a. **Payment for ambulance services.** Medical assistance covers ambulance services. Providers shall bill ambulance services ~~according to Medicare criteria.~~ using diagnosis codes indicating the condition that was treated by the ambulance crew. The list of advanced life support and basic life support covered diagnosis codes must be updated monthly by the commissioner and made available on the department's Web site. Nonemergency ambulance services shall not be paid as emergencies. Effective for services rendered on or after July 1, 2001, medical assistance payments for ambulance services shall be paid at the Medicare reimbursement rate or at the medical assistance payment rate in effect on July 1, 2000, whichever is greater.

ARTICLE 8 HOSPICE AGE

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 22, is amended to read:

Subd. 22. **Hospice care.** Medical assistance covers hospice care services under ~~Public Law 99-272, section 9505 United States Code, title 42, section 1396d(o),~~ to the extent authorized by rule, except that a recipient age ~~21~~ 20 or under who elects to receive hospice services does not waive coverage for services that are related to the treatment of the condition for which a diagnosis of terminal illness has been made.

ARTICLE 9 DURABLE MEDICAL EQUIPMENT DEFINITION AND ACCREDITATION FOR SUPPLIERS

Section 1. Minnesota Statutes 2010, section 256B.0625, subdivision 31, is amended to read:

Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical supplies and equipment. Separate payment outside of the facility's payment rate shall be made for wheelchairs and wheelchair accessories for recipients who are residents of intermediate care facilities for the developmentally disabled. Reimbursement for wheelchairs and wheelchair accessories for ICF/MR recipients shall be subject to the same conditions and limitations as coverage for recipients who do not reside in institutions. A wheelchair purchased outside of the facility's payment rate is the property of the recipient. The commissioner may set reimbursement rates for specified categories of medical supplies at levels below the Medicare payment rate.

(b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies must enroll as a Medicare provider.

(c) When necessary to ensure access to durable medical equipment, prosthetics, orthotics, or medical supplies, the commissioner may exempt a vendor from the Medicare enrollment requirement if:

(1) the vendor supplies only one type of durable medical equipment, prosthetic, orthotic, or medical supply;

(2) the vendor serves ten or fewer medical assistance recipients per year;

(3) the commissioner finds that other vendors are not available to provide same or similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

(4) the vendor complies with all screening requirements in this chapter and Code of Federal Regulations, title 42, part 455. The commissioner may also exempt a vendor from the Medicare enrollment requirement if the vendor is accredited by a Centers for Medicare and Medicaid Services approved national accreditation organization as complying with the Medicare program's supplier and quality standards and the vendor serves primarily pediatric patients.

(d) Durable medical equipment means a device or equipment that:

(1) can withstand repeated use;

(2) is generally not useful in the absence of an illness, injury, or disability; and

(3) is provided to correct or accommodate a physiological disorder or physical condition or is generally used primarily for a medical purpose.

ARTICLE 10 ELIMINATE ELDERLY WAIVER PAYMENT

Section 1. Minnesota Statutes 2010, section 256B.69, subdivision 5, is amended to read:

Subd. 5. **Prospective per capita payment.** The commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment.

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.

By January 15, 1996, the commissioner shall report to the legislature on the methodology used to allocate to participating counties available administrative reimbursement for advocacy and enrollment costs. The report shall reflect the commissioner's judgment as to the adequacy of the funds made available and of the methodology for equitable distribution of the funds. The commissioner must involve participating counties in the development of the report.

Beginning July 1, 2004, the commissioner may include payments for elderly waiver services and 180 days of nursing home care in capitation payments for the prepaid medical assistance program for recipients age 65 and older. ~~Payments for elderly waiver services shall be made no earlier than the month following the month in which services were received.~~

ARTICLE 11 SPECIAL NEEDS BASIC CARE MEDICAID SERVICES

Section 1. Minnesota Statutes 2010, section 256B.69, subdivision 28, is amended to read:

Subd. 28. **Medicare special needs plans; medical assistance basic health care.** (a) The commissioner may contract with demonstration providers and current or former sponsors of qualified Medicare-approved special needs plans, to provide medical assistance basic health care services to persons with disabilities, including those with developmental disabilities. Basic health care services include:

(1) those services covered by the medical assistance state plan except for ICF/MR services, home and community-based waiver services, case management for persons with developmental disabilities under section 256B.0625, subdivision 20a, and personal care and certain home care services defined by the commissioner in consultation with the stakeholder group established under paragraph (d); and

(2) basic health care services may also include risk for up to 100 days of nursing facility services for persons who reside in a noninstitutional setting and home health services related to rehabilitation as defined by the commissioner after consultation with the stakeholder group.

The commissioner may exclude other medical assistance services from the basic health care benefit set. Enrollees in these plans can access any excluded services on the same basis as other medical assistance recipients who have not enrolled.

Unless a person is otherwise required to enroll in managed care, enrollment in these plans for Medicaid services must be voluntary. For purposes of this subdivision, automatic enrollment with an option to opt out is not voluntary enrollment.

(b) Beginning January 1, 2007, the commissioner may contract with demonstration providers and sponsors of qualified Medicare special needs plans, to provide basic health care services under medical assistance to persons who are dually eligible for both Medicare and Medicaid and those Social Security beneficiaries eligible for Medicaid but in the waiting period for Medicare. The commissioner shall consult with the stakeholder group under paragraph (d) in developing program specifications for these services. The commissioner shall report to the chairs of the house of representatives and senate committees with jurisdiction over health and human services policy and finance by February 1, 2007, on implementation of these programs and the need for increased funding for the ombudsman for managed care and other consumer assistance and protections needed due to enrollment in managed care of persons with disabilities. Payment for Medicaid services provided under this subdivision for the months of May and June will be made no earlier than July 1 of the same calendar year.

(c) Beginning January 1, 2008, the commissioner may expand contracting under this subdivision to all persons with disabilities not otherwise required to enroll in managed care.

(d) The commissioner shall establish a state-level stakeholder group to provide advice on managed care programs for persons with disabilities, including both MnDHO and contracts with special needs plans that provide basic health care services as described in paragraphs (a) and (b). The stakeholder group shall provide advice on program expansions under this subdivision and subdivision 23, including:

(1) implementation efforts;

(2) consumer protections; and

(3) program specifications such as quality assurance measures, data collection and reporting, and evaluation of costs, quality, and results.

(e) Each plan under contract to provide medical assistance basic health care services shall establish a local or regional stakeholder group, including representatives of the counties covered by the plan, members, consumer advocates, and providers, for advice on issues that arise in the local or regional area.

(f) The commissioner is prohibited from providing the names of potential enrollees to health plans for marketing purposes. The commissioner may mail marketing materials to potential enrollees on behalf of health plans, in which case the health plans shall cover any costs incurred by the commissioner for mailing marketing materials.

ARTICLE 12 HEALTH SERVICES ADVISORY COUNCIL

Section 1. **REVISOR'S INSTRUCTION.**

The revisor shall change the term "Health Services Policy Committee" to "Health Services Advisory Council" wherever it appears in statutes.

ARTICLE 13 DISPROPORTIONATE SHARE HOSPITAL PAYMENTS UNDER MINNESOTACARE

Section 1. Minnesota Statutes 2010, section 256B.199, is amended to read:

256B.199 PAYMENTS REPORTED BY GOVERNMENTAL ENTITIES.

(a) Effective July 1, 2007, the commissioner shall apply for federal matching funds for the expenditures in paragraphs (b) and (c). Effective July 1, 2011, the commissioner shall apply for matching funds for expenditures in paragraph (e).

(b) The commissioner shall apply for federal matching funds for certified public expenditures as follows:

(1) Hennepin County, Hennepin County Medical Center, Ramsey County, Regions Hospital, the University of Minnesota, and Fairview-University Medical Center shall report quarterly to the commissioner beginning June 1, 2007, payments made during the second previous quarter that may qualify for reimbursement under federal law;

(2) based on these reports, the commissioner shall apply for federal matching funds. These funds are appropriated to the commissioner for the payments under section 256.969, subdivision 27; and

(3) by May 1 of each year, beginning May 1, 2007, the commissioner shall inform the nonstate entities listed in paragraph (a) of the amount of federal disproportionate share hospital payment money expected to be available in the current federal fiscal year.

(c) The commissioner shall apply for federal matching funds for general assistance medical care expenditures as follows:

(1) for hospital services occurring on or after July 1, 2007, general assistance medical care expenditures for fee-for-service inpatient and outpatient hospital payments made by the department shall be used to apply for federal matching funds, except as limited below:

(i) only those general assistance medical care expenditures made to an individual hospital that would not cause the hospital to exceed its individual hospital limits under section 1923 of the Social Security Act may be considered; and

(ii) general assistance medical care expenditures may be considered only to the extent of Minnesota's aggregate allotment under section 1923 of the Social Security Act; and

(2) all hospitals must provide any necessary expenditure, cost, and revenue information required by the commissioner as necessary for purposes of obtaining federal Medicaid matching funds for general assistance medical care expenditures.

(d) For the period from April 1, 2009, to September 30, 2010, the commissioner shall apply for additional federal matching funds available as disproportionate share hospital payments under the American Recovery and Reinvestment Act of 2009. These funds shall be made available as the state share of payments under section 256.969, subdivision 28. The entities required to report certified public expenditures under paragraph (b), clause (1), shall report additional certified public expenditures as necessary under this paragraph.

(e) For services provided on or after July 1, 2011, the commissioner shall apply for additional federal matching funds available as disproportionate share hospital payments under the MinnesotaCare program according to the requirements and conditions of paragraph (c).

Sec. 2. Minnesota Statutes 2010, section 256L.11, subdivision 6, is amended to read:

Subd. 6. **Enrollees 18 or older.** Payment by the MinnesotaCare program for inpatient hospital services provided to MinnesotaCare enrollees eligible under section 256L.04, subdivision 7, or who qualify under section 256L.04, subdivisions 1 and 2, with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant, who are 18 years old or older on the date of admission to the inpatient hospital must be in accordance with paragraphs (a) and (b). Payment for adults who are not pregnant and are eligible under section 256L.04, subdivisions 1 and 2, and whose incomes are equal to or less than 175 percent of the federal poverty guidelines, shall be as provided for under paragraph (c).

(a) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4, is less than or equal to the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4. The hospital must not seek payment from the enrollee in addition to the co-payment. The MinnesotaCare payment plus the co-payment must be treated as payment in full.

(b) If the medical assistance rate minus any co-payment required under section 256L.03, subdivision 4, is greater than the amount remaining in the enrollee's benefit limit under section 256L.03, subdivision 3, payment must be the lesser of:

(1) the amount remaining in the enrollee's benefit limit; or

(2) charges submitted for the inpatient hospital services less any co-payment established under section 256L.03, subdivision 4.

The hospital may seek payment from the enrollee for the amount by which usual and customary charges exceed the payment under this paragraph. If payment is reduced under section 256L.03, subdivision 3, paragraph (b), the hospital may not seek payment from the enrollee for the amount of the reduction.

(c) For admissions occurring on or after July 1, 2011, for single adults and households without children who are eligible under section 256L.04, subdivision 7, the commissioner shall pay hospitals directly, up to the medical assistance payment rate, for inpatient hospital benefits up to the \$10,000 annual inpatient benefit limit, minus any co-payment required under section 256L.03, subdivision 5. Inpatient services paid directly by the commissioner under this paragraph do not include chemical dependency hospital-based and residential treatment.

ARTICLE 14 MEDICAL ASSISTANCE PROVIDERS

Section 1. Minnesota Statutes 2010, section 256B.02, is amended by adding a subdivision to read:

Subd. 16. **Termination; terminate.** "Termination" or "terminate" for a provider means a state Medicaid program or state children's health insurance program has taken an action to revoke the provider's billing privileges, the provider has exhausted all appeal rights or the timeline for appeal has expired, there is no expectation by the provider, Medicaid program, or state children's health insurance program that the revocation is temporary, the provider will be required to reenroll to reinstate billing privileges, and the termination occurred for cause, including fraud, integrity, or quality.

Sec. 2. Minnesota Statutes 2010, section 256B.03, is amended by adding a subdivision to read:

Subd. 4. **Prohibition on payments to providers outside of the United States.** Payments for medical assistance must not be made:

(1) for services delivered or items supplied outside of the United States; or

(2) to a provider, financial institution, or entity located outside of the United States.

Sec. 3. Minnesota Statutes 2010, section 256B.03, is amended by adding a subdivision to read:

Subd. 5. **Ordering or referring providers.** Claims for payments for supplies or services that are based on an order or referral of a provider must include the ordering or referring provider's national provider identifier (NPI). Claims for supplies or services ordered or referred by a vendor who is not enrolled in medical assistance are not covered.

Sec. 4. Minnesota Statutes 2010, section 256B.04, is amended by adding a subdivision to read:

Subd. 20. **Provider enrollment.** (a) If the commissioner determines that there is a significant risk of fraudulent activity among a category of providers, the commissioner may withhold payment from providers within that category upon initial enrollment for a 90-day period. The withholding for each provider must begin on the date of the first submission of a claim.

(b) The commissioner shall require, as a condition of enrollment in medical assistance, that a provider within a particular industry sector or category establish a compliance program that contains the core elements established by the Center for Medicare and Medicaid Services.

(c) The commissioner may terminate the enrollment of an ordering or rendering provider if the provider fails to maintain and, upon request from the commissioner, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by such provider.

(d) The commissioner shall terminate or deny the enrollment of any individual or entity if the individual or entity has been terminated from participation in Medicare or in any other state's health care program.

(e)(1) A provider who submits an application for enrollment shall disclose any current or previous affiliation, direct or indirect, with a provider that has an unpaid debt to any state or federal health care program, has been or is subject to a payment suspension under a state or federal health care program, has been or is suspended, terminated, or excluded from participation in a state or federal health care program, or has had its billing privileges denied or revoked. "Affiliation" means a relationship where a person or entity directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the provider.

(2) If the commissioner determines that a previous affiliation in clause (1) poses an undue risk of fraud, waste, or abuse, the commissioner may deny the application for enrollment. The commissioner may revoke enrollment of a provider if the commissioner determines that a provider failed to disclose an affiliation.

(f) As a condition of enrollment in medical assistance, the commissioner shall require that a provider permit the Centers for Medicare and Medicaid Services, its agents, or its designated contractors and the state agency, its agents, or its designated contractors to conduct unannounced on-site inspections of any provider location.

(g) As a condition of enrollment in medical assistance, the commissioner shall require that a provider consent to criminal background checks, including fingerprinting, when required to do so under state law or by the level of screening based on risk of fraud, waste, or abuse as determined for that category of provider.

(h) The commissioner may terminate the enrollment of and exclude from participation any provider or individual for making or causing to be made any false statement, omission, or misrepresentation of material fact in any application, agreement, or contract to participate or enroll as a provider. The commissioner may impose civil monetary penalties not to exceed \$50,000 for the conduct described in this paragraph. A provider who is excluded, terminated, or subjected to civil monetary penalties under this paragraph may request a contested case proceeding under section 256B.0643.

Sec. 5. Minnesota Statutes 2010, section 256B.064, subdivision 2, is amended to read:

Subd. 2. Imposition of monetary recovery and sanctions. (a) The commissioner shall determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor of medical care under this section. Except as provided in paragraphs (b) and (d), neither a monetary recovery nor a sanction will be imposed by the commissioner without prior notice and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, after notice and prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

(b) ~~Except for a nursing home or convalescent care facility, when the commissioner finds good cause to suspend payments under Code of Federal Regulations, title 42, section 455.23(e) or (f), the commissioner may shall~~ withhold or reduce payments to a vendor of medical care without providing advance notice of such withholding or reduction if either of the following occurs:

(1) the vendor is convicted of a crime involving the conduct described in subdivision 1a; or

(2) the commissioner ~~receives reliable evidence of fraud or willful misrepresentation by the vendor.~~ determines there is a credible allegation of fraud for which an investigation is pending under the program. A credible allegation of fraud is an allegation which has been verified by the state, from any source, including but not limited to:

(i) fraud hotline complaints;

(ii) claims data mining; and

(iii) patterns identified through provider audits, civil false claims cases, and law enforcement investigations.

Allegations are considered to be credible when they have an indicia of reliability and the state agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis.

(c) The commissioner must send notice of the withholding or reduction of payments under paragraph (b) within five days of taking such action unless requested in writing by a law enforcement agency to temporarily withhold the notice. The notice must:

(1) state that payments are being withheld according to paragraph (b);

(2) set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning an ongoing investigation;

~~(2)~~ (3) except in the case of a conviction for conduct described in subdivision 1a, state that the withholding is for a temporary period and cite the circumstances under which withholding will be terminated;

~~(3)~~ (4) identify the types of claims to which the withholding applies; and

~~(4)~~ (5) inform the vendor of the right to submit written evidence for consideration by the commissioner.

The withholding or reduction of payments will not continue after the commissioner determines there is insufficient evidence of fraud ~~or willful misrepresentation~~ by the vendor, or after legal proceedings relating to the alleged fraud ~~or willful misrepresentation~~ are completed, unless the commissioner has sent notice of intention to impose monetary recovery or sanctions under paragraph (a).

(d) The commissioner ~~may~~ shall suspend or terminate a vendor's participation in the program without providing advance notice and an opportunity for a hearing when the suspension or termination is required because of the vendor's exclusion from participation in Medicare. Within five days of taking such action, the commissioner must send notice of the suspension or termination. The notice must:

(1) state that suspension or termination is the result of the vendor's exclusion from Medicare;

(2) identify the effective date of the suspension or termination; and

(3) inform the vendor of the need to be reinstated to Medicare before reapplying for participation in the program; ~~and~~

~~(4) inform the vendor of the right to submit written evidence for consideration by the commissioner.~~

(e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

- (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;
- (2) the computation that the vendor believes is correct;
- (3) the authority in statute or rule upon which the vendor relies for each disputed item;
- (4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and
- (5) other information required by the commissioner.

Sec. 6. Minnesota Statutes 2010, section 256B.0641, subdivision 1, is amended to read:

Subdivision 1. **Recovery procedures; sources.** Notwithstanding section 256B.72 or any law or rule to the contrary, when the commissioner or the federal government determines that an overpayment has been made by the state to any medical assistance vendor, the commissioner shall recover the overpayment as follows:

(1) if the federal share of the overpayment amount is due and owing to the federal government under federal law and regulations, the commissioner shall recover from the medical assistance vendor the federal share of the determined overpayment amount paid to that provider using the schedule of payments required by the federal government;

(2) if the overpayment to a medical assistance vendor is due to a retroactive adjustment made because the medical assistance vendor's temporary payment rate was higher than the established desk audit payment rate or because of a department error in calculating a payment rate, the commissioner shall recover from the medical assistance vendor the total amount of the overpayment within 120 days after the date on which written notice of the adjustment is sent to the medical assistance vendor or according to a schedule of payments approved by the commissioner; ~~and~~

(3) a medical assistance vendor is liable for the overpayment amount owed by a long-term care provider if the vendors or their owners are under common control or ownership; and

(4) in order to collect past due obligations to the department, the commissioner shall make any necessary adjustments to payments to a provider or vendor that has the same tax identification number as is assigned to a provider or vendor with past due obligations.

Sec. 7. Minnesota Statutes 2010, section 256B.27, subdivision 3, is amended to read:

Subd. 3. **Access to medical records.** The commissioner of human services, with the written consent of the recipient, on file with the local welfare agency, shall be allowed access to all personal medical records of medical assistance recipients solely for the purposes of investigating whether or not: ~~(a) (1) a vendor of medical care has submitted a claim for reimbursement, a cost report or a rate application which is duplicative, erroneous, or false in whole or in part, or which results in the vendor obtaining greater compensation than the vendor is legally entitled to; or (b) (2) the medical care was medically necessary. The vendor of medical care shall receive notification from the commissioner at least 24 hours before the commissioner gains access to such records.~~ The determination of provision of services not medically necessary shall be made by the commissioner. The commissioner may consult with an advisory task force of vendors the commissioner may appoint, on the recommendation of appropriate professional organizations. The task force expires as provided in section 15.059, subdivision 6. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of human services pursuant to this section.

ARTICLE 15
NONEMERGENCY MEDICAL TRANSPORTATION

Section 1. **NONEMERGENCY MEDICAL TRANSPORTATION ADVISORY COMMITTEE.**

(a) The commissioner of human services shall establish a nonemergency medical transportation advisory committee. The nonemergency medical transportation advisory committee shall advise the commissioner regarding the creation of a single administrative structure for the coordination and management of nonemergency medical transportation services provided under this chapter.

(b) Members must include, but are not limited to, representatives from the following: Departments of Human Services and Transportation; Association of Minnesota Counties; Metropolitan Council; ARC of Minnesota; Minnesota State Council on Disabilities; transportation providers; managed care plans; skilled nursing facilities; a representative from a metropolitan county and a rural county; and the National Alliance on Mental Illness. The commissioner shall submit a proposal with draft legislation to the legislature by January 15, 2012.

ARTICLE 16
MANAGED CARE REPORTING

Section 1. Minnesota Statutes 2010, section 13.461, subdivision 24a, is amended to read:

Subd. 24a. **Managed care plans.** Data provided to the commissioner of human services by managed care plans relating to contracts and provider payment rates are classified under section 256B.69, subdivisions 9a and ~~9b~~ 9c.

Sec. 2. Minnesota Statutes 2010, section 256B.69, is amended by adding a subdivision to read:

Subd. 9c. **Managed care financial reporting.** (a) The commissioner shall collect detailed data regarding financials, provider payments, provider rate methodologies, and other data as determined by the commissioner and managed care and county-based purchasing plans that are required to be submitted under this section. The commissioner, in consultation with the commissioners of health and commerce, shall set uniform criteria, definitions, and standards for the data to be submitted, and shall require managed care and county-based purchasing plans to comply with these criteria, definitions, and standards when submitting data under this section.

(b) Each managed care and county-based purchasing plan must annually provide to the commissioner, in the form and manner specified by the commissioner:

(1) administrative expenses by category and subcategory, by program;

(2) revenues by program, including investment income;

(3) nonadministrative service payments, provider payments, and reimbursement rates by provider type or service category, by program, including but not limited to:

(i) individual-level provider payment and reimbursement rate data;

(ii) provider reimbursement rate methodologies by provider type, by program, including health care home and total cost of care rate methodologies and other provider total cost or risk-based arrangements;

(iii) data on legislatively mandated provider rate changes; and

(iv) plan-specific provider rate methodologies and individual-level or disaggregated data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02;

(4) data on the amount of reinsurance or transfer of risk by program; and

(5) contribution to reserve, by program.

Sec. 3. **REPEALER.**

Minnesota Statutes 2010, section 256B.69, subdivision 9b, is repealed."

Delete the title and insert:

"A bill for an act relating to human services; making changes to health care program provisions; making technical and policy changes; clarifying obsolete language; making federal conformity changes; clarifying eligibility requirements; modifying pharmaceutical provisions; clarifying certain covered services; eliminating the elderly waiver payment; providing a right to appeal and appeal processes; imposing provider requirements; requiring a report on nonemergency medical transportation; requiring reporting of managed care and county-based purchasing data; providing civil penalties; amending Minnesota Statutes 2010, sections 13.461, subdivision 24a; 256B.02, by adding a subdivision; 256B.03, by adding subdivisions; 256B.04, by adding a subdivision; 256B.056, subdivisions 1c, 3, 3c; 256B.057, subdivision 9; 256B.0625, subdivisions 13, 13d, 13e, 17a, 22, 31; 256B.064, subdivision 2; 256B.0641, subdivision 1; 256B.0659, subdivision 30; 256B.199; 256B.27, subdivision 3; 256B.69, subdivisions 5, 28, by adding a subdivision; 256L.04, subdivision 7b; 256L.05, subdivision 3; 256L.11, subdivision 6; 256L.15, subdivision 1; Laws 2010, First Special Session chapter 1, article 16, sections 8; 9; 10; repealing Minnesota Statutes 2010, sections 256.01, subdivision 18b; 256B.69, subdivision 9b."

With the recommendation that when so amended the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1544, A bill for an act relating to counties; providing a process for making certain county offices appointive in Marshall County.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **MARSHALL COUNTY OFFICES MAY BE APPOINTED.**

Subdivision 1. **Authority to make office appointive.** Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Marshall County Board of Commissioners, the offices of county recorder and county auditor-treasurer are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. **Board controls; may change as long as duties done.** Upon adoption of a resolution by the Marshall County Board of Commissioners and subject to subdivisions 3 and 4, the duties of an elected official required by statute whose office is made appointive as authorized by this section must be discharged by the Marshall County

Board of Commissioners acting through a department head appointed by the board for that purpose. Reorganization, reallocation, delegation, or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. **Incumbents to complete term.** The person elected at the last general election to an office made appointive under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. **Publishing resolution; petition, referendum.** (a) Before the adoption of the resolution to provide for the appointment of the county recorder and county auditor-treasurer, the county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week for two consecutive weeks in the official publication of the county. Following publication and prior to formally adopting the resolution, the county board shall provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the Marshall County Board of Commissioners may adopt a resolution that provides for the appointment of the county recorder and county auditor-treasurer as permitted in this section. The resolution must be approved by at least 80 percent of the members of the county board. The resolution may take effect 60 days after it is adopted, or at a later date stated in the resolution, unless a petition is filed as provided in paragraph (b).

(b) Within 60 days after the county board adopts the resolution, a petition requesting a referendum may be filed with the county auditor-treasurer. The petition must be signed by at least ten percent of the registered voters of Marshall County. The petition must meet the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If the petition is sufficient, the question of appointing the county recorder and county auditor-treasurer must be placed on the ballot at a regular or special election. If a majority of the voters of the county voting on the question vote in favor of appointment, the resolution may be implemented.

Subd. 5. **Reverting to elected offices.** (a) The county board may adopt a resolution to provide for the election of an office made an appointed position under this section, but not until at least three years after the office was made an appointed position. The county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week for two consecutive weeks in the official publication of the county. Following publication and before formally adopting the resolution, the county board must provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment hearing, the county board may adopt the resolution. The resolution must be approved by at least 60 percent of the members of the county board and is effective August 1 following adoption of the resolution.

(b) The question of whether an office made an appointed position under this section must be made an elected office must be placed on the ballot at the next general election if (1) the position has been an appointed position for at least three years, (2) a petition signed by at least ten percent of the registered voters of the county is filed with the office of the county auditor-treasurer by August 1 of the year in which the general election is held, and (3) the petition meets the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If a majority of the voters of the county voting on the question vote in favor of making the office an elected position, the election for that office must be held at the next regular or special election.

EFFECTIVE DATE. This section is effective the day after the Marshall County Board of Commissioners and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 2. **FREEBORN COUNTY OFFICES MAY BE APPOINTED.**

Subdivision 1. Authority to make office appointive. Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Freeborn County Board of Commissioners, the offices of county recorder and county auditor-treasurer are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. Board controls; may change as long as duties done. Upon adoption of a resolution by the Freeborn County Board of Commissioners and subject to subdivisions 3 and 4, the duties of an elected official required by statute whose office is made appointive as authorized by this section must be discharged by the Freeborn County Board of Commissioners acting through a department head appointed by the board for that purpose. Reorganization, reallocation, delegation, or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. Incumbents to complete term. The person elected at the last general election to an office made appointive under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. Publishing resolution; petition, referendum. (a) Before the adoption of the resolution to provide for the appointment of the county recorder and county auditor-treasurer, the county board must publish once each week for two consecutive weeks, in the official publication of the county, a proposed resolution notifying the public of its intent to consider the issue. Following publication and prior to formally adopting the resolution, the county board shall provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the Freeborn County Board of Commissioners may adopt a resolution that provides for the appointment of the county recorder and county auditor-treasurer as permitted in this section. The resolution must be approved by at least 80 percent of the members of the county board.

(b) Within 30 days after the second publication, a petition requesting a referendum may be filed with the county auditor-treasurer. The petition must be signed by at least ten percent of the registered voters of Freeborn County. The petition must meet the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If the petition is sufficient, the question of appointing the county recorder and county auditor-treasurer must be placed on the ballot at a regular or special election. If a majority of the voters of the county voting on the question vote in favor of appointment, the resolution may be implemented.

EFFECTIVE DATE. This section is effective the day after the Freeborn County Board of Commissioners and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 3. **MOWER COUNTY OFFICES MAY BE APPOINTED.**

Subdivision 1. Authority to make office appointive. Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Mower County Board of Commissioners, the offices of county recorder and county auditor-treasurer are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. Board controls; may change as long as duties done. Upon adoption of a resolution by the Mower County Board of Commissioners and subject to subdivisions 3 and 4, the duties of an elected official required by statute whose office is made appointive as authorized by this section must be discharged by the Mower County Board of Commissioners acting through a department head appointed by the board for that purpose. Reorganization, reallocation, delegation, or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. **Incumbents to complete term.** The person elected at the last general election to an office made appointive under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. **Publishing resolution; petition, referendum.** (a) Before the adoption of the resolution to provide for the appointment of the county recorder and county auditor-treasurer, the county board must publish once each week for two consecutive weeks, in the official publication of the county, a proposed resolution notifying the public of its intent to consider the issue. Following publication and prior to formally adopting the resolution, the county board shall provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the Mower County Board of Commissioners may adopt a resolution that provides for the appointment of the county recorder and county auditor-treasurer as permitted in this section. The resolution must be approved by at least 80 percent of the members of the county board.

(b) Within 30 days after the second publication, a petition requesting a referendum may be filed with the county auditor-treasurer. The petition must be signed by at least ten percent of the registered voters of Mower County. The petition must meet the requirements of the secretary of state, as provided in Minnesota Statutes, section 204B.071, and any rules adopted to implement that section. If the petition is sufficient, the question of appointing the county recorder and county auditor-treasurer must be placed on the ballot at a regular or special election. If a majority of the voters of the county voting on the question vote in favor of appointment, the resolution may be implemented.

EFFECTIVE DATE. This section is effective the day after the Mower County Board of Commissioners and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Delete the title and insert:

"A bill for an act relating to counties; providing a process for making certain county offices appointive in Marshall, Freeborn, and Mower Counties."

With the recommendation that when so amended the bill pass.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1545, A bill for an act relating to energy; establishing Energy Reliability and Intervention Office within Department of Commerce to replace Energy Issues Intervention Office and energy reliability administrator; making conforming changes; amending Minnesota Statutes 2010, sections 216B.62, subdivisions 2, 3; 216C.052; repealing Minnesota Statutes 2010, section 216A.085.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1573, A bill for an act relating to probate; authorizing courts to modify certain provisions; amending Minnesota Statutes 2010, section 524.2-712.

Reported the same back with the following amendments:

Page 1, after line 4, insert:

"ARTICLE 1
WILL AND TRUST CONSTRUCTION REVISION"

Page 2, after line 17, insert:

"ARTICLE 2
UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT"

Section 1. Minnesota Statutes 2010, section 524.2-1103, is amended to read:

524.2-1103 SCOPE.

Sections ~~524.2-1101 to 524.2-1116~~ apply to ~~disclaimers of any interest in or power over property, whenever created.~~ Except as provided in section 524.2-1116, sections 524.2-1101 to 524.2-1116 are the exclusive means by which a disclaimer may be made under Minnesota law regardless of whether it is qualified under section 2518 of the Internal Revenue Code of 1986 ~~in effect on January 1, 2010~~ as defined in section 291.005, subdivision 1, clause 3.

Sec. 2. Minnesota Statutes 2010, section 524.2-1104, is amended to read:

524.2-1104 TAX-QUALIFIED DISCLAIMER.

Notwithstanding any other provision of this chapter, other than section 524.2-1106, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated pursuant to the provisions of section 2518 of the Internal Revenue Code of 1986, ~~as in effect on January 1, 2010~~ defined in section 291.005, subdivision 1, clause 3, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under sections 524.2-1101 to 524.2-1116.

Sec. 3. Minnesota Statutes 2010, section 524.2-1106, is amended to read:

524.2-1106 WHEN DISCLAIMER IS BARRED OR LIMITED.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) the disclaimant accepts the portion of the interest sought to be disclaimed;

(2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the portion of the interest sought to be disclaimed or contracts to do so;

(3) the portion of the interest sought to be disclaimed is sold pursuant to a judicial sale; or

(4) the disclaimant is insolvent when the disclaimer becomes irrevocable.

(c) Acceptance of a distribution from a trust shall constitute acceptance of only that portion of the beneficial interest in that trust that has been distributed, and shall not constitute acceptance or bar disclaimer of that portion of the beneficial interest in the trust that has not yet been distributed.

~~(e)~~ (d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

~~(d)~~ (e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

~~(e)~~ (f) A disclaimer of an interest in, or a power over, property which is barred by this section is ineffective.

Sec. 4. Minnesota Statutes 2010, section 524.2-1107, is amended to read:

524.2-1107 POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE.

(a) A person may disclaim, in whole or in part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) With court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment when acting in a representative capacity. Without court approval, a fiduciary may disclaim, in whole or in part, any interest in or power over property, including a power of appointment, if and to the extent that the instrument creating the fiduciary relationship explicitly grants the fiduciary the right to disclaim. With court approval, a custodial parent may disclaim on behalf of a minor child for whom no conservator has been appointed, in whole or in part, any interest in or power over property, including a power of appointment, which the minor child is to receive.

(c) To be effective, a disclaimer must be in writing, declare the writing as a disclaimer, describe the interest or power disclaimed, and be signed by the person or fiduciary making the disclaimer and acknowledged in the manner provided for deeds of real estate to be recorded in this state. In addition, for a disclaimer to be effective, an original of the disclaimer must be delivered or filed in the manner provided in section 524.2-1114.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, specific property, term of years, portion of a beneficial interest in or right to distributions from a trust, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when the disclaimer is delivered or filed pursuant to section 524.2-1114 or it becomes effective as provided in sections 524.2-1108 to 524.2-1113, whichever occurs later.

(f) A disclaimer made under sections 524.2-1101 to 524.2-1116 is not a transfer, assignment, or release.

Sec. 5. Minnesota Statutes 2010, section 524.2-1114, is amended to read:

524.2-1114 DELIVERY OR FILING.

(a) Subject to paragraphs (b) to (l), delivery of a disclaimer may be effective by personal delivery, first-class mail, or any other method that results in its receipt. A disclaimer sent by first-class mail is deemed to have been delivered on the date it is postmarked. Delivery by any other method is effective upon receipt by the person to whom the disclaimer is to be delivered under this section.

(b) In the case of a disclaimer of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) the disclaimer must be delivered to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration would be proper.

(c) In the case of a disclaimer of an interest in a testamentary trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered or, if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) if no personal representative is serving when the disclaimer is sought to be delivered, the disclaimer must be filed with the clerk of the court in any county where venue of administration of the decedent's estate would be proper.

(d) In the case of a disclaimer of an interest in an inter vivos trust:

(1) the disclaimer must be delivered to the trustee serving when the disclaimer is delivered;

(2) if no trustee is then serving, it must be filed with the clerk of the court in any county where the filing of a notice of trust would be proper; or

(3) if the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the person with the power to revoke the revocable trust or the transferor of the interest or to such person's legal representative.

(e) In the case of a disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation or to such person's legal representative.

(f) In the case of a disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, the disclaimer must be delivered to the person obligated to distribute the interest.

(g) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes or, if such person cannot reasonably be located by the disclaimant, the disclaimer must be delivered as provided in paragraph (b).

(h) In the case of a disclaimer by an object, or taker in default of exercise, of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(1) the holder of the power; or

(2) the fiduciary acting under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(i) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(1) the holder of the power or the personal representative of the holder's estate; or

(2) the fiduciary under the instrument that created the power or, if no fiduciary is serving when the disclaimer is sought to be delivered, filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in paragraph (b), (c), or (d) as if the power disclaimed were an interest in property.

(k) In the case of a disclaimer of a power exercisable by an agent, other than a power exercisable by a fiduciary over a trust or estate, the disclaimer must be delivered to the principal or the principal's representative.

(l) Notwithstanding paragraph (a), delivery of a disclaimer of an interest in or relating to real estate shall be presumed upon the recording of the disclaimer in the office of the ~~clerk of the court~~ county recorder or registrar of titles of the county or counties where the real estate is located.

(m) A fiduciary or other person having custody of the disclaimed interest is not liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer or, if the disclaimer is barred under section 524.2-1106, for any otherwise proper distribution or other disposition made in reliance on the disclaimer, if the distribution or disposition is made without actual knowledge of the facts constituting the bar of the right to disclaim.

Sec. 6. Minnesota Statutes 2010, section 524.2-1115, is amended to read:

524.2-1115 RECORDING OF DISCLAIMER RELATING TO REAL ESTATE.

(a) A disclaimer of an interest in or relating to real estate does not provide constructive notice to all persons unless the disclaimer contains a legal description of the real estate to which the disclaimer relates and unless the disclaimer is ~~filed for recording~~ recorded in the office of the county recorder or registrar of titles in the county or counties where the real estate is located.

(b) An effective disclaimer meeting the requirements of paragraph (a) constitutes constructive notice to all persons from the time of ~~filing recording~~. Failure to record the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Sec. 7. Minnesota Statutes 2010, section 524.2-1116, is amended to read:

524.2-1116 APPLICATION TO EXISTING RELATIONSHIPS.

~~Except as otherwise provided in section 524.2-1106, an~~ Sections 524.2-1101 to 524.2-1116 apply to disclaimers of any interest in or power over property existing on January 1, 2010, as to which the time for delivering or filing a disclaimer under laws superseded by sections 524.2-1101 to 524.2-1116 has not expired, may be disclaimed after January 1, 2010 whenever created.

ARTICLE 3
PROTECTED PERSONS AND WARDS

Section 1. Minnesota Statutes 2010, section 524.5-502, is amended to read:

524.5-502 COMPENSATION AND EXPENSES.

(a) The court may authorize a proceeding under this article to proceed in forma pauperis, as provided in chapter 563.

(b) In proceedings under this article, a lawyer or health professional rendering necessary services with regard to the appointment of a guardian or conservator, the administration of the ward's or protected person's estate or personal affairs, or the restoration of that person's capacity or termination of the protective proceeding shall be entitled to compensation from the ward's or protected person's estate or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. When the court determines that other necessary services have been provided for the benefit of the ward or protected person by a lawyer or health professional, the court may order fees to be paid from the estate of the ward or protected person or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. If, however, the court determines that a petitioner, guardian, or conservator has not acted in good faith, the court shall order some or all of the fees or costs incurred in the proceedings to be borne by the petitioner, guardian, or conservator not acting in good faith. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(c) When the court determines that a guardian or conservator has rendered necessary services or has incurred necessary expenses for the benefit of the ward or protected person, the court may order reimbursement or compensation to be paid from the estate of the ward or protected person or from the county having jurisdiction over the guardianship or protective proceeding if the ward or protected person is indigent. The court may not deny an award of fees solely because the ward or protected person is a recipient of medical assistance. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(d) The court shall order reimbursement or compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or protective proceeding services necessary to prevent maltreatment of a vulnerable adult, as defined in section 626.5572, subdivision 15. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(e) When a county employee serves as a guardian or conservator as part of employment duties, the court shall order compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or protected person's estate for compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

ARTICLE 4 RECEIVERSHIPS

Section 1. [576.21] DEFINITIONS.

(a) The definitions in this section apply throughout this chapter unless the context requires otherwise.

(b) "Court" means the district court in which the receivership is pending unless the context requires otherwise.

(c) "Entity" means a person other than a natural person.

(d) "Executory contract" means a contract, including a lease, where the obligations of both the respondent and the other party to the contract are unperformed to the extent that the failure of either party to complete performance of its obligations would constitute a material breach of the contract, thereby excusing the other party's performance of its obligations under the contract.

(e) "Foreign receiver" means a receiver appointed in any foreign jurisdiction.

(f) "Foreign jurisdiction" means any state or federal jurisdiction other than that of this state.

(g) "General receiver" means the receiver appointed in a general receivership.

(h) "General receivership" means a receivership over all or substantially all of the nonexempt property of a respondent for the purpose of liquidation and distribution to creditors and other parties in interest, including, without limitation, a receivership resulting from the appointment of a receiver pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836.

(i) "Lien" means a charge against or interest in property to secure payment of a debt or the performance of an obligation, including any mortgage or security interest.

(j) "Limited receiver" means the receiver appointed in a limited receivership.

(k) "Limited receivership" means a receivership other than a general receivership.

(l) "Party" means a person who is a party within the meaning of the Minnesota Rules of Civil Procedure in the action in which a receiver is appointed.

(m) "Party in interest" includes the respondent, any equity security holder in the respondent, any person with an ownership interest in or lien on receivership property, and, in a general receivership, any creditor of the respondent.

(n) "Person" has the meaning given it in section 645.44 and shall include limited liability companies, limited liability partnerships, and other entities recognized under the laws of this state.

(o) "Property" means all of respondent's right, title, and interest, both legal and equitable, in real and personal property, regardless of the manner by which any of the same were or are acquired. Property includes, but is not limited to, any proceeds, products, offspring, rents, or profits of or from the property. Property does not include: (1) any power that the respondent may exercise solely for the benefit of another person, or (2) property impressed with a trust except to the extent that the respondent has a residual interest.

(p) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, and, if authorized by this chapter or order of the court, dispose of receivership property.

(q) "Receivership" means the case in which the receiver is appointed, and, as the context requires, the proceeding in which the receiver takes possession of, manages, or disposes of the respondent's property.

(r) "Receivership property" means (1) in the case of a general receivership, all or substantially all of the nonexempt property of the respondent, or (2) in the case of a limited receivership, that property of the respondent identified in the order appointing the receiver, or in any subsequent order.

(s) "Respondent" means the person over whose property the receiver is appointed.

(t) "State agent" and "state agency" means any office, department, division, bureau, board, commission, or other agency of the state of Minnesota or of any subdivision thereof, or any individual acting in an official capacity on behalf of any state agent or state agency.

(u) "Time of appointment" means the date and time specified in the first order of appointment of a receiver or, if the date and time are not specified in the order of appointment, the date and time that the court ruled on the motion for the appointment of a receiver. Time of appointment does not mean any subsequent date or time, including the execution of a written order, the filing or docketing of a written order, or the posting of a bond.

(v) "Utility" means a person providing any service regulated by the Public Utilities Commission.

Sec. 2. [576.22] APPLICABILITY OF CHAPTER AND OF COMMON LAW.

(a) This chapter applies to receiverships provided for in section 576.25, subdivisions 2 to 6, and to receiverships:

(1) pursuant to section 193.147, in connection with a mortgage on an armory;

(2) pursuant to section 223.17, subdivision 8, paragraph (b), in connection with a defaulting grain buyer;

(3) pursuant to section 232.22, subdivision 7, paragraph (c), in connection with a defaulting public grain warehouse;

(4) pursuant to section 296A.22, in connection with nonpayment of tax;

(5) pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, in an action relating to the dissolution of an entity and relating to, in like cases, property within the state of foreign entities;

(6) pursuant to section 321.0703, in connection with the rights of a creditor of a partner or transferee;

(7) pursuant to section 322.22, in connection with the rights of creditors of limited partners;

(8) pursuant to section 323A.0504, in connection with a partner's transferable interest;

(9) pursuant to section 453.55, in connection with bonds and notes;

(10) pursuant to section 453A.05, in connection with bonds and notes;

(11) pursuant to section 513.47, in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(12) pursuant to section 514.06, in connection with the severance of a building and resale;

(13) pursuant to section 515.23, in connection with an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(14) pursuant to section 518A.71, in connection with the failure to pay, or to provide security for, maintenance or support payments;

(15) pursuant to section 559.17, in connection with assignments of rents; however, any receiver appointed under section 559.17 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with section 559.17;

(16) pursuant to section 571.84, in connection with a garnishee in possession of property subject to a garnishment proceeding;

(17) pursuant to section 575.05, in connection with property applied to judgment;

(18) pursuant to section 575.06, in connection with adverse claimants;

(19) pursuant to sections 582.05 to 582.10, in connection with mortgage foreclosures; however, any receiver appointed under sections 582.05 to 585.10 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with sections 582.05 to 582.10;

(20) pursuant to section 609.904, in connection with criminal penalties; or

(21) pursuant to section 609.907, in connection with preservation of property subject to forfeiture.

(b) This chapter does not apply to any receivership in which the receiver is a state agency or in which the receiver is appointed, controlled, or regulated by a state agency unless otherwise provided by law.

(c) In receiverships not specifically referenced in paragraph (a) or (b), the court, in its discretion, may apply provisions of this chapter to the extent not inconsistent with the statutes establishing the receiverships.

(d) Unless explicitly displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter.

Sec. 3. **[576.23] POWERS OF THE COURT.**

The court has the exclusive authority to direct the receiver and the authority over all receivership property wherever located including, without limitation, authority to determine all controversies relating to the collection, preservation, improvement, disposition, and distribution of receivership property, and all matters otherwise arising in or relating to the receivership, the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

Sec. 4. **[576.24] TYPES OF RECEIVERSHIPS.**

A receivership may be either a limited receivership or a general receivership. Any receivership which is based upon the enforcement of an assignment of rents or leases, or the foreclosure of a mortgage lien, judgment lien, mechanic's lien, or other lien pursuant to which the respondent or any holder of a lien would have a statutory right of redemption, shall be a limited receivership. If the order appointing the receiver does not specify whether the receivership is a limited receivership or a general receivership, the receivership shall be a limited receivership unless and until the court by later order designates the receivership as a general receivership, notwithstanding that pursuant to section 576.25, subdivision 8, a receiver may have control over all the property of the respondent. At any time, the court may order a general receivership to be converted to a limited receivership and a limited receivership to be converted to a general receivership.

Sec. 5. **[576.25] APPOINTMENT OF RECEIVERS; RECEIVERSHIP NOT A TRUST.**

Subdivision 1. **No necessity of separate action.** A receiver may be appointed under this chapter whether or not the motion for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment.

Subd. 2. **Before judgment.** Except where judgment for failure to answer may be had without application to the court, a limited receiver may be appointed before judgment to protect any party to an action who demonstrates an apparent right to property that is the subject of the action and is in the possession of an adverse party, and that the property or its rents and profits are in danger of loss or material impairment.

Subd. 3. **In a judgment or after judgment.** A limited or general receiver may be appointed in a judgment or after judgment to carry the judgment into effect, to preserve property pending an appeal, or when an execution has been returned unsatisfied and the judgment debtor refuses to apply the property in satisfaction of the judgment.

Subd. 4. **Entities.** In addition to those situations specifically provided for in statute, a limited or general receiver may be appointed when a corporation or other entity is dissolved, insolvent, in imminent danger of insolvency, or has forfeited its corporate rights and in like cases of the property within the state of foreign corporations and other entities.

Subd. 5. **Appointment of receiver of mortgaged property.** (a) A limited receiver shall be appointed at any time after the commencement of mortgage foreclosure proceedings under chapter 580 or 581 and before the end of the period for redemption, if the mortgage being foreclosed:

(1) secures an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(2) is not a lien upon property that was entirely homesteaded, residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or agricultural property.

The foreclosing mortgagee or the purchaser at foreclosure sale may at any time bring an action in the district court of the county in which the mortgaged property or any part thereof is located for the appointment of a receiver; provided, however, if the foreclosure is by action under chapter 581, a separate action need not be filed.

(b) The court shall appoint a receiver upon a showing that the mortgagor has breached a covenant contained in the mortgage relating to any of the following:

(1) application of tenant security deposits as required by section 504B.178;

(2) payment when due of prior or current real estate taxes or special assessments with respect to the mortgaged property or the periodic escrow for the payment of the taxes or special assessments;

(3) payment when due of premiums for insurance of the type required by the mortgage or the periodic escrow for the payment of the premiums; or

(4) keeping of the covenants required of a landlord or licensor pursuant to section 504B.161, subdivision 1.

(c) The receiver shall be or shall retain an experienced property manager.

(d) The receiver shall collect the rents, profits, and all other income of any kind. The receiver, after providing for payment of its reasonable fees and expenses, shall, to the extent possible and in the order determined by the receiver to preserve the value of the mortgaged property:

(1) manage the mortgaged property so as to prevent waste;

(2) execute contracts and leases within the period of the receivership, or beyond the period of the receivership if approved by the court;

(3) pay the expenses listed in paragraph (b), clauses (1) to (3);

(4) pay all expenses for normal maintenance of the mortgaged property; and

(5) perform the terms of any assignment of rents that complies with section 559.17, subdivision 2.

(e) The purchaser at a foreclosure sale shall have the right, at any time and without limitation as provided in section 582.03, to advance money to the receiver to pay any or all of the expenses that the receiver should otherwise pay if cash were available from the mortgaged property. Sums so advanced, with interest, shall be a part of the sum required to be paid to redeem from the sale. The sums shall be proved by the affidavit of the purchaser, an agent, or attorney, stating the expenses and describing the mortgaged property. The affidavit shall be furnished to the sheriff in the manner of expenses claimed under section 582.03.

(f) Any sums collected that remain in the possession of the receiver at the termination of the receivership shall, in the event the termination of the receivership is due to the reinstatement of the mortgage debt or redemption of the mortgaged property by the mortgagor, be paid to the mortgagor; and in the event termination of the receivership occurs at the end of the period of redemption without redemption by the mortgagor or any other party entitled to redeem, interest accrued upon the sale price pursuant to section 580.23 or 581.10 shall be paid to the purchaser at the foreclosure sale. Any net sum remaining shall be paid to the mortgagor, except if the receiver was enforcing an assignment of rents that complies with section 559.17, subdivision 2, in which case any net sum remaining shall be paid pursuant to the terms of the assignment.

(g) This subdivision applies to all mortgages executed on or after August 1, 1977, and to amendments or modifications thereto, and to amendments or modifications made on or after August 1, 1977, to mortgages executed before August 1, 1977, if the amendment or modification is duly recorded and is for the principle purpose of curing a default.

Subd. 6. **Other cases.** A receiver may be appointed in other cases as are provided by law, or in accord with existing practice, except as otherwise prescribed.

Subd. 7. **Motion for appointment of receiver.** The court may appoint a receiver upon a motion with notice to the respondent, to all other parties in the action, and to parties in interest and other persons as the court may require. Notice shall also be given to any judgment creditor who is seeking the appointment of a receiver in any other action. A motion to appoint a general receiver shall be treated as a dispositive motion. The court may appoint a receiver ex parte or on shortened notice on a temporary basis if it is clearly shown that an emergency exists requiring the immediate appointment of a receiver. In that event, the court shall set a hearing as soon as practicable and at the subsequent hearing, the burdens of proof shall be as would be applicable to a motion made on notice that is not expedited.

Subd. 8. **Description of receivership property.** The order appointing the receiver or subsequent order shall describe the receivership property with particularity appropriate to the circumstances. If the order does not so describe the receivership property, until further order of the court, the receiver shall have control over all of the respondent's nonexempt property.

Subd. 9. **Receivership not a trust.** The order appointing the receiver does not create a trust.

Sec. 6. **[576.26] ELIGIBILITY OF RECEIVER.**

Subdivision 1. **Who may serve as receiver.** Unless otherwise prohibited by law or prior order, any person, whether or not a resident of this state, may serve as a receiver, provided that the court, in its order appointing the receiver, makes written conclusions based in the record that the person proposed as receiver:

(1) is qualified to serve as receiver and as an officer of the court; and

(2) is independent as to the parties and the underlying dispute.

Subd. 2. **Considerations regarding qualifications.** (a) In determining whether a proposed receiver is qualified to serve as receiver and as an officer of the court, the court shall consider any relevant information, including, but not limited to, whether:

(1) the proposed receiver has knowledge and experience sufficient to perform the duties of receiver;

(2) the proposed receiver has the financial ability to post the bond required by section 576.07;

(3) the proposed receiver or any insider of the proposed receiver has been previously disqualified from serving as receiver and the reasons for disqualification;

(4) the proposed receiver or any insider of the proposed receiver has been convicted of a felony or other crime involving moral turpitude; and

(5) the proposed receiver or any insider of the proposed receiver has been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct.

(b) For the purposes of this subdivision, "insider" includes:

(1) if the proposed receiver is a corporation, an officer or director of the corporation, or a person in control of the proposed receiver; and

(2) if the proposed receiver is a partnership, a general or limited partner of the partnership, or a person in control of the proposed receiver.

Subd. 3. **Considerations regarding independence.** (a) In determining whether a proposed receiver is independent as to the parties and the underlying dispute, the court shall consider any relevant information, including, but not limited to:

(1) the nature and extent of any relationship that the proposed receiver has to the parties and the property proposed as receivership property including, without limitation, whether the proposed receiver is a party to the action, a family member of a party to the action, or an officer, director, member, employee, or owner of or controls a party to the action;

(2) whether the proposed receiver has any interest materially adverse to the interests of any of the parties to the action;

(3) whether the proposed receiver has any material financial or pecuniary interest, other than receiver compensation allowed by court order, in the outcome of the underlying dispute, including any proposed contingent or success fee compensation arrangement; and

(4) whether the proposed receiver is a debtor, secured or unsecured creditor, lienor of, or holder of any equity interest in, any of the parties to the action of the receivership property.

(b) In evaluating all information, the court may exercise its discretion and need not consider any single item of information to be determinative of independence. Without limiting the generality of the preceding sentence, the proposed receiver shall not be disqualified solely because the proposed receiver was appointed receiver in other unrelated matters involving any of the parties to the matter in which the appointment is sought, or the proposed receiver has been engaged by any of the parties to the action in matters unrelated to the underlying action.

Subd. 4. **Information provided to court.** The proposed receiver, the parties, and prospective parties in interest may provide any information relevant to the qualifications, independence, and selection of the receiver.

Sec. 7. **[576.27] BOND.**

After appointment, a receiver shall give a bond in the sum, nature, and with the conditions that the court shall order in its discretion consistent with section 574.11. Unless otherwise ordered by the court, the receiver's bond shall be conditioned on the receiver's faithful discharge of its duties in accordance with the orders of the court and the laws of this state. The receiver shall execute a bond with a surety authorized to write bonds in the state.

Sec. 8. **[576.28] IMMUNITY; DISCOVERY FROM RECEIVER.**

(a) The receiver shall be entitled to all defenses and immunities provided at common law for acts or omissions within the scope of the receiver's appointment.

(b) No person other than a successor receiver duly appointed by the court shall have a right of action against a receiver to recover receivership property or the value thereof.

(c) A party or party in interest may conduct discovery of the receiver concerning any matter relating to the receiver's administration of the receivership property after obtaining an order authorizing the discovery.

Sec. 9. **[576.29] POWERS AND DUTIES OF RECEIVERS; GENERALLY.**

Subdivision 1. Powers. (a) A receiver, whether general or limited, shall have the following powers in addition to those specifically conferred by this chapter or otherwise by statute, rule, or order of the court:

(1) the power to collect, control, manage, conserve, and protect receivership property;

(2) the power to incur and pay expenses incidental to the receiver's exercise of the powers or otherwise in the performance of the receiver's duties;

(3) the power to assert rights, claims, causes of action, or defenses that relate to receivership property; and

(4) the power to seek and obtain instruction from the court with respect to any matter relating to the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

(b) In addition to the powers provided in paragraph (a), a general receiver shall have the power:

(1) to (i) assert any rights, claims, causes of action, or defenses of the respondent to the extent any rights, claims, causes of action, or defenses are receivership property; (ii) maintain in the receiver's name or in the name of the respondent any action to enforce any right, claim, cause of action, or defense; and (iii) intervene in actions in which the respondent is a party for the purpose of exercising the powers under this clause or requesting transfer of venue of the action to the court;

(2) to pursue any claim or remedy that may be asserted by a creditor of the respondent under sections 513.41 to 513.51;

(3) to compel any person, including the respondent, and any party, by subpoena pursuant to Rule 45 of the Minnesota Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things with respect to receivership property or any other matter that may affect the administration of the receivership;

(4) to operate any business constituting receivership property in the ordinary course of the business, including the use, sale, or lease of property of the business or otherwise constituting receivership property, and the incurring and payment of expenses of the business or other receivership property;

(5) if authorized by an order of the court following notice and a hearing, to use, improve, sell, or lease receivership property other than in the ordinary course of business; and

(6) if appointed pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, to exercise all of the powers and authority provided by the section or order of the court.

Subd. 2. **Duties.** A receiver, whether general or limited, shall have the duties specifically conferred by this chapter or otherwise by statute, rule, or order of the court.

Subd. 3. **Modification of powers and duties.** Except as otherwise provided in this chapter, the court may modify the powers and duties of a receiver provided by this section.

Sec. 10. [576.30] RECEIVER AS LIEN CREDITOR; REAL ESTATE RECORDING; SUBSEQUENT SALES OF REAL ESTATE.

Subdivision 1. **Receiver as lien creditor.** As of the time of appointment, the receiver shall have the powers and priority as if it were a creditor that obtained a judicial lien at the time of appointment pursuant to sections 548.09 and 550.10 on all of the receivership property, subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate recording.** If any interest in real estate is included in the receivership property, a notice of lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the receiver as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the appointment under section 507.34.

Subd. 3. **Subsequent sales of real estate.** The notice of lis pendens, a court order authorizing the receiver to sell real property certified by the court administrator, and a deed executed by the receiver recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the receiver, shall be prima facie evidence of the authority of the receiver to sell and convey the real property described in the deed. The court may also require a motion for an order for sale of the real property or a motion for an order confirming sale of the real property.

Sec. 11. [576.31] DUTIES OF RESPONDENT.

The respondent shall:

(1) assist and cooperate fully with the receiver in the administration of the receivership and the receivership property and the discharge of the receiver's duties and comply with all orders of the court;

(2) immediately upon the receiver's appointment, deliver to the receiver all of the receivership property in the respondent's possession, custody, or control, including, but not limited to, all books and records, electronic data, passwords, access codes, statements of accounts, deeds, titles or other evidence of ownership, financial statements, and all other papers and documents related to the receivership property;

(3) supply to the receiver information as requested relating to the administration of the receivership and the receivership property, including information necessary to complete any reports or other documents that the receiver may be required to file; and

(4) remain responsible for the filing of all tax returns, including those returns applicable to periods which include those in which the receivership is in effect.

Sec. 12. **[576.32] EMPLOYMENT AND COMPENSATION OF PROFESSIONALS.**

Subdivision 1. **Employment.** (a) To represent or assist the receiver in carrying out the receiver's duties, the receiver may employ attorneys, accountants, appraisers, auctioneers, and other professionals that do not hold or represent an interest adverse to the receivership.

(b) This section does not require prior court approval for the retention of professionals. However, any professional to be retained shall provide the receiver with a disclosure of any potential conflicts of interest, and the professional or the receiver shall file with the court a notice of the retention and of the proposed compensation. Any party in interest may bring a motion for disapproval of any retention within 21 days after the filing of the notice of retention.

(c) A person is not disqualified for employment under this section solely because of the person's employment by, representation of, or other relationship with the receiver, respondent, a creditor, or other party in interest if the court determines that the employment is appropriate.

Subd. 2. **Compensation.** (a) The receiver and any professional retained by the receiver shall be paid by the receiver from the receivership property in the same manner as other expenses of administration and without separate orders, but subject to the procedures, safeguards, and reporting that the court may order.

(b) Except to the extent fees and expenses have been approved by the court, or as to parties in interest who are deemed to have waived the right to object, any interim payments of fees and expenses to the receiver are subject to approval in connection with the receiver's final report pursuant to section 576.38.

Sec. 13. **[576.33] SCHEDULES OF PROPERTY AND CLAIMS.**

(a) The court may order the respondent or a general receiver to file under oath to the best of its actual knowledge:

(1) a schedule of all receivership property and exempt property of the respondent, describing, as of the time of appointment:

(i) the location of the property and, if real property, a legal description of the property;

(ii) a description of all liens to which the property is subject; and

(iii) an estimated value of the property; and

(2) a schedule of all creditors and taxing authorities and regulatory authorities which supervise the respondent, their mailing addresses, the amount and nature of their claims, whether the claims are secured by liens of any kind, and whether the claims are disputed.

(b) The court may order inventories and appraisals if appropriate to the receivership.

Sec. 14. **[576.34] NOTICE.**

In a general receivership, unless the court orders otherwise, the receiver shall give notice of the receivership to all creditors and other parties in interest actually known to the receiver by mail or other means of transmission within 21 days after the time of appointment. The notice of the receivership shall include the time of appointment and the names and addresses of the respondent, the receiver, and the receiver's attorney, if any.

Sec. 15. **[576.35] NOTICES, MOTIONS, AND ORDERS.**

Subdivision 1. Notice of appearance. Any party in interest may make an appearance in a receivership by filing a written notice of appearance, including the name, mailing address, fax number, e-mail address, if any, and telephone number of the party in interest and its attorney, if any, and by serving a copy on the receiver and the receiver's attorney, if any. It is not necessary for a party in interest to be joined as a party to be heard in the receivership. A proof of claim does not constitute a written notice of appearance.

Subd. 2. Master service list. From time to time, the receiver shall file an updated master service list consisting of the names, mailing addresses, and, where available, fax numbers and e-mail addresses of the respondent, the receiver, all persons joined as parties in the receivership, all persons known by the receiver to have asserted any ownership or lien in receivership property, all persons who have filed a notice of appearance in accordance with this section, and their attorneys, if any.

Subd. 3. Motions. Except as otherwise provided in this chapter, an order shall be sought by a motion brought in compliance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts.

Subd. 4. Persons served. Except as otherwise provided in this chapter, a motion shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on all persons on the master service list, all persons who have asserted an ownership interest or lien in receivership property that is the subject of the motion, all persons who are identified in the motion as directly affected by the relief requested, and other persons as the court may direct.

Subd. 5. Service on state agency. Any request for relief against a state agency shall be served as provided in the Minnesota Rules of Civil Procedure, unless the court orders otherwise, on the specific state agency and on the Office of the Attorney General.

Subd. 6. Order without hearing. Where a provision in this chapter, an order issued in the receivership, or a court rule requires an objection or other response to a motion or application within a specific time, and no objection or other response is interposed, the court may grant the relief requested without a hearing.

Subd. 7. Order upon application. Where a provision of this chapter permits, as to administrative matters, or where it otherwise appears that no party in interest would be materially prejudiced, the court may issue an order ex parte or based on an application without a motion, notice, or hearing.

Subd. 8. Persons bound by orders of the court. Except as to persons entitled to be served pursuant to subdivision 4 and who were not served, an order of the court binds parties in interest and all persons who file notices of appearance, submit proofs of claim, receive written notice of the receivership, receive notice of any motion in the receivership, or who have actual knowledge of the receivership whether they are joined as parties or received notice of the specific motion or order.

Sec. 16. **[576.36] RECORDS; INTERIM REPORTS.**

Subdivision 1. Preparation and retention of records. The receiver shall prepare and retain appropriate business records, including records of all cash receipts and disbursements and of all receipts and distributions or other dispositions of receivership property. After due consideration of issues of confidentiality, the records may be provided by the receiver to parties in interest or shall be provided as ordered by the court.

Subd. 2. Interim reports. (a) The court may order the receiver to prepare and file interim reports addressing:

(1) the activities of the receiver since the last report;

(2) cash receipts and disbursements, including payments made to professionals retained by the receiver;

(3) receipts and dispositions of receivership property; and

(4) other matters.

(b) The order may provide for the delivery of the receiver's interim reports to persons on the master service list and to other persons and may provide a procedure for objection to the interim reports, and may also provide that the failure to object constitutes a waiver of objection to matters addressed in the interim reports.

Sec. 17. **[576.37] REMOVAL OF RECEIVERS.**

Subdivision 1. **Removal of receiver.** The court may remove the receiver if:

(1) the receiver fails to execute and file the bond required by section 576.27;

(2) the receiver resigns, refuses, or fails to serve for any reason; or

(3) for other good cause.

Subd. 2. **Successor receiver.** Upon removal of the receiver, if the court determines that further administration of the receivership is required, the court shall appoint a successor receiver. Upon executing and filing a bond under section 576.27, the successor receiver shall immediately succeed the receiver so removed and shall assume the duties of receiver.

Subd. 3. **Report and discharge of removed receiver.** Within 14 days after removal, the receiver so removed shall file with the court and serve a report pursuant to section 576.38, subdivision 3, for matters up to the date of the removal. Upon approval of the report, the court may enter an order pursuant to section 576.38, discharging the removed receiver.

Sec. 18. **[576.38] TERMINATION OF RECEIVERSHIPS; FINAL REPORT.**

Subdivision 1. **Termination of receivership.** The court may discharge a receiver and terminate the receivership. If the court determines that the appointment of the receiver was procured in bad faith, the court may assess against the person who procured the receiver's appointment:

(1) all of the receiver's fees and expenses and other costs of the receivership; and

(2) any other sanctions the court deems appropriate.

Subd. 2. **Request for discharge.** Upon distribution or disposition of all receivership property, or the completion of the receiver's duties, the receiver shall file a final report and shall request that the court approve the final report and discharge the receiver.

Subd. 3. **Contents of final report.** The final report, which may incorporate by reference interim reports, shall include, in addition to any matters required by the court in the case:

(1) a description of the activities of the receiver in the conduct of the receivership;

(2) a schedule of all receivership property at the commencement of the receivership and any receivership property added thereafter;

(3) a list of expenditures, including all payments to professionals retained by the receiver;

(4) a list of any unpaid expenses incurred during the receivership;

(5) a list of all dispositions of receivership property;

(6) a list of all distributions made or proposed to be made; and

(7) if not done separately, a motion or application for approval of the payment of fees and expenses of the receiver.

Subd. 4. **Notice of final report.** The receiver shall give notice of the filing of the final report and request for discharge to all persons who have filed notices of appearance. If there is no objection within 21 days, the court may enter an order approving the final report and discharging the receiver without the necessity of a hearing.

Subd. 5. **Effect of discharge.** A discharge removes all authority of the receiver, excuses the receiver from further performance of any duties, and discharges any lis pendens recorded by the receiver.

Sec. 19. [576.39] ACTIONS BY OR AGAINST RECEIVER OR RELATING TO RECEIVERSHIP PROPERTY.

Subdivision 1. **Actions by or against receiver.** The receiver may sue in the receiver's capacity and, subject to other sections of this chapter and all immunities provided at common law, may be sued in that capacity.

Subd. 2. **Venue.** Unless applicable law requires otherwise or the court orders otherwise, an action by or against the receiver or relating to the receivership or receivership property shall be commenced in the court and assigned to the judge before whom the receivership is pending.

Subd. 3. **Joinder.** Subject to section 576.42, a limited or general receiver may be joined or substituted as a party in any action or other proceeding that relates to receivership property that was pending at the time of appointment. Subject to other sections of this chapter, a general receiver may be joined or substituted as a party in any action or other proceeding that was pending at the time of appointment in which the respondent is a party. Pending actions may be transferred to the court upon the receiver's motion for change of venue made in the court in which the action is pending.

Subd. 4. **Effect of judgments.** A judgment entered subsequent to the time of appointment against a receiver or the respondent shall not constitute a lien on receivership property, nor shall any execution issue thereon. Upon submission of a certified copy of the judgment in accordance with section 576.49, the amount of the judgment shall be treated as an allowed claim in a general receivership. A judgment against a limited receiver shall have the same effect as a judgment against the respondent, except that the judgment shall be enforceable against receivership property only to the extent ordered by the court.

Sec. 20. [576.40] TURNOVER OF PROPERTY.

Subdivision 1. **Demand by receiver.** Except as expressly provided in this section, and unless otherwise ordered by the court, upon demand by a receiver, any person shall turn over any receivership property that is within the possession or control of that person. Unless ordered by the court, a person in possession of receivership property pursuant to a valid lien perfected prior to the time of appointment is not required to turn over receivership property.

Subd. 2. **Motion by receiver.** A receiver may seek to compel turnover of receivership property by motion in the receivership. If there exists a bona fide dispute with respect to the existence or nature of the receiver's or the respondent's interest in the property, turnover shall be sought by means of an action under section 576.39. In the absence of a bona fide dispute with respect to the receiver's or the respondent's right to possession of receivership property, the failure to relinquish possession and control to the receiver may be punishable as contempt of the court.

Sec. 21. **[576.41] ANCILLARY RECEIVERSHIPS.**

Subdivision 1. **Ancillary receiverships in foreign jurisdictions.** A receiver appointed by a court of this state may, without first seeking approval of the court, apply in any foreign jurisdiction for appointment as receiver with respect to any receivership property which is located within the foreign jurisdiction.

Subd. 2. **Ancillary receiverships in the courts of this state.** (a) A foreign receiver may obtain appointment by a court of this state as a receiver in an ancillary receivership with respect to any property located in or subject to the jurisdiction of the court if:

(1) the foreign receiver would be eligible to serve as receiver under section 576.26; and

(2) the appointment is in furtherance of the foreign receiver's possession, control, or disposition of property subject to the foreign receivership and in accordance with orders of the foreign jurisdiction.

(b) The courts of this state may enter any order necessary to effectuate orders entered by the foreign jurisdiction's receivership proceeding. Unless the court orders otherwise, a receiver appointed in an ancillary receivership in this state shall have the powers and duties of a limited receiver as set forth in this chapter and shall otherwise comply with the provisions of this chapter applicable to limited receivers.

Sec. 22. **[576.42] STAYS.**

Subdivision 1. **Control of property.** All receivership property is under the control and supervision of the court appointing the receiver.

Subd. 2. **Stay by court order.** In addition to any stay provided in this section, the court may order a stay or stays to protect receivership property and to facilitate the administration of the receivership.

Subd. 3. **Stay in all receiverships.** Except as otherwise ordered by the court, the entry of an order appointing a receiver shall operate as a stay, applicable to all persons, of:

(1) any act to obtain possession of receivership property, or to interfere with or exercise control over receivership property, other than the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property; and

(2) any act to create or perfect any lien against receivership property, except by exercise of a right of setoff, to the extent that the lien secures a claim that arose before the time of appointment.

Subd. 4. **Limited additional stay in general receiverships.** (a) Except as otherwise ordered by the court, in addition to the stay provided in subdivision 3, the entry of an order appointing a general receiver shall operate as a stay, applicable to all persons, of:

(1) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, against the respondent or the receiver that was or could have been commenced before the time of appointment, or to recover a claim against the respondent that arose before the time of appointment;

(2) the commencement or continuation of a judicial, administrative, or other action or proceeding, including the issuance or use of process, to enforce any lien having priority over the rights of the receiver in receivership property.

(b) As to the acts specified in this subdivision, the stay shall expire 30 days after the time of appointment unless, before the expiration of the 30-day period, the receiver or other party in interest files a motion seeking an order of the court extending the stay and, before the expiration of an additional 30 days following the 30-day period, the court orders the stay extended.

Subd. 5. **Modification of stay.** The court may modify any stay provided in this section upon the motion of any party in interest affected by the stay.

Subd. 6. **Inapplicability of stay.** The entry of an order appointing a receiver does not operate as a stay of:

(1) the commencement or continuation of a criminal proceeding against the respondent;

(2) the commencement or continuation of an action or proceeding by a governmental unit to enforce its police or regulatory power;

(3) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the respondent;

(4) the establishment by a governmental unit of any tax liability and any appeal thereof;

(5) the commencement or continuation of an action or proceeding to establish paternity; to establish or modify an order for alimony, maintenance, or support; or to collect alimony, maintenance, or support under any order of a court;

(6) the exercise of a right of setoff;

(7) any act to maintain or continue the perfection of a lien on, or otherwise preserve or protect rights in, receivership property, but only to the extent that the act was necessary to preserve or protect the lien or other rights as they existed as of the time of the appointment. If the act would require seizure of receivership property or commencement of an action prohibited by a stay, the continued perfection shall instead be accomplished by filing a notice in the court before which the receivership is pending and by serving the notice upon the receiver and receiver's attorney, if any, within the time fixed by law for seizure or commencement of the action;

(8) the commencement of a bankruptcy case under federal bankruptcy laws; or

(9) any other exception as provided in United States Code, title 11, section 326(b), as to the automatic stay in federal bankruptcy cases to the extent not inconsistent with any provision in this section.

Sec. 23. **[576.43] UTILITY SERVICE.**

A utility providing service to receivership property may not alter, refuse, or discontinue service to the receivership property without first giving the receiver 21 days' written notice of any default and any intention to alter, refuse, or discontinue service to receivership property. The court may prohibit the alteration, refusal, or discontinuance of utility service if the receiver furnishes adequate assurance of payment for service to be provided after the time of appointment.

Sec. 24. **[576.44] RECEIVERSHIP FINANCING.**

(a) Without necessity of a court order, the receiver may obtain unsecured credit and incur unsecured debt on behalf of the receivership, and the amounts shall be allowable as expenses of the receivership under section 576.51, subdivision 1, clause (2).

(b) Without necessity of a court order, the receiver may obtain secured financing on behalf of the receivership from any secured party under a financing facility existing at the time of the appointment.

(c) The court may authorize the receiver to obtain credit or incur indebtedness, and the court may authorize the receiver to mortgage, pledge, hypothecate, or otherwise encumber receivership property as security for repayment of any indebtedness.

Sec. 25. **[576.45] EXECUTORY CONTRACTS.**

Subdivision 1. **Performance by receiver.** Unless a court orders otherwise, a receiver succeeds to all of the rights and duties of the respondent under any executory contract. The court may condition the continued performance by the receiver on terms that are appropriate under the circumstances. Performance of an executory contract shall create a claim against the receivership to the extent of the value of the performance received by the receivership after the time of appointment. The claim shall not constitute a personal obligation of the receiver.

Subd. 2. **Assignment and delegation by receiver.** For good cause, the court may authorize a receiver to assign and delegate an executory contract to a third party under the same circumstances and under the same conditions as the respondent was permitted to do so pursuant to the terms of the executory contract and applicable law immediately before the time of appointment.

Subd. 3. **Termination by receiver.** For good cause, the court may authorize the receiver to terminate an executory contract. The receiver's right to possess or use property pursuant to the executory contract shall terminate at the termination of the executory contract. Except as to the claim against the receivership under subdivision 1, the termination shall create a claim equal to the damages, if any, for a breach of contract as if the breach of contract had occurred immediately before the time of appointment. Any claim arising under this section for termination of an executory contract shall be presented or filed in the same manner as other claims in the receivership no later than the later of:

(1) the time set for filing of claims in the receivership; or

(2) 28 days after the notice by the receiver of the termination of the executory contract.

Sec. 26. **[576.46] SALES FREE AND CLEAR OF LIEN IN GENERAL RECEIVERSHIPS.**

Subdivision 1. **Sales free and clear of liens.** (a) The court may order that a general receiver's sale of receivership property is free and clear of all liens, except any lien for unpaid real estate taxes or assessments and liens arising under federal law, and may be free of the rights of redemption of the respondent if the rights of redemption are receivership property and the rights of redemption of the holders of any liens, regardless of whether the sale will generate proceeds sufficient to fully satisfy all liens on the property, unless either:

(1) the property is (i) real property classified as agricultural land under section 273.13, subdivision 23, or the property is a homestead under section 510.01; and (ii) each of the owners of the property has not consented to the sale following the time of appointment; or

(2) any owner of the property or holder of a lien on the property serves and files a timely objection, and the court determines that the amount likely to be realized from the sale by the objecting person is less than the objecting person would realize within a reasonable time in the absence of this sale.

(b) The receiver shall have the burden of proof to establish that the amount likely to be realized by the objecting person from the sale is equal to or more than the objecting person would realize within a reasonable time in the absence of the sale.

(c) Upon any sale free and clear of liens authorized by this section, all liens encumbering the property conveyed shall transfer and attach to the proceeds of the sale, net of reasonable expenses approved by the court incurred in the disposition of the property, in the same order, priority, and validity as the liens had with respect to the property immediately before the sale. The court may authorize the receiver to satisfy, in whole or in part, any ownership interest or lien out of the proceeds of the sale if the ownership interest or lien of any party in interest would not thereby be impaired.

Subd. 2. **Co-owned property.** If any receivership property includes an interest as a co-owner of property, the receiver shall have the rights and powers afforded by applicable state or federal law of the respondent including, but not limited to, any rights of partition, but may not sell the property free and clear of the co-owner's interest in the property.

Subd. 3. **Right to credit bid.** A creditor with a claim secured by a valid and perfected lien against the property to be sold may bid on the property at a sale and may offset against the purchase price part or all of the amount secured by its lien, provided that the creditor tenders cash sufficient to satisfy in full the reasonable expenses, approved by the court, incurred in the disposition of the property and all liens payable out of the proceeds of sale having priority over the lien of that creditor.

Subd. 4. **Effect of appeal.** The reversal or modification on appeal of an authorization to sell property under this section does not affect the validity of a sale to a person that purchased the property in good faith, whether or not the person knew of the pendency of the appeal, unless the authorization and sale is stayed pending the appeal.

Sec. 27. **[576.47] ABANDONMENT OF PROPERTY.**

The court may authorize the receiver to abandon any receivership property that is burdensome or is not of material value to the receivership. Property that is abandoned is no longer receivership property.

Sec. 28. **[576.48] LIENS AGAINST AFTER-ACQUIRED PROPERTY.**

Except as otherwise provided for by statute, property that becomes receivership property after the time of appointment is subject to a lien to the same extent as it would have been in the absence of the receivership.

Sec. 29. **[576.49] CLAIMS PROCESS.**

Subdivision 1. **Recommendation of receiver.** In a general receivership, and in a limited receivership if the circumstances require, the receiver shall submit to the court a recommendation concerning a claims process appropriate to the particular receivership.

Subd. 2. **Order establishing process.** In a general receivership and, if the court orders, in a limited receivership, the court shall establish the claims process to be followed in the receivership addressing whether proofs of claim must be submitted, the form of any proofs of claim, the place where the proofs of claim must be submitted, the deadline or deadlines for submitting the proofs of claim, and other matters bearing on the claims process.

Subd. 3. **Alternative procedures.** The court may authorize proofs of claim to be filed with the receiver rather than the court. The court may authorize the receiver to treat claims as allowed claims based on the amounts established in the books and records of the respondent or the schedule of claims filed pursuant to section 576.33 without necessity of formal proofs of claim.

Sec. 30. **[576.50] OBJECTION TO AND ALLOWANCE OF CLAIMS.**

Subdivision 1. **Objections and allowance.** The receiver or any party in interest may file a motion objecting to a claim and stating the grounds for the objection. The court may order that a copy of the objection be served on the persons on the master mailing list at least 30 days prior to the hearing. Claims allowed by court order, and claims properly submitted and not disallowed by the court, shall be allowed claims and shall be entitled to share in distributions of receivership property in accordance with the priorities provided by this chapter or otherwise by law.

Subd. 2. **Examination of claims.** If the claims process does not require proofs of claim to be filed with the court, at any time after expiration of the claim-filing period and upon 14 days' written notice to the receiver, any party in interest shall have the right to examine:

(1) all claims filed with the receiver; and

(2) all books and records in the receiver's possession that provided the receiver the basis for concluding that creditors identified therein are entitled to participate in any distributions of receivership property without having to file claims.

Subd. 3. **Estimation of claims.** For the purpose of allowance of claims, the court may estimate:

(1) any contingent or unliquidated claim, the fixing or liquidation of which would unduly delay the administration of the receivership; or

(2) any right to payment arising from a right to an equitable remedy.

Sec. 31. **[576.51] PRIORITY OF CLAIMS.**

Subdivision 1. **Priorities.** Allowed claims shall receive distribution under this chapter in the following order of priority and, except as set forth in clause (1), on a pro rata basis:

(1) claims secured by liens on receivership property, which liens are valid and perfected before the time of appointment, to the extent of the proceeds from the disposition of the collateral in accordance with their respective priorities under otherwise applicable law, subject first to reimbursing the receiver for the reasonable and necessary expenses of preserving, protecting, or disposing of the collateral, including allowed fees and reimbursement of reasonable expenses of the receiver and professionals;

(2) actual, necessary costs and expenses incurred during the receivership, other than those expenses allowable under clause (1), including allowed fees and reimbursement of reasonable expenses of the receiver and professionals employed by the receiver under section 576.32;

(3) claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within the 90 days before the time of appointment or the cessation of the respondent's business, whichever occurs first, but only to the extent of the dollar amount in effect in United States Code, title 11, section 507(4);

(4) allowed unsecured claims, to the extent of the dollar amount in effect in United States Code, title 11, section 507(7), for each individual, arising from the deposit with the respondent, before the time of appointment of the receiver, of money in connection with the purchase, lease, or rental of property or the purchase of services for personal, family, or household use by individuals that were not delivered or provided;

(5) claims for arrears in amounts owing pursuant to a support order as defined in section 518A.26, subdivision 3;

(6) unsecured claims of governmental units for taxes that accrued before the time of appointment of the receiver;

(7) all other unsecured claims due as of the time of appointment, including the balance due the holders of secured claims to the extent not satisfied under clause (1); and

(8) interest pursuant to section 576.52.

Subd. 2. **Payments to respondent.** If all of the amounts payable under subdivision 1 have been paid in full, any remaining receivership property shall be returned to the respondent.

Sec. 32. **[576.52] INTEREST ON UNSECURED CLAIMS.**

To the extent that funds are available to pay holders of allowed unsecured claims in full or the amounts due as of the time of appointment, each holder shall also be entitled to receive interest, calculated from the time of appointment, at the rate set forth in the agreement evidencing the claim, or if no rate is provided, at the judgment rate that would be payable as of the time of appointment; provided, however, that no holder shall be entitled to interest on that portion, if any, of its unsecured claim that is itself interest calculated from the time of appointment. If there are not sufficient funds in the receivership to pay in full the interest owed to all the holders, then the interest shall be paid pro rata.

Sec. 33. **[576.53] DISTRIBUTIONS.**

Subdivision 1. **Proposed distributions.** Before any interim or final distribution is made, the receiver shall file a distribution schedule listing the proposed distributions. The distribution schedule may be filed at any time during the case or may be included in the final report.

Subd. 2. **Notice.** The receiver shall give notice of the filing of the distribution schedule to all persons on the master mailing list or that have filed proofs of claim. If there is no objection within 21 days after the notice, the court may enter an order authorizing the receiver to make the distributions described in the distribution schedule without the necessity of a hearing.

Subd. 3. **Other distributions.** In the order appointing the receiver or in subsequent orders, the court may authorize distribution of receivership property to persons with ownership interests or liens.

ARTICLE 5
ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

Section 1. **[577.11] DEFINITIONS.**

(a) The definitions in this section and in section 576.21 apply throughout this chapter unless the context requires otherwise.

(b) "Assignee" means the person to whom the assignment property is assigned.

(c) "Assignment property" means the property assigned pursuant to the provisions of this chapter.

(d) "Assignor" means the person who assigns the assignment property.

(e) "Time of assignment" means the date and time endorsed by the court administrator pursuant to section 577.14.

Sec. 2. **[577.12] REQUISITES.**

A person may execute a written assignment of property to one or more assignees for the benefit of creditors in conformity with the provisions of this chapter. Every assignment for the benefit of creditors subject to this chapter made by an assignor of the whole or any part of the assignor's property, real or personal, for the benefit of creditors, shall be: (1) to a resident of the state eligible to be a receiver under section 576.26, in writing, subscribed and acknowledged by the assignor; and (2) filed by the assignor or the assignee with the court administrator of the district court of the county in which the assignor, or one of the assignors if there is more than one, resides, or in which the principal place of business of an assignor engaged in business is located. The district court shall have supervision over the assignment property and of all proceedings under this chapter.

Sec. 3. **[577.13] FORM OF ASSIGNMENT.**

An assignment for the benefit of creditors under this chapter shall be signed by the assignor and duly acknowledged in the same manner as conveyances of real property before a notary public of the state, shall include an acceptance of the assignment by the assignee, and shall be in substantially the following form:

ASSIGNMENT

THIS ASSIGNMENT is made thisday of, by and between....., with a principal place of business at(hereinafter "assignor"), and, whose address is(hereinafter "assignee").

WHEREAS, the assignor has been engaged in the business of.....

WHEREAS, the assignor is indebted to creditors and is unable to pay debts as they become due, and is desirous of providing for the payment of debts, so far as it is possible by an assignment of property for that purpose.

NOW, THEREFORE, the assignor, in consideration of the assignee's acceptance of this assignment, and for other good and valuable consideration, hereby assigns to the assignee, and the assignee's successors and assigns, the assignor's property, except the property as is exempt by law from levy and sale under an execution (and then only to the extent of the exemption), including but not limited to all real property, fixtures, goods, stock, inventory, equipment, furniture, furnishings, accounts receivable, general intangibles, bank deposits, cash, promissory notes, cash value and proceeds of insurance policies, claims, and demands belonging to the assignor, wherever the property may be located (hereinafter collectively the "assignment property"), which property is set forth on Schedule A attached hereto.

A list of the creditors of the assignor is set forth in Schedule B attached hereto.

By making this assignment, the assignor consents to the appointment of the assignee as a general receiver with respect to the assignment property in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall take possession of and administer the assignment property and shall liquidate the assignment property with reasonable dispatch, collect all claims and demands hereby assigned as and to the extent they may be collectible, and pay and discharge all reasonable expenses, costs, and disbursements in connection with the execution and administration of this assignment from the proceeds of the liquidations and collections in accordance with Minnesota Statutes, chapters 576 and 577.

The assignee shall then pay and discharge in full, to the extent that funds are available from the assignment property after payment of expenses, costs, and disbursements, all of the debts and liabilities now due from the assignor, including interest on the debts and liabilities in full, in accordance with Minnesota Statutes, chapters 576 and 577.

In the event that all debts and liabilities are paid in full, the remainder of the assignment property shall be returned to the assignor.

To accomplish the purposes of this assignment, the assignor hereby irrevocably appoints the assignee as the assignor's true and lawful attorney-in-fact, with full power and authority to do all acts and things which may be necessary to execute and fulfill the assignment hereby created, to the same extent as the acts and things might be done by the assignor in the absence of this assignment, including, but not limited to, the power to demand and recover from all persons all assignment property; to sue for the recovery of assignment property; to execute, acknowledge, and deliver all necessary deeds, instruments, and conveyances, and to grant and convey any or all of the real or personal property of the assignment property pursuant thereto; and to appoint one or more attorneys to assist the assignee in carrying out the assignee's duties hereunder.

The assignor hereby authorizes the assignee to sign the name of the assignor to any check, draft, promissory note, or other instrument in writing which is payable to the order of the assignor, or to sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purposes of this assignment.

The assignor declares, under penalty of perjury under the laws of the state of Minnesota, that the attached schedules of the property of the assignor and creditors are true and complete to the best of the assignor's knowledge.

The assignee hereby accepts the assignment property and agrees faithfully and without delay to carry out the assignee's duties under the foregoing assignment.

.....
Assignor

.....
Assignee

Dated:

Dated:

Sec. 4. [577.14] DUTY OF COURT ADMINISTRATOR.

The court administrator shall endorse the day, hour, and minute of the filing of the assignment. The assignment shall be entered in the court administrator's register, and all papers filed and orders made in the matter of the assignment shall be noted therein as in the case of a civil action.

Sec. 5. [577.15] ASSIGNEE AS LIEN CREDITOR; REAL ESTATE RECORDING.

Subdivision 1. **Assignee as lien creditor.** As of the filing of the assignment, the assignee shall have the powers and priority of a creditor that obtained a judicial lien at the time of assignment pursuant to sections 548.09 and 550.10 on all of the assignment property subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate recording.** If any interest in real estate is included in the assignment property, the assignment shall be effective as a deed, and a notice of a lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the assignee as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the assignment under section 507.34. The assignment executed by the assignor and certified by the court administrator and a deed executed by the assignee shall be recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the assignee shall be prima facie evidence of the authority of the assignee to convey the real property described in the assignment.

Sec. 6. **[577.16] NOTICE.**

The assignee shall give notice of the assignment to all creditors and other parties in interest actually known to the assignee by mail or other means of transmission within 21 days after the time of assignment. The notice of the assignment shall include the time of assignment and the names and addresses of the assignor, the assignee, and the assignee's attorney, if any.

Sec. 7. **[577.17] REMOVAL OF ASSIGNEE.**

The court may remove the assignee and appoint another assignee by application of the standards and procedures under section 576.37. The order of removal and appointment shall transfer all of the assignment property to the new assignee, and with respect to real property may be recorded in the same manner as the initial assignment.

Sec. 8. **[577.18] APPLICATION OF CHAPTER GOVERNING RECEIVERSHIPS.**

Except as otherwise provided in this chapter, an assignee shall be treated as a general receiver, the assignment property shall be treated as receivership property, and all proceedings following the filing of the assignment shall be governed by sections 576.21 to 576.53.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; and 577.10, are repealed.

ARTICLE 6
CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 302A.753, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets, including all amounts owing to the corporation by subscribers on account of any unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the corporation either at public or private sale.

Sec. 2. Minnesota Statutes 2010, section 302A.753, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~to the payment and discharge or:~~

- ~~(a) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~
- ~~(b) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- ~~(c) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act; provided, that claims under this clause shall not be allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(d) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(e) other claims duly proved and allowed set forth in section 576.51.~~

Sec. 3. Minnesota Statutes 2010, section 302A.755, is amended to read:

302A.755 QUALIFICATIONS OF RECEIVERS; POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as receiver.~~ A receiver shall give bond as ~~directed by the court with the sureties required by the court~~ required by section 576.27.

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts~~ actions as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 4. Minnesota Statutes 2010, section 302A.759, subdivision 1, is amended to read:

Subdivision 1. **Manner and form.** In proceedings referred to in section 302A.751 to dissolve a corporation, the court may require all creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 5. Minnesota Statutes 2010, section 302A.761, is amended to read:

302A.761 DISCONTINUANCE OF DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a corporation shall be discontinued at any time during the dissolution proceedings when it is established that cause for dissolution no longer exists. When this is established, the court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the corporation all its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 6. Minnesota Statutes 2010, section 308A.945, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, on notice the court directs to be given to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 7. Minnesota Statutes 2010, section 308A.945, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority ~~or:~~

~~(1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;~~

~~(2) debts, taxes and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~

~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative has carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~

~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~

~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 8. Minnesota Statutes 2010, section 308A.951, is amended to read:

308A.951 RECEIVER QUALIFICATIONS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver must give a bond as ~~directed by the court with the sureties required by the court required by section 576.27.~~~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts~~ actions as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction ~~of over the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 9. Minnesota Statutes 2010, section 308A.961, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court pursuant to section 576.49. The receiver or any party in interest may object to any claims pursuant to section 576.50.~~

Sec. 10. Minnesota Statutes 2010, section 308A.965, is amended to read:

308A.965 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 11. Minnesota Statutes 2010, section 308B.935, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a hearing is completed, upon notice to parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the cooperative's assets, including amounts owing to the cooperative by subscribers on account of an unpaid portion of the consideration for the issuance of shares. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the cooperative and to sell, lease, transfer, or otherwise dispose of the property and assets of the cooperative either at public or private sale.

Sec. 12. Minnesota Statutes 2010, section 308B.935, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations.** The assets of the cooperative or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the ~~following~~ order of priority:

- ~~(1) the costs and expense of the proceedings, including attorney fees and disbursements;~~
- ~~(2) debts, taxes, and assessments due the United States, this state, and other states in that order;~~
- ~~(3) claims duly proved and allowed to employees under the provisions of the Workers' Compensation Act except that claims under this clause may not be allowed if the cooperative carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- ~~(4) claims, including the value of all compensation paid in a medium other than money, proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- ~~(5) other claims proved and allowed set forth in section 576.51.~~

Sec. 13. Minnesota Statutes 2010, section 308B.941, is amended to read:

308B.941 RECEIVER QUALIFICATIONS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic business entity or a foreign business entity authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver.~~ A receiver shall give a bond as ~~directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in all courts actions~~ as receiver of the cooperative. The court appointing the receiver has exclusive jurisdiction ~~of over~~ the cooperative and its property, the receiver, and all receivership property pursuant to section 576.23.

Sec. 14. Minnesota Statutes 2010, section 308B.951, subdivision 1, is amended to read:

Subdivision 1. **Filing under oath.** In proceedings to dissolve a cooperative, the court may require all creditors and claimants of the cooperative to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court~~ pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.

Sec. 15. Minnesota Statutes 2010, section 308B.955, is amended to read:

308B.955 DISCONTINUANCE OF COURT-SUPERVISED DISSOLUTION PROCEEDINGS.

The involuntary or supervised voluntary dissolution of a cooperative may be discontinued at any time during the dissolution proceedings if it is established that cause for dissolution does not exist. The court shall dismiss the proceedings and direct the receiver, if any, to redeliver to the cooperative its remaining property and assets and to file a final report pursuant to section 576.38, subdivision 3.

Sec. 16. Minnesota Statutes 2010, section 316.11, is amended to read:

316.11 RECEIVER, APPOINTMENT, DUTIES.

In any action or proceeding to dissolve a corporation, the court, at any time before judgment, or within three years after judgment, of dissolution, may appoint a receiver to take charge of its estate and effects and to collect the debts and property due and belonging to it, with, in addition to the powers set forth in chapter 576, power to prosecute and defend actions in its name or otherwise, to appoint agents, and do all other acts necessary to the final

settlement of the unfinished business of the corporation which it might do if in being. The power of such receiver shall continue so long as the court deems necessary for such purposes. The receiver shall pay all debts due from the corporation, if the funds in hand are sufficient therefor; and, if not, ~~shall distribute the same ratably among the creditors who prove their debts, in the manner directed by the court; and, if there be any balance after the payment of the debts, the receiver shall distribute and pay the same to and among those who are justly entitled thereto, as having been stockholders or members. Every receiver appointed under the provisions of this section shall give bond in such amount as the court shall require, with sureties approved by it~~ the assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition shall be applied in the order of priority set forth in section 576.51. After payment of the expenses of the receivership and claims of creditors duly proved, the remaining assets, if any, shall be distributed to the shareholders in accordance with section 302A.551, subdivision 4. Every receiver appointed under the provisions of this section shall give bond as required by section 576.27 in such amount as the court shall require, with sureties approved by it.

Sec. 17. Minnesota Statutes 2010, section 317A.255, subdivision 1, is amended to read:

Subdivision 1. **Conflict; procedure when conflict arises.** (a) A contract or other transaction between a corporation and: (1) its director or a member of the family of its director; (2) a director of a related organization, or a member of the family of a director of a related organization; or (3) an organization in or of which the corporation's director, or a member of the family of its director, is a director, officer, or legal representative or has a material financial interest; is not void or voidable because the director or the other individual or organization are parties or because the director is present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if a requirement of paragraph (b) is satisfied.

(b) A contract or transaction described in paragraph (a) is not void or voidable if:

(1) the contract or transaction was, and the person asserting the validity of the contract or transaction has the burden of establishing that the contract or transaction was, fair and reasonable as to the corporation when it was authorized, approved, or ratified;

(2) the material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the members and the contract or transaction is approved in good faith by two-thirds of the members entitled to vote, not counting any vote that the interested director might otherwise have, or the unanimous affirmative vote of all members, whether or not entitled to vote;

(3) the material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the directors or committee members currently holding office, provided that the interested director or directors may not vote and are not considered present for purposes of a quorum. If, as a result, the number of remaining directors is not sufficient to reach a quorum, a quorum for the purpose of considering the contract or transaction is the number of remaining directors or committee members, ~~not counting any vote that the interested director might otherwise have, and not counting the director in determining the presence of a quorum;~~ or

(4) the contract or transaction is a merger or consolidation described in section 317A.601.

Sec. 18. Minnesota Statutes 2010, section 317A.753, subdivision 3, is amended to read:

Subd. 3. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to the parties to the proceedings and to other parties in interest designated by the court, the court may appoint a receiver to collect the corporate assets. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the corporation and to sell, lease, transfer, or otherwise dispose of all or any of the assets of the corporation at a public or private sale.

Sec. 19. Minnesota Statutes 2010, section 317A.753, subdivision 4, is amended to read:

Subd. 4. **Discharge of obligations.** The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the following order of priority to the payment and discharge of:

- (1) ~~the costs and expenses of the dissolution proceedings, including attorneys fees and disbursements;~~
- (2) ~~debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;~~
- (3) ~~claims duly proved and allowed to employees under the Workers' Compensation Act, provided that claims under this clause are not allowed if the corporation carried workers' compensation insurance, as provided by law, at the time the injury was sustained;~~
- (4) ~~claims, including the value of compensation paid in a medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and~~
- (5) ~~other claims duly proved and allowed set forth in section 576.51.~~

Sec. 20. Minnesota Statutes 2010, section 317A.755, is amended to read:

317A.755 QUALIFICATIONS OF RECEIVERS; POWERS.

Subdivision 1. **Qualifications.** ~~A receiver must be a natural person or a domestic corporation or a foreign corporation authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend ~~in courts~~ all actions as receiver of the corporation. The court appointing the receiver has exclusive jurisdiction ~~of over the corporation and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 21. Minnesota Statutes 2010, section 317A.759, subdivision 1, is amended to read:

Subdivision 1. **Filing may be required.** In a proceeding under section 317A.751 to dissolve a corporation, the court may require creditors and claimants of the corporation to file their claims ~~under oath with the court administrator or with the receiver in a form prescribed by the court pursuant to section 576.49. The receiver or any party in interest may object to any claim pursuant to section 576.50.~~

Sec. 22. Minnesota Statutes 2010, section 322B.836, subdivision 2, is amended to read:

Subd. 2. **Action after hearing.** After a full hearing has been held, upon whatever notice the court directs to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a receiver to collect the limited liability company assets, including all amounts owing to the limited liability company by persons who have made contribution agreements and by persons who have made contributions by means of enforceable promises of future performance. In addition to the powers set forth in chapter 576, a receiver has authority, subject to the order of the court, to continue the business of the limited liability company and to sell, lease, transfer, or otherwise dispose of all or any of the property and assets of the limited liability company either at public or private sale.

Sec. 23. Minnesota Statutes 2010, section 322B.836, subdivision 3, is amended to read:

Subd. 3. **Discharge of obligations upon liquidation.** If the court determines that the limited liability company is to be dissolved with winding up to be accomplished by liquidation, then the assets of the limited liability company or the proceeds resulting from a sale, lease, transfer, or other disposition must be applied in the following order of priority to the payment and discharge or:

- (1) the costs and expenses of the proceedings, including attorneys' fees and disbursements;
- (2) debts, taxes, and assessments due the United States, the state of Minnesota and their subdivisions, and other states and their subdivisions, in that order;
- (3) claims duly proved and allowed to employees under the provisions of chapter 176; provided, that claims under this clause shall not be allowed if the limited liability company carried workers' compensation insurance, as provided by law, at the time the injury was sustained;
- (4) claims, including the value of all compensation paid in any medium other than money, duly proved and allowed to employees for services performed within three months preceding the appointment of the receiver, if any; and
- (5) other claims duly proved and allowed set forth in section 576.51.

Sec. 24. Minnesota Statutes 2010, section 322B.84, is amended to read:

322B.84 QUALIFICATIONS OF RECEIVERS AND POWERS.

Subdivision 1. **Qualifications.** ~~A receiver shall be a natural person or a domestic or foreign organization authorized to transact business in this state. Any person qualified under section 576.26 may be appointed as a receiver. A receiver shall give bond as directed by the court with the sureties required by the court required by section 576.27.~~

Subd. 2. **Powers.** A receiver may sue and defend in all courts actions as receiver of the limited liability company. The court appointing the receiver has exclusive jurisdiction ~~of over~~ the limited liability company ~~and its property, the receiver, and all receivership property pursuant to section 576.23.~~

Sec. 25. Minnesota Statutes 2010, section 462A.05, subdivision 32, is amended to read:

Subd. 32. **Appointment of receivers.** The agency may obtain the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.04~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages contained in sections ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (1), and 559.17, subdivision 2, clause (2), shall be inapplicable to it.

Sec. 26. Minnesota Statutes 2010, section 469.012, subdivision 2i, is amended to read:

Subd. 2i. **Receivers, assignment of rent as security.** An authority may secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and ~~576.04~~ 576.25, subdivision 5, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and ~~576.01, subdivision 2~~ 576.25, subdivision 5, paragraph (a), clause (1), does not apply.

Sec. 27. Minnesota Statutes 2010, section 540.14, is amended to read:

540.14 ACTIONS AGAINST RECEIVERS; TRIAL; JUDGMENT, HOW SATISFIED.

Except as limited in chapters 576 and 577, any receiver, assignee, or other person appointed by a court to hold or manage property under its direction, may be sued on account of any acts or transactions in carrying on the business connected with such property without prior leave of court.

Such action may be brought in any county in which it could have been brought against the person or corporation represented by such receiver or other person, shall be tried in the same manner and subject to the same rules of procedure, and any judgment recovered therein against such receiver or other person shall be paid by the receiver or other person as a part of the expenses of managing such property.

Sec. 28. Minnesota Statutes 2010, section 559.17, subdivision 2, is amended to read:

Subd. 2. **Assignment; conditions.** A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) was executed, modified or amended subsequent to August 1, 1977;

(2) secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) is not a lien upon property which was:

(i) entirely homesteaded as agricultural property; or

(ii) residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. The assignment may be enforced, but only against the nonhomestead portion of the mortgaged property, as follows:

(a) if, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section ~~576.01, subdivision 2~~ 576.25, subdivision 5; or

(b) if no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section ~~576.01, subdivision 2~~ 576.25, subdivision 5, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of recording by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 29. Minnesota Statutes 2010, section 576.04, is amended to read:

576.04 ABSENTEES; POSSESSION, MANAGEMENT, AND DISPOSITION OF PROPERTY.

If a person entitled to or having an interest in property within or without the jurisdiction of the state has disappeared or absconded from the place within or without the state where last known to be, and has no agent in the state, and it is not known where the person is, or if such person, having a spouse or minor child or children dependent to any extent upon the person for support, has thus disappeared, or absconded without making sufficient provision for such support, and it is not known where the person is, or, if it is known that the person is without the state, any one who would under the law of the state be entitled to administer upon the estate of such absentee if deceased, or if no one is known to be so entitled, some person deemed suitable by the court, or such spouse, or some one in such spouse's or minors' behalf, may file a petition, under oath, in the court for the county where any such property is situated or found, stating the name, age, occupation, and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residences of other persons, whether members of such absentee's family or otherwise, of whom inquiry may be made, whether or not such absentee is a citizen of the United States, and if not, of what country the absentee is a citizen or native, and containing a schedule of the property, real and personal, so far as known, and its location within or without the state, and a schedule of contractual or property rights contingent upon the absentee's death, and praying that real and personal property may be taken possession of and a receiver thereof appointed under ~~this~~ chapter 576. No proceedings shall be commenced under the provisions of ~~sections 576.04 to 576.16~~ this chapter, except upon good cause shown until at least three months after the date on which it is alleged in such petition that such person so disappeared or absconded.

Sec. 30. Minnesota Statutes 2010, section 576.06, is amended to read:

576.06 NOTICE OF SEIZURE; APPOINTMENT OF RECEIVER; DISPOSITION OF PROPERTY.

Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant, and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in such property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and the property held and disposed of under ~~sections 576.04 to 576.16~~ this chapter.

Sec. 31. Minnesota Statutes 2010, section 576.08, is amended to read:

576.08 HEARING BY COURT; DISMISSAL OF PROCEEDING; APPOINTMENT AND BOND OF RECEIVER.

The absentee, or any person who claims an interest in any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property which is in the possession of the officer and named in the schedule. If a receiver is appointed, the court shall find and record the date of the disappearance or absconding of the absentee; and the receiver shall give a bond ~~to the state in the sum and with the conditions the court orders, to be approved by the court pursuant to section 576.27.~~ In the appointment of the receiver the court shall give preference to the spouse of the absentee, if the spouse is ~~competent and suitable~~ eligible to serve as receiver under section 576.26.

Sec. 32. Minnesota Statutes 2010, section 576.09, is amended to read:

576.09 POSSESSION TRANSFER OF PROPERTY BY TO RECEIVER.

After the ~~approval of the~~ receiver gives its bond the court may order the sheriff or a deputy to transfer and deliver to such receiver the possession of the property under the warrant, and the receiver shall file in the office of the court administrator a schedule of the property received.

Sec. 33. Minnesota Statutes 2010, section 576.11, is amended to read:

576.11 WHERE NO CORPOREAL PROPERTY; RECEIVER; BOND.

If the absentee has left no corporeal property within or without the state, but there are debts and obligations due or owing to the absentee from persons within or without the state, a petition may be filed, as provided in section ~~576.04~~ 578.02, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice, as above provided, without issuing a warrant, and may, upon the return of the notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct the receiver to demand and collect the debts and obligations specified in the petition. The receiver shall give bond, as provided in section ~~576.08~~ 576.27, and hold the proceeds of such debts and obligations and all property received, and distribute the same as provided in ~~sections 576.12 to 576.16~~ chapter 576. The receiver may be further authorized and directed as provided in section ~~576.10~~ 578.08.

Sec. 34. Minnesota Statutes 2010, section 576.121, is amended to read:

576.121 ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.

If the beneficiary under an insurance policy on the life of an absentee is the absentee's spouse, child, or other person dependent upon the absentee for support and advance payments under the policy are necessary to support and maintain the beneficiary, the beneficiary shall be entitled to advance payments as the court determines under section ~~576.122~~ 578.12. "Beneficiary" under this section includes an heir at law of the person whose life is insured if the policy is payable to the insured's estate.

Sec. 35. Minnesota Statutes 2010, section 576.123, is amended to read:

576.123 REAPPEARANCE OF ABSENTEE.

Subdivision 1. **Insurance payments; reduction.** If an absentee is declared dead after advance insurance payments have been made pursuant to section ~~576.122~~ 578.12, the amount payable under the policy shall be reduced by the total amount of payments made under section ~~576.122~~ 578.12.

Subd. 2. **Reimbursement of insurer.** If an absentee is found to be living after advance insurance payments have been made to a beneficiary pursuant to section ~~576.122~~ 578.12, the absentee and beneficiary shall reimburse the insurer the amount of the payments made.

If the insurer is unable to obtain full reimbursement, the amount payable under the policy shall be reduced to the extent necessary to allow full reimbursement. Failure of the absentee and beneficiary to reimburse the insurer upon demand for payment sent by the insurer by certified mail to the last known address of the absentee and beneficiary shall be sufficient to show the insurer's inability to obtain reimbursement.

Sec. 36. Minnesota Statutes 2010, section 576.144, is amended to read:

576.144 DISSOLUTION OF MARRIAGE.

If the court finds the absentee dead in accordance with section ~~576.142~~ 578.17, the absentee's marriage is dissolved. The court shall enter the conclusion of law dissolving the marriage on the order which establishes the death of the absentee as a matter of law.

Sec. 37. Minnesota Statutes 2010, section 576.15, is amended to read:

576.15 COMPENSATION OF RECEIVER; TITLE OF ABSENTEE LOST AFTER FOUR YEARS.

The receiver shall be allowed ~~such~~ compensation and disbursements as ~~the court orders, to be paid out of the property or proceeds provided in chapter 576.~~ If, within four years after the date of the disappearance or absconding, as found and recorded by the court, the absentee appears, and has not been declared dead under section ~~576.142~~ 578.17, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of the absentee is appointed, the receiver shall account for, deliver, and pay over to the absentee the remainder of the property. If the absentee does not appear and claim the property within four years, all the absentee's right, title, and interest in the property, real or personal, or the proceeds thereof, shall cease, and no action shall be brought by the absentee on account thereof.

If the absentee is declared dead pursuant to section ~~576.142~~ 578.17 and appears before the expiration of four years, the absentee shall have no right, title and interest in the property, real or personal, or the proceeds thereof.

Sec. 38. Minnesota Statutes 2010, section 576.16, is amended to read:

576.16 PROPERTY DISTRIBUTION; TIME LIMITATION.

If the receiver is not appointed within three years after the date found by the court under section ~~576.08~~ 578.06, the time limited for accounting for, or fixed for distributing, the property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the four years provided in sections ~~576.14~~ 578.15 and ~~576.15~~ 578.20.

The provisions of ~~sections 576.04 to 576.16~~ this chapter shall not be construed as exclusive, but as providing additional and cumulative remedies.

Sec. 39. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number in column B. The revisor shall correct any incorrect cross-references resulting from this renumbering.

Column A

576.011
576.04
576.05
576.06
576.07
576.08
576.09
576.10

Column B

578.01
578.02
578.03
578.04
578.05
578.06
578.07
578.08

<u>576.11</u>	<u>578.09</u>
<u>576.12</u>	<u>578.10</u>
<u>571.121</u>	<u>578.11</u>
<u>576.122</u>	<u>578.12</u>
<u>576.123</u>	<u>578.13</u>
<u>576.13</u>	<u>578.14</u>
<u>576.14</u>	<u>578.15</u>
<u>576.141</u>	<u>578.16</u>
<u>576.142</u>	<u>578.17</u>
<u>576.143</u>	<u>578.18</u>
<u>576.144</u>	<u>578.19</u>
<u>576.15</u>	<u>578.20</u>
<u>576.16</u>	<u>578.21</u>

Sec. 40. **REPEALER.**

Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2 and 3; 317A.759, subdivision 2; and 576.01, are repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "authorizing courts to modify certain provisions;" and insert "authorizing courts to construe certain will and trust provisions; updating and revising the Uniform Disclaimer of Property Interests Act; changing certain receivership provisions; providing for assignments for the benefit of certain creditors; making conforming amendments; renumbering certain statutory sections;"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1577, A bill for an act relating to public safety; establishing a sex offender policy task force.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Gottwalt from the Committee on Health and Human Services Reform to which was referred:

H. F. No. 1584, A bill for an act relating to taxation; providing for a contingent reduction in the MinnesotaCare provider tax; amending Minnesota Statutes 2010, sections 295.52, by adding a subdivision; 297I.05, subdivision 5.

Reported the same back with the following amendments:

Page 1, line 19, after "year" insert "plus any projected balance from the previous June 30"

Page 1, line 20, delete everything before the period

Page 2, line 26, after "year" insert "plus any projected balance from the previous June 30" and delete everything after "expenditures"

Page 2, line 27, delete everything before the period

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Peppin from the Committee on Government Operations and Elections to which was referred:

H. F. No. 1597, A bill for an act proposing an amendment to the Minnesota Constitution, article VII, section 1; requiring voters to present photographic identification; providing photographic identification to voters at no charge; requiring equal verification standards for all voters.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 122, 229, 247, 548, 642, 738, 844, 1020, 1121, 1122, 1214, 1230, 1238, 1326, 1359, 1376, 1384, 1440, 1451, 1463, 1466, 1468, 1533, 1543, 1544 and 1577 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Persell and Anzelc introduced:

H. F. No. 1617, A bill for an act relating to occupational safety and health; providing standards for recovery of embedded equipment and vehicles; proposing coding for new law in Minnesota Statutes, chapter 182.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Peppin introduced:

H. F. No. 1618, A bill for an act relating to state government; providing for the governor to appoint the executive directors of specified state councils; amending Minnesota Statutes 2010, sections 3.922, subdivision 5; 3.9223, subdivision 5; 3.9225, subdivision 5; 3.9226, subdivision 5.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Knuth introduced:

H. F. No. 1619, A bill for an act relating to energy; creating solar energy standard for utilities; regulating solar energy; amending Minnesota Statutes 2010, section 216B.1691, subdivision 4, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Mullery introduced:

H. F. No. 1620, A bill for an act relating to state government; providing that laws governing purchasing from small businesses and targeted group businesses apply to the Minnesota State Colleges and Universities; amending Minnesota Statutes 2010, section 16C.16, subdivision 12.

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

Franson introduced:

H. F. No. 1621, A bill for an act relating to natural resources; appropriating money for Todd County pier.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Shimanski and Urdahl introduced:

H. F. No. 1622, A bill for an act relating to transportation; governing definition and regulation of farm trucks; amending Minnesota Statutes 2010, sections 168.002, subdivision 8; 171.01, subdivision 33; 171.02, subdivision 2.

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

Kahn and Rukavina introduced:

H. F. No. 1623, A bill for an act relating to gambling; authorizing the State Lottery to offer games involving sports wagering and sports wagering pools; authorizing sports bookmaking under licenses issued by the director of the State Lottery; imposing a tax on licensed sports bookmaking; amending Minnesota Statutes 2010, sections 349A.01, by adding a subdivision; 349A.02, subdivision 3; 349A.04; 349A.06, subdivisions 1, 5, 6, 7, 8, 11; 349A.08; 349A.09; 349A.10, subdivision 4; 349A.11, subdivision 1; 349A.12; 349A.13; 609.75, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 349A.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Shimanski, Franson, Davids and Anderson, B., introduced:

H. F. No. 1624, A bill for an act relating to charter schools; modifying the property tax status of certain charter schools; amending Minnesota Statutes 2010, section 272.02, subdivision 42.

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

Mariani introduced:

H. F. No. 1625, A bill for an act relating to education finance; extending the term of expiring operating referenda by two years.

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

Murphy, M., introduced:

H. F. No. 1626, A bill for an act relating to retirement; unclassified employees retirement program; clarifying transfer of coverage provision; amending Minnesota Statutes 2010, section 352D.02, subdivision 3.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Murphy, M., introduced:

H. F. No. 1627, A bill for an act relating to retirement; general employees retirement plan of the Public Employees Retirement Association; authorizing the purchase of prior service credit for uncredited public employment by Crookston Township.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Murphy, M., introduced:

H. F. No. 1628, A bill for an act relating to retirement; first class city teacher retirement fund associations; adding a definition for vesting; modifying eligibility for leave of absence, retirement, survivor, and disability benefits; amending Minnesota Statutes 2010, sections 354A.011, by adding a subdivision; 354A.094, subdivision 3; 354A.31, subdivisions 1, 5, 6; 354A.35, subdivision 2; 354A.36, subdivision 1.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

Howes introduced:

H. F. No. 1629, A bill for an act relating to economic development; modifying Explore Minnesota Tourism Council; amending Minnesota Statutes 2010, section 116U.25.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

McElfatrick, Clark, Drazkowski and Lohmer introduced:

H. F. No. 1630, A bill for an act relating to public safety; providing for a conditional partial pardon of a person's criminal conviction upon successful completion of the challenge incarceration program; proposing coding for new law in Minnesota Statutes, chapter 638.

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

Kriesel introduced:

H. F. No. 1631, A bill for an act relating to lawful gambling; authorizing sports pool tipboard games; amending Minnesota Statutes 2010, sections 349.12, subdivisions 34, 35, by adding a subdivision; 349.1711, subdivisions 1, 2, 5.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Clark introduced:

H. F. No. 1632, A bill for an act relating to crime prevention; providing for an aggressive initiative against chemical dependency; increasing the tax on alcoholic beverages to fund this initiative; eliminating obsolete language and making technical corrections; appropriating money; amending Minnesota Statutes 2010, sections 169A.275, subdivision 5; 169A.284, subdivision 1; 169A.54, subdivision 11; 169A.70, subdivisions 2, 3, 7, by adding subdivisions; 254B.01, subdivision 2; 254B.02, subdivision 1; 254B.04, subdivisions 1, 3; 254B.06, subdivision 1; 297G.03, subdivisions 1, 2; 297G.04, subdivisions 1, 2; 609.115, subdivision 8; 609.135, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 254A; 373; 609; repealing Minnesota Statutes 2010, section 254B.03, subdivision 4.

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

Norton introduced:

H. F. No. 1633, A bill for an act relating lawful gambling; clarifying the use of gross profits; amending Minnesota Statutes 2010, section 349.15, subdivision 1.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Hamilton introduced:

H. F. No. 1634, A bill for an act relating to agriculture; providing for food law enforcement; making technical and conforming changes; repealing obsolete provisions; imposing penalties; amending Minnesota Statutes 2010, sections 17.982, subdivision 1; 17.983; 25.33, subdivisions 13, 14; 25.36; 25.37; 28A.03, subdivisions 3, 5, 6, by adding a subdivision; 31.01, subdivisions 2, 3, 4, 21, 25, 28; 31.121; 31.123; 31A.02, subdivisions 13, 14, 15, 16; 31A.23; 32.01, subdivisions 11, 12; proposing coding for new law in Minnesota Statutes, chapter 28A; proposing coding for new law as Minnesota Statutes, chapter 34A; repealing Minnesota Statutes 2010, sections 17.984; 28.15; 28A.12; 28A.13; 29.28; 31.031; 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078; 32.475, subdivision 7; 32.61; 32.90; 34.113; Minnesota Rules, parts 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6, 7; 1550.1040, subparts 3, 4, 5, 6; 1550.1260, subparts 6, 7.

The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance.

Hamilton introduced:

H. F. No. 1635, A bill for an act relating to consumer protection; amending the definition of pet dealer for the purposes of the law regulating sales of dogs and cats; amending Minnesota Statutes 2010, section 325F.79.

The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance.

Franson, Lohmer, Gruenhagen and Barrett introduced:

H. F. No. 1636, A bill for an act relating to public health; requiring labeling of certain vaccines containing human DNA; proposing coding for new law in Minnesota Statutes, chapter 145.

The bill was read for the first time and referred to the Committee on Health and Human Services Reform.

Daudt, Atkins, Sanders and Hoppe introduced:

H. F. No. 1637, A bill for an act relating to real property; requiring transaction agents to disclose information on lenders for residential mortgage loans; requiring additional data in foreclosure notices; amending Minnesota Statutes 2010, section 580.025, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 58.

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform.

Hilty introduced:

H. F. No. 1638, A bill for an act relating to local government aid; modifying distribution; amending Minnesota Statutes 2010, section 477A.011, subdivision 36.

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

LeMieur introduced:

H. F. No. 1639, A bill for an act relating to drivers' licenses; making being on track to graduate from high school a condition of obtaining instruction permits and drivers' licenses for applicants under 18; amending Minnesota Statutes 2010, sections 13.32, subdivision 3; 171.02, subdivision 3; 171.04, subdivision 1; 171.05, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 171.

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

McNamara, Hansen, Torkelson, Falk, Cornish, Wagenius and Hausman introduced:

H. F. No. 1640, A bill for an act relating to capital investment; appropriating money for RIM Conservation Reserve; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Beard introduced:

H. F. No. 1641, A bill for an act relating to energy; modifying conservation improvement program; amending Minnesota Statutes 2010, section 216B.241, subdivision 1c.

The bill was read for the first time and referred to the Committee on Environment, Energy and Natural Resources Policy and Finance.

Banaian introduced:

H. F. No. 1642, A bill for an act relating to education; providing special instruction and services that meet minimum federal special education requirements; amending Minnesota Statutes 2010, section 125A.03; repealing Minnesota Statutes 2010, sections 121A.43; 121A.67; 125A.023, subdivisions 1, 2, 3, 4, 6, 7; 125A.027; 125A.06; 125A.08; 125A.11; 125A.12; 125A.13; 125A.14; 125A.15; 125A.155; 125A.16; 125A.17; 125A.18; 125A.19; 125A.20; 125A.21; 125A.22; 125A.23; 125A.24; 125A.25; 125A.259; 125A.26; 125A.27; 125A.29; 125A.30; 125A.31; 125A.32; 125A.33; 125A.34; 125A.35; 125A.36; 125A.37; 125A.38; 125A.39; 125A.40; 125A.41; 125A.42; 125A.43; 125A.44; 125A.45; 125A.46; 125A.48; 125A.51; 125A.515, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10; 125A.52; 125A.53; 125A.54; 125A.55; 125A.57; 125A.58; 125A.59; 125A.60; Minnesota Rules, parts 3525.0300; 3525.0550; 3525.0700; 3525.0750; 3525.0755; 3525.0800; 3525.0850; 3525.1100; 3525.1352; 3525.1354, subpart 1; 3525.1400; 3525.1550; 3525.2325; 3525.2335, subpart 2; 3525.2340, subparts 4, 5; 3525.2350, subparts 1, 2, 3, 4; 3525.2380, subpart 1; 3525.2385; 3525.2405, subpart 1; 3525.2435; 3525.2440; 3525.2450; 3525.2455; 3525.2710; 3525.2810; 3525.2900, subparts 4, 5; 3525.3010; 3525.3100; 3525.3600.

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

Mazorol introduced:

H. F. No. 1643, A bill for an act relating to the secretary of state; simplifying certain certificates issued to business entities; modifying effective date of resignations of agents; revising notice provided to organizations; allowing use of an alternate name; redefining business entities; eliminating issuance of certificates to business trusts and municipal power agencies; regulating access to, and the treatment of, certain data; amending Minnesota Statutes 2010, sections 5.001, subdivision 2; 13.355, by adding a subdivision; 302A.711, subdivision 4; 302A.734, subdivision 2; 302A.751, subdivision 1; 303.08, subdivision 2; 303.17, subdivisions 2, 3, 4; 317A.711, subdivision 4; 317A.733, subdivision 4; 317A.751, subdivision 3; 318.02, subdivisions 1, 2; 321.0809; 321.0906; 322B.826, subdivision 2; 322B.935, subdivisions 2, 3; 323A.1102; 453.53, subdivision 2; 453A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 5; 323A; repealing Minnesota Statutes 2010, sections 302A.801; 302A.805; 308A.151; 317A.022, subdivision 1; 317A.801; 317A.805; 318.02, subdivision 5.

The bill was read for the first time and referred to the Committee on Government Operations and Elections.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 509.

CAL R. LUDEMAN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 509, A bill for an act relating to elections; requiring voters to provide picture identification before receiving a ballot in most situations; providing for the issuance of voter identification cards at no charge; establishing a procedure for provisional balloting; creating challenged voter eligibility list; specifying other election administration procedures; allowing use of electronic polling place rosters; setting standards for use of electronic polling place rosters; creating legislative task force on electronic roster implementation; enacting procedures related to recounts; appropriating money; amending Minnesota Statutes 2010, sections 13.69, subdivision 1; 135A.17, subdivision 2; 171.01, by adding a subdivision; 171.06, subdivisions 1, 2, 3, by adding a subdivision; 171.061, subdivisions 1, 3, 4; 171.07, subdivisions 1a, 4, 9, 14, by adding a subdivision; 171.071; 171.11; 171.14; 200.02, by adding a subdivision; 201.021; 201.022, subdivision 1; 201.061, subdivisions 3, 4, 7; 201.071, subdivision 3; 201.081; 201.121, subdivisions 1, 3; 201.171; 201.221, subdivision 3; 203B.04, subdivisions 1, 2; 203B.06, subdivision 5; 203B.121, subdivision 1; 204B.14, subdivision 2; 204B.40; 204C.10; 204C.12, subdivisions 3, 4; 204C.14; 204C.20, subdivisions 1, 2, 4, by adding a subdivision; 204C.23; 204C.24, subdivision 1; 204C.32; 204C.33, subdivision 1; 204C.37; 204C.38; 204D.24, subdivision 2; 205.065, subdivision 5; 205.185, subdivision 3; 205A.03, subdivision 4; 205A.10, subdivision 3; 206.86, subdivisions 1, 2; 209.021, subdivision 1; 209.06, subdivision 1; 211B.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 200; 201; 204C; 299A; proposing coding for new law as Minnesota Statutes, chapters 204E; 206A; repealing Minnesota Statutes 2010, sections 203B.04, subdivision 3; 204C.34; 204C.35; 204C.36; 204C.361.

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

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Dean from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day for Monday, May 2, 2011:

S. F. Nos. 55 and 86; and H. F. Nos. 836 and 1117.

CALENDAR FOR THE DAY

H. F. No. 821, A bill for an act relating to higher education; changing eligibility for the senior citizen higher education program; amending Minnesota Statutes 2010, section 135A.51, subdivision 2.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Anzelc	Benson, J.	Carlson	Davids	Dittrich
Anderson, B.	Atkins	Benson, M.	Champion	Davnie	Doepke
Anderson, D.	Banaian	Bills	Clark	Dean	Downey
Anderson, P.	Barrett	Brynaert	Cornish	Dettmer	Drazkowski
Anderson, S.	Beard	Buesgens	Daudt	Dill	Eken

Erickson	Hayden	Kiffmeyer	Marquart	Nornes	Shimanski
Fabian	Hilstrom	Knuth	Mazorol	Norton	Simon
Falk	Hilty	Koenen	McDonald	O'Driscoll	Slawik
Franson	Holberg	Kriesel	McElfatrick	Paymar	Slocum
Fritz	Hoppe	Laine	McFarlane	Pelowski	Stensrud
Garofalo	Hornstein	Lanning	McNamara	Peppin	Swedzinski
Gauthier	Hortman	Leidiger	Melin	Persell	Torkelson
Gottwalt	Hosch	LeMieur	Moran	Petersen, B.	Urdahl
Greene	Howes	Lenczewski	Morrow	Peterson, S.	Vogel
Greiling	Huntley	Lesch	Mullery	Quam	Wagenius
Gruenhagen	Johnson	Liebling	Murdock	Rukavina	Ward
Gunther	Kahn	Lillie	Murphy, E.	Runbeck	Wardlow
Hackbarth	Kath	Loeffler	Murphy, M.	Sanders	Westrom
Hancock	Kelly	Lohmer	Murray	Scalze	Winkler
Hansen	Kieffer	Mack	Myhra	Schomacker	Woodard
Hausman	Kiel	Mahoney	Nelson	Scott	Spk. Zellers

Those who voted in the negative were:

Crawford	Loon	Poppe	Thissen
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The bill was passed and its title agreed to.

H. F. No. 753 was reported to the House.

Howes moved to amend H. F. No. 753 as follows:

Page 1, line 12, delete "officer" and insert "law judge"

The motion prevailed and the amendment was adopted.

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

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 79 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abeler	Banaian	Crawford	Downey	Gottwalt	Howes
Anderson, B.	Barrett	Daudt	Drazkowski	Gruenhagen	Kelly
Anderson, D.	Beard	Dauids	Eken	Gunther	Kieffer
Anderson, P.	Benson, M.	Dean	Erickson	Hackbarth	Kiel
Anderson, S.	Bills	Dettmer	Fabian	Hancock	Kiffmeyer
Anzelc	Buesgens	Dill	Franson	Holberg	Koenen
Atkins	Cornish	Doepke	Garofalo	Hoppe	Kriesel

Lanning	Mahoney	Murray	Quam	Stensrud	Woodard
Leidiger	Mazorol	Myhra	Rukavina	Swedzinski	Spk. Zellers
LeMieur	McDonald	Nornes	Runbeck	Torkelson	
Liebling	McElpatrick	O'Driscoll	Sanders	Urdahl	
Lohmer	McFarlane	Pelowski	Schomacker	Vogel	
Loon	McNamara	Peppin	Scott	Wardlow	
Mack	Murdock	Petersen, B.	Shimanski	Westrom	

Those who voted in the negative were:

Benson, J.	Gauthier	Hortman	Lesch	Murphy, M.	Slawik
Brynaert	Greene	Hosch	Lillie	Nelson	Slocum
Carlson	Greiling	Huntley	Loeffler	Norton	Thissen
Champion	Hansen	Johnson	Marquart	Paymar	Wagenius
Clark	Hausman	Kahn	Melin	Persell	Ward
Davnie	Hayden	Kath	Moran	Peterson, S.	Winkler
Dittrich	Hilstrom	Knuth	Morrow	Poppe	
Falk	Hilty	Laine	Mullery	Scalze	
Fritz	Hornstein	Lenczewski	Murphy, E.	Simon	

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

H. F. No. 387, A bill for an act relating to drivers' licenses; allowing counties to participate in driver's license reinstatement diversion pilot program; extending diversion pilot program; amending Laws 2009, chapter 59, article 3, section 4, as amended.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Hancock	Kriesel	Morrow	Scalze
Anderson, B.	Dean	Hansen	Laine	Mullery	Schomacker
Anderson, D.	Dettmer	Hausman	Lanning	Murdock	Scott
Anderson, P.	Dill	Hayden	Leidiger	Murphy, E.	Shimanski
Anderson, S.	Dittrich	Hilstrom	LeMieur	Murphy, M.	Simon
Anzelc	Doepke	Hilty	Lenczewski	Murray	Slawik
Atkins	Downey	Holberg	Lesch	Myhra	Slocum
Banaian	Drazkowski	Hoppe	Liebling	Nelson	Stensrud
Barrett	Eken	Hornstein	Lillie	Nornes	Swedzinski
Beard	Erickson	Hortman	Loeffler	Norton	Thissen
Benson, J.	Fabian	Hosch	Lohmer	O'Driscoll	Torkelson
Benson, M.	Falk	Howes	Loon	Paymar	Urdahl
Bills	Franson	Huntley	Mack	Pelowski	Vogel
Brynaert	Fritz	Johnson	Mahoney	Peppin	Wagenius
Buesgens	Garofalo	Kahn	Marquart	Persell	Ward
Carlson	Gauthier	Kath	Mazorol	Petersen, B.	Wardlow
Champion	Gottwalt	Kelly	McDonald	Peterson, S.	Westrom
Clark	Greene	Kieffer	McElpatrick	Poppe	Winkler
Cornish	Greiling	Kiel	McFarlane	Quam	Woodard
Crawford	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Spk. Zellers
Daudt	Gunther	Knuth	Melin	Runbeck	
Davids	Hackbarth	Koenen	Moran	Sanders	

The bill was passed and its title agreed to.

H. F. No. 469, A bill for an act relating to public safety; providing for jurisdiction for petitions for harassment restraining orders; amending Minnesota Statutes 2010, section 609.748, subdivisions 2, 3a.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Hansen	Lanning	Murdock	Scott
Anderson, B.	Dettmer	Hausman	Leidiger	Murphy, E.	Shimanski
Anderson, D.	Dill	Hayden	LeMieur	Murphy, M.	Simon
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Murray	Slawik
Anderson, S.	Doepke	Hilty	Lesch	Myhra	Slocum
Anzelc	Downey	Holberg	Liebling	Nelson	Stensrud
Atkins	Drazkowski	Hoppe	Lillie	Nornes	Swedzinski
Banaian	Eken	Hornstein	Loeffler	Norton	Thissen
Barrett	Erickson	Hortman	Lohmer	O'Driscoll	Torkelson
Beard	Fabian	Hosch	Loon	Paymar	Urdahl
Benson, J.	Falk	Huntley	Mack	Pelowski	Vogel
Benson, M.	Franson	Johnson	Mahoney	Peppin	Wagenius
Bills	Fritz	Kahn	Marquart	Persell	Ward
Brynaert	Garofalo	Kath	Mazorol	Petersen, B.	Wardlow
Buesgens	Gauthier	Kelly	McDonald	Peterson, S.	Westrom
Carlson	Gottwalt	Kieffer	McElfrick	Poppe	Winkler
Champion	Greene	Kiel	McFarlane	Quam	Woodard
Clark	Greiling	Kiffmeyer	McNamara	Rukavina	Spk. Zellers
Cornish	Gruenhagen	Knuth	Melin	Runbeck	
Crawford	Gunther	Koenen	Moran	Sanders	
Davids	Hackbarth	Kriesel	Morrow	Scalze	
Davnie	Hancock	Laine	Mullery	Schomacker	

The bill was passed and its title agreed to.

H. F. No. 836 was reported to the House.

O'Driscoll moved to amend H. F. No. 836 as follows:

Page 1, line 19, delete "shall" and reinstate the stricken "may"

The motion prevailed and the amendment was adopted.

H. F. No. 836, A bill for an act relating to game and fish; expanding game and fish lottery and drawing preferences for service members; amending Minnesota Statutes 2010, section 97A.465, subdivision 5.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Hansen	Lanning	Mullery	Scott
Anderson, B.	Dettmer	Hausman	Leidiger	Murdock	Shimanski
Anderson, D.	Dill	Hayden	LeMieur	Murphy, E.	Simon
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Murphy, M.	Slawik
Anderson, S.	Doepke	Holberg	Lesch	Murray	Slocum
Anzelc	Downey	Hoppe	Liebling	Myhra	Stensrud
Atkins	Drazkowski	Hortman	Lillie	Nornes	Swedzinski
Banaian	Eken	Hosch	Loeffler	O'Driscoll	Thissen
Barrett	Erickson	Howes	Lohmer	Paymar	Torkelson
Beard	Fabian	Huntley	Loon	Pelowski	Urdahl
Benson, J.	Falk	Johnson	Mack	Peppin	Vogel
Bills	Franson	Kahn	Mahoney	Persell	Wagenius
Brynaert	Fritz	Kath	Marquart	Petersen, B.	Ward
Carlson	Garofalo	Kelly	Mazorol	Peterson, S.	Wardlow
Champion	Gauthier	Kieffer	McDonald	Poppe	Westrom
Clark	Gottwalt	Kiel	McElfrick	Quam	Winkler
Cornish	Greiling	Kiffmeyer	McFarlane	Rukavina	Woodard
Crawford	Gruenhagen	Knuth	McNamara	Runbeck	Spk. Zellers
Daudt	Gunther	Koenen	Melin	Sanders	
Davids	Hackbarth	Kriesel	Moran	Scalze	
Davnie	Hancock	Laine	Morrow	Schomacker	

Those who voted in the negative were:

Buesgens	Greene	Hilty	Hornstein	Nelson	Norton
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The bill was passed, as amended, and its title agreed to.

H. F. No. 1117, A bill for an act relating to state government; changing bond requirements for state depositories; amending Minnesota Statutes 2010, section 9.031, subdivisions 2, 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Benson, J.	Daudt	Eken	Greiling	Holberg
Anderson, B.	Benson, M.	Davids	Erickson	Gruenhagen	Hoppe
Anderson, D.	Bills	Davnie	Fabian	Gunther	Hornstein
Anderson, P.	Brynaert	Dean	Falk	Hackbarth	Hortman
Anderson, S.	Buesgens	Dettmer	Franson	Hancock	Hosch
Anzelc	Carlson	Dill	Fritz	Hansen	Howes
Atkins	Champion	Dittrich	Garofalo	Hausman	Huntley
Banaian	Clark	Doepke	Gauthier	Hayden	Johnson
Barrett	Cornish	Downey	Gottwalt	Hilstrom	Kahn
Beard	Crawford	Drazkowski	Greene	Hilty	Kath

Kelly	Lesch	McFarlane	Nornes	Runbeck	Torkelson
Kieffer	Liebling	McNamara	Norton	Sanders	Urdahl
Kiel	Lillie	Melin	O'Driscoll	Scalze	Vogel
Kiffmeyer	Loeffler	Moran	Paymar	Schomacker	Wagenius
Knuth	Lohmer	Morrow	Pelowski	Scott	Ward
Koenen	Loon	Mullery	Peppin	Shimanski	Wardlow
Kriesel	Mack	Murdock	Persell	Simon	Westrom
Laine	Mahoney	Murphy, E.	Petersen, B.	Slawik	Winkler
Lanning	Marquart	Murphy, M.	Peterson, S.	Slocum	Woodard
Leidiger	Mazorol	Murray	Poppe	Stensrud	Spk. Zellers
LeMieur	McDonald	Myhra	Quam	Swedzinski	
Lenczewski	McElpatrick	Nelson	Rukavina	Thissen	

The bill was passed and its title agreed to.

S. F. No. 55 was reported to the House.

Woodard and Slocum moved to amend S. F. No. 55, the second unofficial engrossment, as follows:

Page 4, line 12, reinstate the stricken "address" and delete "mitigate"

Page 5, line 25, delete "shall" and insert "may"

Page 5, line 30, delete "30" and insert "7"

Page 6, line 10, delete "shall" and insert "may"

Page 8, line 8, delete "convenient"

Page 8, line 11, after "employed" insert "and serving"

Page 8, line 12, delete "an employment"

Page 8, line 13, delete "agreement" and insert "contract"

Page 9, line 21, reinstate the stricken "address"

Page 9, line 22, delete "mitigate"

Page 9, delete lines 26 to 36

Page 10, delete lines 1 to 7

Page 12, line 25, reinstate the stricken "resolved" and delete "mitigated"

Page 12, line 27, after "commissioner" insert "and authorizer"

Page 14, line 27, reinstate the stricken "teachers" and delete "staff"

Page 24, line 13, delete "30" and insert "7"

Page 24, line 20, delete "August 3" and insert "September 7"

The motion prevailed and the amendment was adopted.

Davnie, Slocum and Woodard moved to amend S. F. No. 55, the second unofficial engrossment, as amended, as follows:

Page 24, line 24, after "school" insert "and the school district in which the charter school is located"

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Buesgens moved to amend S. F. No. 55, the second unofficial engrossment, as amended, as follows:

Page 11, delete lines 29 to 31

ReNUMBER the clauses in sequence

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 17 yeas and 110 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Buesgens	Draskowski	Hackbarth	Persell	Wagenius
Benson, J.	Dettmer	Falk	Hancock	Slocum	Wardlow
Bills	Downey	Fritz	Peppin	Thissen	

Those who voted in the negative were:

Abeler	Dean	Hoppe	Lenczewski	Murdock	Schomacker
Anderson, D.	Dill	Hornstein	Lesch	Murphy, E.	Scott
Anderson, P.	Dittrich	Hortman	Liebling	Murphy, M.	Shimanski
Anderson, S.	Doepke	Hosch	Lillie	Murray	Simon
Anzelc	Eken	Howes	Loeffler	Myhra	Slawik
Atkins	Erickson	Huntley	Lohmer	Nelson	Stensrud
Banaian	Fabian	Johnson	Loon	Nornes	Swedzinski
Barrett	Franson	Kahn	Mack	Norton	Torkelson
Beard	Garofalo	Kath	Mahoney	O'Driscoll	Urdahl
Benson, M.	Gauthier	Kelly	Marquart	Paymar	Vogel
Brynaert	Gottwalt	Kieffer	Mazorol	Pelowski	Ward
Carlson	Greene	Kiel	McDonald	Petersen, B.	Westrom
Champion	Greiling	Knuth	McElfrick	Peterson, S.	Winkler
Clark	Gruenhagen	Koenen	McFarlane	Poppe	Woodard
Cornish	Gunther	Kriesel	McNamara	Quam	Spk. Zellers
Crawford	Hansen	Laine	Melin	Rukavina	
Daudt	Hausman	Lanning	Moran	Runbeck	
Davids	Hilstrom	Leidiger	Morrow	Sanders	
Davnie	Holberg	LeMieur	Mullery	Scalze	

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

S. F. No. 55, A bill for an act relating to education; modifying charter authorizer approval deadline; amending Minnesota Statutes 2010, section 124D.10, subdivision 3.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Hausman	Lanning	Murdock	Scott
Anderson, D.	Dettmer	Hayden	Leidiger	Murphy, E.	Shimanski
Anderson, P.	Dill	Hilstrom	LeMieur	Murray	Simon
Anderson, S.	Dittrich	Holberg	Lenczewski	Myhra	Slawik
Anzelc	Doepke	Hoppe	Liebling	Nelson	Slocum
Atkins	Downey	Hornstein	Lillie	Nornes	Stensrud
Banaian	Drazkowski	Hortman	Loeffler	Norton	Swedzinski
Barrett	Eken	Hosch	Lohmer	O'Driscoll	Thissen
Beard	Erickson	Howes	Loon	Paymar	Torkelson
Benson, J.	Fabian	Huntley	Mack	Pelowski	Urdahl
Benson, M.	Franson	Johnson	Mahoney	Peppin	Vogel
Bills	Fritz	Kahn	Marquart	Persell	Wagenius
Brynaert	Garofalo	Kath	Mazorol	Petersen, B.	Ward
Carlson	Gottwalt	Kelly	McDonald	Peterson, S.	Wardlow
Champion	Greene	Kieffer	McElpatrick	Poppe	Westrom
Clark	Greiling	Kiel	McFarlane	Quam	Winkler
Cornish	Gruenhagen	Kiffmeyer	McNamara	Rukavina	Woodard
Crawford	Gunther	Knuth	Melin	Runbeck	Spk. Zellers
Daudt	Hackbarth	Koenen	Moran	Sanders	
Davids	Hancock	Kriesel	Morrow	Scalze	
Davnie	Hansen	Laine	Mullery	Schomacker	

Those who voted in the negative were:

Anderson, B.	Buesgens	Falk	Gauthier	Lesch	Murphy, M.
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The bill was passed, as amended, and its title agreed to.

Dean moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Scalze moved that the name of Knuth be added as an author on H. F. No. 118. The motion prevailed.

Anderson, S., moved that the name of Shimanski be added as an author on H. F. No. 255. The motion prevailed.

Downey moved that the name of Bills be added as an author on H. F. No. 545. The motion prevailed.

Smith moved that the name of Doepke be added as an author on H. F. No. 556. The motion prevailed.

Buesgens moved that his name be stricken as an author on H. F. No. 595. The motion prevailed.

Kath moved that the name of Falk be added as an author on H. F. No. 727. The motion prevailed.

McFarlane moved that the name of Falk be added as an author on H. F. No. 729. The motion prevailed.

Mazorol moved that the name of Kiffmeyer be added as an author on H. F. No. 730. The motion prevailed.

Laine moved that the name of Falk be added as an author on H. F. No. 884. The motion prevailed.

Mullery moved that the name of Falk be added as an author on H. F. No. 903. The motion prevailed.

Howes moved that the name of Fabian be added as an author on H. F. No. 959. The motion prevailed.

Anderson, P., moved that the name of Hamilton be added as an author on H. F. No. 976. The motion prevailed.

Buesgens moved that the name of Dettmer be added as an author on H. F. No. 1092. The motion prevailed.

Erickson moved that her name be stricken as an author on H. F. No. 1254. The motion prevailed.

Hayden moved that the name of Slawik be added as an author on H. F. No. 1257. The motion prevailed.

Drazkowski moved that the name of Crawford be added as an author on H. F. No. 1259. The motion prevailed.

Bills moved that the name of Knuth be added as an author on H. F. No. 1386. The motion prevailed.

Erickson moved that the name of Shimanski be added as an author on H. F. No. 1435. The motion prevailed.

LeMieur moved that the name of Hamilton be added as an author on H. F. No. 1468. The motion prevailed.

Fabian moved that the name of Kiel be added as an author on H. F. No. 1491. The motion prevailed.

Greene moved that the name of Brynaert be added as an author on H. F. No. 1503. The motion prevailed.

Kiel moved that the name of Fabian be added as an author on H. F. No. 1544. The motion prevailed.

Knuth moved that the name of Slocum be added as an author on H. F. No. 1590. The motion prevailed.

Scalze moved that the name of Slocum be added as an author on H. F. No. 1593. The motion prevailed.

Westrom moved that the name of Shimanski be added as an author on H. F. No. 1594. The motion prevailed.

Drazkowski moved that the names of Dettmer and Crawford be added as authors on H. F. No. 1598. The motion prevailed.

McFarlane moved that the name of Brynaert be added as an author on H. F. No. 1599. The motion prevailed.

Melin moved that the name of Abeler be added as an author on H. F. No. 1600. The motion prevailed.

Downey moved that the names of Franson, Dettmer, Bills and Quam be added as authors on H. F. No. 1612. The motion prevailed.

Gottwalt moved that the names of Dettmer and Crawford be added as authors on H. F. No. 1613. The motion prevailed.

Howes moved that H. F. No. 1125 be recalled from the Committee on Environment, Energy and Natural Resources Policy and Finance and be re-referred to the Committee on Capital Investment. The motion prevailed.

Downey moved that H. F. No. 1391 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Reform. The motion prevailed.

Gottwalt moved that H. F. No. 1423 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Judiciary Policy and Finance. The motion prevailed.

Westrom moved that H. F. No. 306 be returned to its author. The motion prevailed.

Winkler moved to amend the Permanent Rules of the House of Representatives for the 87th Session as follows:

Add a new rule to read:

"4.16 BUDGET BALANCE REQUIRED. During an odd-numbered year, a House or Senate bill that proposes a constitutional amendment must not be considered on the calendar for the day, the fiscal calendar, or any other floor calendar until bills necessary to provide a balanced general fund budget for the biennium beginning on July 1 of that year have been enacted into law."

A roll call was requested and properly seconded.

CALL OF THE HOUSE

On the motion of Winkler and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Dittrich	Hilstrom	LeMieur	Murphy, E.	Scott
Anderson, B.	Doepke	Hilty	Lenczewski	Murphy, M.	Shimanski
Anderson, D.	Downey	Holberg	Lesch	Murray	Simon
Anderson, P.	Drazkowski	Hoppe	Liebling	Myhra	Slawik
Anderson, S.	Eken	Hornstein	Lillie	Nelson	Stensrud
Atkins	Erickson	Hortman	Loeffler	Nornes	Swedzinski
Banaian	Fabian	Hosch	Lohmer	Norton	Thissen
Barrett	Falk	Huntley	Loon	O'Driscoll	Torkelson
Beard	Franson	Johnson	Mack	Paymar	Urdahl
Benson, M.	Garofalo	Kahn	Mahoney	Pelowski	Vogel
Bills	Gauthier	Kath	Marquart	Peppin	Wagenius
Brynaert	Gottwalt	Kelly	Mazorol	Persell	Ward
Buesgens	Greene	Kieffer	McDonald	Petersen, B.	Wardlow
Carlson	Greiling	Kiel	McElfatrick	Peterson, S.	Westrom
Clark	Gruenhagen	Kiffmeyer	McFarlane	Poppe	Winkler
Daudt	Gunther	Knuth	McNamara	Quam	Woodard
Davids	Hackbarth	Koenen	Melin	Rukavina	Spk. Zellers
Davnie	Hancock	Kriesel	Moran	Runbeck	
Dean	Hansen	Laine	Morrow	Sanders	
Dettmer	Hausman	Lanning	Mullery	Scalze	
Dill	Hayden	Leidiger	Murdock	Schomacker	

Dean moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

LAY ON THE TABLE

Dean moved that the Winkler amendment to the Permanent Rules of the House of Representatives for the 87th Session be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Dean motion and the roll was called. There were 67 yeas and 63 nays as follows:

Those who voted in the affirmative were:

Abeler	Crawford	Gruenhagen	Leidiger	Nornes	Torkelson
Anderson, B.	Daudt	Gunther	LeMieur	O'Driscoll	Urdahl
Anderson, D.	Davids	Hackbarth	Lohmer	Pelowski	Vogel
Anderson, P.	Dean	Hancock	Mack	Peppin	Wardlow
Anderson, S.	Dettmer	Holberg	Mazorol	Quam	Westrom
Banaian	Doepke	Hoppe	McDonald	Runbeck	Woodard
Barrett	Drazkowski	Howes	McElfrick	Sanders	Spk. Zellers
Beard	Erickson	Kelly	McFarlane	Schomacker	
Benson, M.	Fabian	Kieffer	McNamara	Scott	
Bills	Franson	Kiel	Murdock	Shimanski	
Buesgens	Garofalo	Kiffmeyer	Murray	Stensrud	
Cornish	Gottwalt	Lanning	Myhra	Swedzinski	

Those who voted in the negative were:

Anzelc	Eken	Hornstein	Lenczewski	Mullery	Scalze
Atkins	Falk	Hortman	Lesch	Murphy, E.	Simon
Benson, J.	Fritz	Hosch	Liebling	Murphy, M.	Slawik
Brynaert	Gauthier	Huntley	Lillie	Nelson	Slocum
Carlson	Greene	Johnson	Loeffler	Norton	Thissen
Champion	Greiling	Kahn	Loon	Paymar	Wagenius
Clark	Hansen	Kath	Mahoney	Persell	Ward
Davnie	Hausman	Knuth	Marquart	Petersen, B.	Winkler
Dill	Hayden	Koenen	Melin	Peterson, S.	
Dittrich	Hilstrom	Kriesel	Moran	Poppe	
Downey	Hilty	Laine	Morrow	Rukavina	

The motion prevailed and the Winkler amendment to the Permanent Rules of the House for the 87th Session was laid on the table.

ANNOUNCEMENT FROM THE COMMITTEE ON
RULES AND LEGISLATIVE ADMINISTRATION

Pursuant to rules 1.21 and 1.22, the Committee on Rules and Legislative Administration specified Monday, May 2, 2011, as the date after which the 5:00 p.m. deadline no longer applies to the:

- (1) designation of bills to be placed on the Calendar for the Day; and
- (2) announcement of the intention to request that bills be placed on the Fiscal Calendar.

ADJOURNMENT

Dean moved that when the House adjourns today it adjourn until 4:30 p.m., Tuesday, May 3, 2011. The motion prevailed.

Dean moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 4:30 p.m., Tuesday, May 3, 2011.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

