A bill for an act

relating to state government; appropriating money or making reductions to certain state government programs or activities; changing provisions for expenses of governor-elect, income earned by the permanent school fund, lease-purchase agreements, general services, resource recovery, payment of aids and credits to school districts, tax return preparers, and implied consent; imposing fees; amending Minnesota Statutes 2008, sections 4.51; 11A.16, subdivision 5; 16B.04, subdivision 2; 16B.48, subdivision 2; 79.34, subdivision 1; 115A.15, subdivision 6; 127A.46; 169A.52, subdivision 6; 169A.53; 169A.60, subdivision 10; Minnesota Statutes 2009 Supplement, sections 16A.82; 270C.145; 289A.08, subdivision 16; Laws 2009, chapter 101, article 1, section 31; proposing coding for new law in Minnesota Statutes, chapter 357.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

STATE GOVERNMENT APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

		2010		**2011**		**Total**
General	$	(3,845,000)	$	244,000	$	(3,601,000)
Health Care Access	$	(16,000)	$	(22,000)	$	(38,000)
Special Revenue	$	(70,000)	$	(117,000)	$	(187,000)
Lottery Prize Fund	$	-0-	$	(50,000)	$	(50,000)
Total	**$**	**(3,931,000)**	**$**	**55,000**	**$**	**(3,876,000)**

Sec. 2. **APPROPRIATIONS.**

The sums shown in the columns marked "APPROPRIATIONS" are added to or, if shown in parentheses, subtracted from the appropriations in Laws 2009, chapter 101,

article 1, to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2010, are effective the day following final enactment.

	APPROPRIATIONS Available for the Year Ending June 30	
	2010	2011
Sec. 3. **LEGISLATURE**	**$ (1,126,000)**	**$ (2,940,000)**

Appropriations by Fund

	2010	2011
General	(1,121,000)	(2,935,000)
Health Care Access	(5,000)	(5,000)

In fiscal year 2011, $536,000 is canceled to the general fund from the accounts established under Minnesota Statutes, section 16A.281.

Sec. 4. **GOVERNOR AND LIEUTENANT GOVERNOR**	**$ (64,000)**	**$ (146,000)**

$10,000 in fiscal year 2010 and $32,000 in fiscal year 2011 are transferred from the interagency agreements account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 5. **STATE AUDITOR**	**$ (32,000)**	**$ (78,000)**
Sec. 6. **ATTORNEY GENERAL**	**$ (436,000)**	**$ (954,000)**
Sec. 7. **SECRETARY OF STATE**	**$ (104,000)**	**$ (250,000)**
Sec. 8. **CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**	**$ (28,000)**	**$ (8,000)**

The base budget for the Campaign Finance and Public Disclosure Board is $726,000 in fiscal year 2012 and $726,000 in fiscal year 2013.

Sec. 9. **INVESTMENT BOARD**	**$**	**(2,000)**	**$**	**(5,000)**

Sec. 10. **OFFICE OF ENTERPRISE TECHNOLOGY**	**$**	**(111,000)**	**$**	**(169,000)**

These reductions are from the enterprise planning and management program.

Sec. 11. **ADMINISTRATIVE HEARINGS**	**$**	**(8,000)**	**$**	**487,000**

$495,000 in fiscal year 2011 is for the cost of administrative reviews filed under Minnesota Statutes, sections 169A.53, subdivision 3, and 169A.60, subdivision 10. The general fund base for the Office of Administrative Hearings is $1,037,000 in fiscal year 2012 and $907,000 in fiscal year 2013.

Sec. 12. **ADMINISTRATION**	**$**	**-0-**	**$**	**(419,000)**

(a) These reductions are from the government and citizens services program. $8,000 of the reductions in fiscal year 2011 is from the transfer to the commissioner of human services for a grant to the Council of Developmental Disabilities. The appropriation for this grant shall be included in the base budget for the commissioner of human services for the biennium beginning July 1, 2011, and is reduced by $8,000 each year of the biennium. The general fund base budget for the government and citizens services program is $8,936,000 in fiscal year 2012 and $8,936,000 in fiscal year 2013.

(b) $209,000 in fiscal year 2010 and $31,000 in fiscal year 2011 are transferred from the central stores fund to the general fund. These are onetime transfers.

(c) The balance in the commuter van program account in the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(d) The balance in the archaeology burial account of the special revenue fund shall be transferred to the general fund on or before June 30, 2010. This is a onetime transfer.

(e) $1,492 in fiscal year 2010 is transferred from the utility rebates account in the special revenue fund to the general fund. This is a onetime transfer.

Sec. 13. **CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD** **$ (6,000) $ (11,000)**

Sec. 14. **MANAGEMENT AND BUDGET** **$ (386,000) $ (599,000)**

(a) $300 in fiscal year 2010 and $300 in fiscal year 2011 are transferred from the combined charities administration account in the special revenue fund to the general fund. These are onetime transfers.

(b) $8,700 in fiscal year 2010 and $10,700 in fiscal year 2011 are transferred from the information systems division account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 15. **REVENUE**

Subdivision 1. **Total Appropriation** **$ (779,000) $ 5,362,000**

	Appropriations by Fund	
	2010	2011
General	(768,000)	5,379,000
Health Care Access	(11,000)	(17,000)

Subd. 2. **Tax System Management** (779,000) 3,492,000

	Appropriations by Fund	
	2010	2011
General	(768,000)	3,509,000
Health Care Access	(11,000)	(17,000)

(a) $4,857,000 is for additional activities to identify and collect tax liabilities from individuals and business that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of $13,065,000 for fiscal year 2011.

(b) The department must report to the chairs of the house of representative Ways and Means and senate Finance Committees by March 15, 2011, and January 15, 2012, on the following performance indicators:

(1) the number of corporations noncompliant with the corporate tax system each year and the percentage and dollar amounts of valid tax liabilities collected;

(2) the number of businesses noncompliant with the sales and use tax system and the percentage and dollar amount of the valid tax liabilities collected; and

(3) the number of individual noncompliant cases resolved and the percentage and dollar amount of valid tax liabilities collected.

(c) The reports must also identify base-level expenditures and staff positions related to compliance and audit activities, including baseline information as of January 1, 2009.

The information must be provided at the budget activity level.

Subd. 3. **Debt Collection Management** -0- 1,870,000

$1,870,000 is for additional activities to identify and collect tax liabilities from individuals and businesses that currently do not pay all taxes owed. This initiative is expected to result in new general fund revenues of $13,800,000 for fiscal year 2011.

Sec. 16. **GAMBLING CONTROL** **$ (51,000) $ (88,000)**

$51,000 in fiscal year 2010 and $88,000 in fiscal year 2011 are transferred from the lawful gambling account in the special revenue fund to the general fund. These are onetime transfers.

Sec. 17. **RACING COMMISSION** **$ (19,000) $ (29,000)**

$19,000 in fiscal year 2010 and $29,000 in fiscal year 2011 are transferred from the racing and card playing regulation accounts in the special revenue fund to the general fund. These are onetime transfers.

Sec. 18. **AMATEUR SPORTS** **$ (4,000) $ (8,000)**

Sec. 19. **COUNCIL ON BLACK MINNESOTANS** **$ (5,000) $ (9,000)**

Sec. 20. **COUNCIL ON CHICANO-LATINO AFFAIRS** **$ (6,000) $ (9,000)**

Sec. 21. **COUNCIL ON ASIAN-PACIFIC MINNESOTANS** **$ (5,000) $ (8,000)**

Sec. 22. **INDIAN AFFAIRS COUNCIL** **$ (9,000) $ (14,000)**

Sec. 23. **GENERAL CONTINGENT ACCOUNTS** **$ (750,000)** **$ -0-**

This reduction is from the appropriation for potential state matching requirements under the American Reinvestment and Recovery Act of 2009.

Sec. 24. Laws 2009, chapter 101, article 1, section 31, is amended to read:

Sec. 31. **PROBLEM GAMBLING APPROPRIATION.**

$225,000 in fiscal year 2010 and ~~$225,000~~ $175,000 in fiscal year 2011 are appropriated from the lottery prize fund to the Gambling Control Board for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research relating to problem gambling. These services must be complimentary to and not duplicative of the services provided through the problem gambling program administered by the commissioner of human services. Of this appropriation, $50,000 in fiscal year 2010 ~~and $50,000 in fiscal year 2011 are~~ is contingent on the contribution of nonstate matching funds. Matching funds may be either cash or qualifying in-kind contributions. The commissioner of finance may disburse the state portion of the matching funds in increments of $25,000 upon receipt of a commitment for an equal amount of matching nonstate funds. These are onetime appropriations.

Sec. 25. **ADDITIONAL OPERATING BUDGET REDUCTIONS.**

By July 30, 2010, the commissioner of management and budget shall allocate a reduction of $9,000,000 per year to the operating budgets of executive branch state agencies, as defined in Minnesota Statutes, section 16A.011, subdivision 12a. To the extent possible, this reduction must be achieved through estimated savings in expenditures for technology, space, or services. If expenditure reductions are achieved in dedicated funds other than those established in the state constitution or protected by federal law, the commissioner of management and budget may transfer the amount of the savings to the general fund. Executive branch state agencies shall cooperate with the commissioner of management and budget in developing and implementing these reductions. Any amount of the reduction that cannot be achieved through savings in the expenditure types described in this section must be allocated to executive state agency operating budgets by the commissioner. Reductions in fiscal year 2011 shall cancel to the general fund

and future reductions shall be reflected as reductions in agency base budgets for fiscal years 2012 and 2013. The commissioner of management and budget shall report to the chairs and ranking minority members of the senate Finance Committee and the house of representatives Ways and Means and Finance Committees regarding the amount of reductions in spending by each agency under this section.

ARTICLE 2

STATE GOVERNMENT OPERATIONS

Section 1. Minnesota Statutes 2008, section 4.51, is amended to read:

4.51 EXPENSES OF GOVERNOR-ELECT.

Subdivision 1. **Definitions.** ~~This section applies after a state general election in which a person who is not the current governor is elected to take office as the next governor. The commissioner of administration must request a transfer from the general fund contingent account of an amount equal to 1.5 percent of the amount appropriated for operation of the Office of the Governor and Lieutenant Governor for the current fiscal year. This request is subject to the review and advice of the Legislative Advisory Commission pursuant to section 3.30. If the transfer is approved, the commissioner of administration must make this amount available to the governor-elect before he or she takes office. The commissioner must provide office space for the governor-elect and for any employees the governor-elect hires.~~ (a) "Governor-elect" means the person who is not currently governor and is the apparent successful candidate for the office of governor following a general election.

(b) "Commissioner" means the commissioner of the Department of Management and Budget.

Subd. 2. **Transition expenses.** In the fiscal year of a gubernatorial election and subject to availability of funds, the commissioner shall transfer up to $162,000 from the general contingent account in the general fund to the Department of Management and Budget. This transfer is subject to the review and advice of the Legislative Advisory Commission pursuant to section 3.30. In consultation with the governor-elect, the commissioner shall use the transferred funds to pay expenses of the governor-elect associated with preparing for the assumption of official duties as governor. The commissioner may use the transferred funds for expenses necessary and prudent for establishment of a transition office prior to the election and for dissolution of the office if the incumbent governor is reelected or after the inauguration of a new governor. Expenses of the governor-elect may include suitable office space and equipment, communications

and technology support, consulting services, compensation and travel costs, and other reasonable expenses. Compensation rates for temporary employees hired to support the governor-elect and rates paid for consulting services for the governor-elect shall be determined by the governor-elect.

Subd. 3. **Unused funds.** No new obligations shall be incurred for expenses of the governor-elect after the date of the inauguration. By March 31 of the year of the inauguration, the commissioner shall return to the general contingent account any funds transferred under this section that the commissioner determines are not needed to pay expenses of the governor-elect.

Sec. 2. Minnesota Statutes 2008, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **Calculation of income.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities ~~and~~, dividends on equity securities, and interest earned on certified monthly earnings prior to the transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following ten fiscal years.

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

Sec. 3. Minnesota Statutes 2009 Supplement, section 16A.82, is amended to read:

16A.82 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~$3,548,000 in fiscal year 2010; $3,546,000 in fiscal year 2011; and $10,054,000 in each fiscal year 2012 through 2019~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81 for replacement of the state's accounting and procurement systems, provided that the state is not obligated to continue such appropriation of funds or to make lease payments in any future fiscal year.

Fiscal year 2010	$ 2,828,038
Fiscal year 2011	$ 3,063,950
Fiscal year 2012	$ 8,967,850
Fiscal year 2013	$ 8,968,950
Fiscal year 2014	$ 8,970,850
Fiscal year 2015	$ 8,971,150
Fiscal year 2016	$ 8,966,450
Fiscal year 2017	$ 8,967,500
Fiscal year 2018	$ 8,970,750
Fiscal year 2019	$ 8,968,500

Of these appropriations, up to $2,000 per year may be used to pay the annual trustee fees for the lease-purchase agreements authorized in this section and section 270C.145. Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, ~~2020~~ 2019.

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

Sec. 4. Minnesota Statutes 2008, section 16B.04, subdivision 2, is amended to read:

Subd. 2. **Powers and duties, generally.** Subject to other provisions of this chapter, the commissioner is authorized to:

(1) supervise, control, review, and approve all state contracts and purchasing;

(2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;

(3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;

(4) manage and control state property, real and personal;

(5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;

(6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;

(7) provide central duplicating, printing, and mail facilities;

(8) oversee publication of official documents and provide for their sale;

(9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;

(10) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter; ~~and~~

(11) settle state employee workers' compensation claims~~.~~; and

(12) operate a state recycling center.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 5. Minnesota Statutes 2008, section 16B.48, subdivision 2, is amended to read:

Subd. 2. **Purpose of funds.** Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;

(3) to operate a documents service as prescribed by section 16B.51;

(4) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

(5) to operate a materials handling service, including interagency mail and product delivery, solid waste removal, courier service, equipment rental, and vehicle and equipment maintenance;

(6) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

(7) to operate a records center and provide micrographics products and services; ~~and~~

(8) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government~~.~~; and

(9) to operate a state recycling center.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 6. Minnesota Statutes 2008, section 79.34, subdivision 1, is amended to read:

Subdivision 1. **Conditions requiring membership.** The nonprofit association known as the Workers' Compensation Reinsurance Association may be incorporated under chapter 317A with all the powers of a corporation formed under that chapter, except that

if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and is bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in chapter 60D are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved under section 176.181 and each political subdivision that self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and is bound by its plan of operation; provided that:

(1) all affiliated companies within a holding company system, as determined by the commissioner of labor and industry in a manner consistent with the standards and definitions in chapter 60D, are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association; and

(2) all group self-insurers granted authority to self-insure pursuant to section 176.181 are considered single entities for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred after December 31, 1983, the state is a member of the reinsurance association and is bound by its plan of operation. The commissioner of ~~management and budget~~ administration represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The amounts necessary to pay the state's premiums required for coverage by the Workers' Compensation Reinsurance Association are appropriated from the general fund to the commissioner of ~~management and budget~~ administration. The University of Minnesota shall pay its portion of workers' compensation reinsurance premiums directly to the Workers' Compensation Reinsurance Association. For the purposes of this section, "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of management and budget may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13 and 15. All property owned by the association is exempt from taxation. The reinsurance association is not obligated to

make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

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

Sec. 7. Minnesota Statutes 2008, section 115A.15, subdivision 6, is amended to read:

Subd. 6. **Use of funds.** All ~~funds appropriated by the state for the resource recovery program, all~~ revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program~~, and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the general fund. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities.~~ will be used by the service provider to offset the cost of the recycling.

EFFECTIVE DATE. This section is effective July 1, 2010.

Sec. 8. Minnesota Statutes 2008, section 127A.46, is amended to read:

127A.46 CHANGE IN PAYMENT OF AIDS AND CREDITS.

If the commissioner of management and budget determines that modifications in the payment schedule would reduce the need for state short-term borrowing, the commissioner ~~shall~~ may modify payments to districts according to this section. The modifications must begin no sooner than September 1 of each fiscal year, and must remain in effect until no later than May 30 of that same fiscal year. In calculating the payment to a district pursuant to section 127A.45, subdivision 3, the commissioner may subtract the sum specified in that subdivision, plus an additional amount no greater than the following:

(1) the net cash balance in each of the district's operating funds on June 30 of the preceding fiscal year; minus

(2) the product of $150 times the number of resident pupil units in the preceding fiscal year; minus

(3) the amount of payments made by the county treasurer during the preceding fiscal year, pursuant to section 276.11, which is considered revenue for the current school year.

However, no additional amount shall be subtracted if the total of the net unappropriated fund balances in the district's four operating funds on June 30 of the preceding fiscal year, is less than the product of $350 times the number of resident pupil units in the preceding fiscal year. The net cash balance must include all cash and investments, less certificates of indebtedness outstanding, and orders not paid for want of funds.

A district may appeal the payment schedule established by this section according to the procedures established in section 127A.45, subdivision 4.

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

Sec. 9. Minnesota Statutes 2009 Supplement, section 270C.145, is amended to read:

270C.145 TECHNOLOGY LEASE-PURCHASE APPROPRIATION.

~~$855,000 in fiscal year 2010; $853,000 in fiscal year 2011; and $2,519,000 in each fiscal year 2012 through 2019 is~~ The following amounts are appropriated from the general fund to the commissioner to make payments under a lease-purchase agreement as defined in section 16A.81 for completing the purchase and development of an integrated tax software package; provided that the state is not obligated to continue the appropriation of funds or to make lease payments in any future fiscal year.

Fiscal year 2010	$ 670,213
Fiscal year 2011	$ 748,550
Fiscal year 2012	$ 2,250,150
Fiscal year 2013	$ 2,251,550
Fiscal year 2014	$ 2,250,350
Fiscal year 2015	$ 2,251,550
Fiscal year 2016	$ 2,249,950
Fiscal year 2017	$ 2,251,250
Fiscal year 2018	$ 2,249,000
Fiscal year 2019	$ 2,247,000

Any unexpended portions of this appropriation cancel to the general fund at the close of each biennium. This section expires June 30, 2019.

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

Sec. 10. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 16, is amended to read:

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (f), who ~~prepared~~ is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ~~100~~ ten Minnesota individual income tax returns for the prior calendar year must file all Minnesota individual income tax returns prepared for ~~the current~~ that calendar year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of $5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

EFFECTIVE DATE. This section is effective for tax returns filed after December 31, 2010.

ARTICLE 3

IMPLIED CONSENT PROVISIONS

Section 1. Minnesota Statutes 2008, section 169A.52, subdivision 6, is amended to read:

Subd. 6. **Notice of revocation or disqualification; review.** A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain ~~administrative and judicial~~ review by the commissioner and an administrative hearing review as provided in section 169A.53 (administrative ~~and judicial~~ review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.

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

Sec. 2. Minnesota Statutes 2008, section 169A.53, is amended to read:

169A.53 COMMISSIONER REVIEW AND ADMINISTRATIVE ~~AND JUDICIAL~~ HEARING REVIEW OF LICENSE REVOCATION; APPEAL.

Subdivision 1. **~~Administrative~~ Commissioner review.** (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the

commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of ~~judicial~~ an administrative review hearing under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

Subd. 2. **Petition for ~~judicial~~ administrative review hearing.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the ~~court~~ Office of Administrative Hearings for review. The petition must be filed with the ~~district court administrator in the county where the alleged offense occurred,~~ Office of Administrative Hearings, together with proof of service of a copy on the commissioner, and accompanied by the ~~standard~~ filing fee ~~for civil actions~~ provided under section 357.081. Responsive pleading is not required of the commissioner, and ~~court~~ fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The ~~reviewing court~~ hearing officer may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper.

(d) ~~Judicial~~ Reviews must be conducted according to ~~the Rules of Civil Procedure, except that~~ sections 14.57 to 14.69 and Minnesota Rules, parts 1400.5010 to 1400.8401, unless otherwise provided in this section.

(e) Prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

(2) the test record or, in the case of blood or urine tests, the certificate of analysis;

(3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and

(4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the ~~court~~ administrative law judge.

Subd. 3. **~~Judicial~~ Administrative review hearing; issues, order, appeal.** (a) ~~A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any.~~ The hearing must be recorded. The commissioner shall appear and be represented by the attorney general ~~or through the prosecuting authority for the jurisdiction involved~~. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The ~~judicial district administrator~~ Office of Administrative Hearings shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the ~~administrator~~ Office of Administrative Hearings may, whenever possible, consolidate and transfer review hearings ~~among the locations within the judicial district where terms of district court are held~~ and receive testimony and argument by means of interactive television.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The ~~court~~ hearing officer shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The ~~court~~ hearing officer shall file ~~its~~ the order within 14 days following the hearing. If the revocation or disqualification is sustained, the ~~court~~ hearing officer shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the ~~reviewing court~~ hearing officer may appeal the decision as provided in ~~the Rules of Appellate Procedure~~ chapter 14.

(g) The ~~civil~~ administrative review hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

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

Sec. 3. Minnesota Statutes 2008, section 169A.60, subdivision 10, is amended to read:

Subd. 10. **Petition for ~~judicial~~ administrative review hearing; appeal.** (a) Notwithstanding section 14.57 and other law to the contrary, within 30 days following receipt of a notice and order of impoundment under this section, a person may petition

the ~~court~~ Office of Administrative Hearings for review. The petition must include proof of service of a copy of the petition on the commissioner. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation, as well as the name of the violator and the law enforcement agency that issued the plate impoundment order. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative ~~and judicial~~ review of license revocation).

(b) Except as otherwise provided in this section, the ~~judicial~~ administrative review ~~and~~ hearing ~~are~~ is governed by section 169A.53 and must take place at the same time as any ~~judicial review~~ administrative review hearing of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The ~~reviewing court~~ hearing officer may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the ~~court~~ hearing officer deems proper. The ~~court~~ hearing officer shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The ~~court~~ hearing officer shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (~~judicial~~ administrative review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred; and

(2) for all other cases, whether the peace officer had probable cause to believe the violator committed the plate impoundment violation.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

(e) Any party aggrieved by the decision of the hearing officer may appeal the decision as provided in chapter 14.

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

Sec. 4. **[357.081] OFFICE OF ADMINISTRATIVE HEARINGS; FEE.**

The Office of Administrative Hearings shall charge and collect a filing fee of $310 from a person filing a petition for an administrative review of a driver's license revocation under section 169A.53, vehicle impoundment under section 169A.60, or combined review. Notwithstanding section 14.54, the Office of Administrative Hearings shall transmit the fees monthly to the commissioner of management and budget for deposit in the state treasury and credit to the general fund.

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

Sec. 5. **RULEMAKING AUTHORITY.**

The Office of Administrative Hearings shall adopt rules under Minnesota Statutes, chapter 14, to implement sections 1 to 4. The rules must include, at a minimum, the procedure for hearings in regional offices, and the use of teleconferencing and highly qualified hearing officers. The Office of Administrative Hearings may adopt the initial set of these rules as exempt rules under Minnesota Statutes, section 14.386. These rules are permanent and effective upon publication in the state register until further amended or repealed by the Office of Administrative Hearings.

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

Sec. 6. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall prepare a bill for introduction in the 2011 regular legislative session making any technical and conforming changes to Minnesota Statutes made necessary by sections 1 to 5.

APPENDIX
Article locations in 10-5831

ARTICLE 1	STATE GOVERNMENT APPROPRIATIONS	Page.Ln 1.14
ARTICLE 2	STATE GOVERNMENT OPERATIONS	Page.Ln 8.6
ARTICLE 3	IMPLIED CONSENT PROVISIONS	Page.Ln 15.10